



The Development of General Elections and Regional Head Elections After the Reformasi Era

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Abstract: Indonesia is a constitutional state (Rechtsstaat) that upholds the values of legal norms based on laws. Indonesia has the highest legal norms, namely Pancasila and the 1945 Constitution of the Republic of Indonesia. Therefore, all forms of legislation that are made must not conflict with the 1945 Constitution of the Republic of Indonesia. In the Indonesian constitutional system experienced a very significant change. The implementation of direct and simultaneous elections in the post-reform era was held on April 17 2019, which is historical in the electoral process in Indonesia. This is an implication of the Constitutional Court Decision Number 14/PUU-XI/2013 concerning the judicial review case of the Law of the Republic of Indonesia Number 42 of 2008 concerning the General Election of President and Vice President. directly by the people. Simultaneous election implementation which will be held in 2024, this has been stipulated in the Law of the Republic of Indonesia Number 7 of 2017 concerning General Elections and the Law of the Republic of Indonesia Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 Concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 Concerning the Election of Governors, Regents and Mayors to Become Laws. The two laws mandate that in 2024 elections will be held simultaneously in 1 (one) year, namely presidential and vice-presidential elections, legislative elections and regional head elections. In addition, there is a provision regarding the presidential threshold that has existed since the 2004 election.

Keywords: Election History, Presidential Threshold, Simultaneous Elections

INTRODUCTION

In order to guarantee the attainment of national goals and objectives as set forth in the Preamble to the 1945 Constitution of the Republic of Indonesia, it is necessary to hold general elections to elect members of the People's Representative Council, members of the Regional Representatives Council, President and Vice President and to elect members of the Regional People's Representative Council. as a means of realizing people's sovereignty to

produce people's representatives and a democratic state government based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

The 1945 Constitution and its amendments constitute a written constitution in Indonesia which is 20 (twenty years old). The constitution is the basic law that contains all the rules and legal provisions of the country. With a written constitution, Indonesia is expected to become a peaceful, just and prosperous country and in line with the goals of the state as stated in the opening of the 1945 Constitution.

. The implementation of elections in Indonesia is based on the 1945 Constitution of the Republic of Indonesia. Elections are a means of implementing people's sovereignty which are carried out directly, publicly, freely, confidentially, honestly and fairly in the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Elections are a form of implementation of the system democracy and also from the application of the fourth precept of Pancasila and article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Elections are a mechanism for selecting people's representatives in the executive and legislative bodies at the central and regional levels which aim to elect people's representatives to sit in deliberative/people's representative institutions, continuing the struggle to fill independence and maintain the integrity of the Unitary State of the Republic of Indonesia.

Elections in Indonesia have experienced many changes in terms of the legal framework, organizers, stages, participants, institutions, violations and management of their implementation.

The history of the first National Election in Indonesia began 10 years after the proclamation was announced in 1945, starting on September 29, 1955. Throughout history, elections in Indonesia have been held 12 times, namely the 1955, 1971, 1977, 1982, 1992, 1997, 1999, 2004, 2009, 2014, 2019 elections. The history of elections in Indonesia is divided into 3 (three) eras namely the parliamentary period, the Orde Baru period and the reformasi era

1. Elections during the parliamentary period.

At that time, the first election in Indonesia was held after independence, namely during the parliamentary democracy of the Burhanuddin Harapan cabinet. In the 1955 election, voting was carried out 2 times, namely electing the members of the DPR on 29 September 1955 and the election for members of the Constituent Assembly on 15 December 1955, which was attended by 130 political parties, more than 100 lists of groups and individual candidates. The 1955 election was carried out based on the mandate of the Law of the Republic of Indonesia Number 7 of 1953 Concerning the Election of Constituent Members and Members of the People's Representative Council, which is also known as the Election Law. and based on article 61 of the Provisional Constitution.

2. Elections During the Orde Baru period

The second election was only held 16 (sixteen) years later and took place in 1971, then it was held in 1977, 1982, 1987, 1992, 1997

3. During the Reformasi period

Election period 1999, 2004, 2009, 2014, 2019

Reform is a democratic step that was born in Indonesia, after more than 10 years after being released from the orde baru era which was very famous for the dictatorship era. The breakthrough step taken by the Government during the reform era in the democratic process was the amendment to the 1945 Constitution of the Republic of Indonesia which was carried out by the MPR from the 1999 Election results in 4 (four) stages for 4 (four) years, namely starting from 1999 to 2002.

RESULT AND DISCUSSION

After independence was proclaimed by Soekarno and Hatta on August 17, 1945, the government had expressed its desire to be able to hold elections in early 1946, this was stated in the Declaration of X or the Declaration of Deputy President Mohammad Hatta on November 3, 1945, which contained recommendations regarding the establishment of the political parties and the Declaration stated that elections to elect members of the DPR and MPR would be held in January 1946. However, it turned out that the first elections were only able to be held almost 10 (ten) years later, namely in 1955 due to obstacles originating from within the country namely the unpreparedness of the government to hold elections due to the unavailability of statutory instruments to regulate the holding of elections, and as a result of low state security stability, there are also those that come from foreign factors, including invasions by foreign powers which require this country to be involved in war. At this time the government had issued Law of the Republic of Indonesia Number 27 of 1948 concerning Elections, which was later amended by Law of the Republic of Indonesia Number 12 of 1949 concerning Elections. In the Law of the Republic of Indonesia Number 12 of 1949 it is mandated that "the elections that will be held are multilevel (indirect)" bearing in mind that at that time the majority of Indonesian citizens were still illiterate. In 1953, Law of the Republic of Indonesia Number 7 of 1953 concerning the Election of members of the DPR and members of the Constituent Assembly was issued. This Law became the legal basis for the 1955 election, as amended by Law of the Republic of Indonesia Number 18 of 1953. The first election was successfully held with safe, smooth, honest and fair and democratic.

Election arrangements in the Indonesian constitution before the amendment to the 1945 Constitution, in the 1945 Constitution there were no provisions related to elections. The 1949 RIS Constitution contains several articles that regulate elections, namely Article 34 and Article 111 of the 1949 RIS Constitution. In the 1950 UUDS there are several provisions related to elections, namely Article 35 concerning the principles and principles of elections, and Article 135 paragraph (2) concerning Election of Constituent Members, Article 23 paragraph (1) concerning the right to be elected in elections, Article 57 concerning Election of DPR members, Article 60 concerning Requirements for members of the DPR.

The success of the first election in 1955 did not continue with the second election, what happened then was a change in the political format with the issuance of a Presidential Decree of 5 July 1959, a Presidential decision to dissolve the Constituent Assembly and a statement Returning to the 1945 Constitution. This decree then ended the democratic regime and initiated the authoritarianism of power in Indonesia.

Elections during the New Order period were carried out under the 1945 Constitution of the Republic of Indonesia which did not explicitly regulate elections. Therefore, MPR Decree Number XI/MPRS/1966 concerning Elections was issued. The principle of election is carried out directly, publicly, freely and secretly. Elections for the New Order period were held on July 5, 1971. Then in 1966 TAP MPRS No. XXII/MPRS/1966 Concerning Party, Organization and Wealth and the issuance of Law of the Republic of Indonesia Number 15 of 1969 concerning Elections and Law of the Republic of Indonesia Number 16 of 1969 concerning the Composition and Position of the MPR, DPR and DPRD.

In considering Law No. 15 of 1969 in point b, it is stated "bahwa pemilihan umum bukan hanya sekedar bertujuan untuk memilih wakil-wakil rakyat yang akan duduk dalam Lembaga permusyawaratan/perwakilan saja, melainkan merupakan suatu sarana untuk mencapai kemenangan orde baru dalam mewujudkan penyusunan tata kehidupan yang jiwa semangat Pancasila dan Undang-Undang Dasar 1945".

The Orde Baru era elections were carried out by the Government under the leadership of the President, and a General Elections Institution was formed which was chaired by the Minister of Home Affairs. At this time there was no oversight or institution overseeing the

election, namely in the 1971 and 1977 elections. In the 1971 and 1977 elections various allegations of violations and manipulation of vote counting by election organizers arose. This condition led to the emergence of many dissatisfied protests from various groups regarding the holding of elections. So that the government and DPR came up with the idea to improve the election law in the hope that there would be changes in the quality of democracy in the 1982 elections.

The first elections in the euphoric era of reform were held on June 7 1999, the election was accelerated even though new elections should have been held again in 2002. President B.J. Habibie submitted 3 (three) packages of political laws which later became Law No. 2 of 1999, Law No. 3 of 1999, Law No. 4 of 1999, and issued TAP MPR No. XIV/MPR/1998 Concerning Amendments to MPR Decree No. III/MPR/1988 Concerning Elections. Elections are carried out on the basis of direct, general, free, secret, honest, fair and democratic principles. The election organizer is a free and independent body consisting of elements of political parties and the government and supervised by an independent supervisory body. The first election in 2004 after the amendment to the 1945 Constitution of the Republic of Indonesia was the first time to carry out direct presidential and vice-presidential elections. The constitutional basis for the 2009 and 2014 elections still refers to the 1945 Constitution of the Republic of Indonesia. There were only changes to the Election Law, the Presidential Election Law, and the Election Organizer Law.

The development of elections in the dynamics of the Indonesian state administration has undergone significant constitutional changes. The 2019 direct and simultaneous elections were the first elections to be held to elect the executive: president and vice president as well as elections to elect legislative members of the DPR, DPD, DPRD as a form of implementation of Law of the Republic of Indonesia Number 7 of 2017 Concerning General Elections.

The need for simultaneous elections is a mandate of the Constitutional Court (MK) Decision which is the result of a judicial review of Article 3 (paragraph) 5, Article 9, Article 12 paragraph (1), Article 12 paragraph (2), Article 14 paragraph (2)), Article 112 of the Law of the Republic of Indonesia Number 42 of 2008 concerning the General Election of the President and Vice President which regulates the provisions for legislative elections and presidential and vice presidential elections to be carried out separately from the 1945 Constitution of the Republic of Indonesia, which was filed by the Court in the verdict stated "yang mengabulkan sebagian permohonan uji materiil (judicial review) Undang-Undang Republik Indonesia Nomor 42 Tahun 2008 Tentang Pemilihan Presiden dan Wakil Preside terhadap Undang-Undsang Dasar Negara Republik Indonesia 1945" Based on the Constitutional Court's decision, the provisions of several of these articles were declared contrary to the 1945 Constitution of the Republic of Indonesia and did not have binding legal force (inkonstitusional).¹

The implication of the Constitutional Court's decision above is that simultaneous and direct national elections will be held, starting in 2019 and in the following years.

The 2024 General Election for Members of the DPR, DPD and DPRD will be held on 14 February 2024, which will be held simultaneously with the general election for the President and Vice President and the election for Regional Heads which will be held simultaneously. The implementation at the same time is still causing controversy and even being sued to the Constitutional Court through a request registered with Number 16/PUU-XIX/2021 concerning judicial review of Article 167 paragraph (3) and Article 347 paragraph (1) of the Election Law.

¹ Putusan Mahkamah Konstitusi Nomor 14/PUU-IX/2013 mengenai uji materiil Undang-Undang Republik Indonesia Nomor 42 Tahun 2008 Tentang Pemilihan Umum Presiden dan Wakil Presiden.

The 2024 presidential and vice-presidential elections will be held simultaneously with the legislative and regional head elections, which have been regulated in Article 167 paragraph (3) of the Law of the Republic of Indonesia Number 7 of 2017 concerning General Elections, which states that “pemungutan suara dilaksanakan secara serentak pada hari libur atau hari yang diliburkan secara nasional”

Simultaneous regional head elections in 2024 have been regulated in Article 201 paragraph (8) of the Law of the Republic of Indonesia Number 10 of 2016 concerning the Second Amendment to the Law of the Republic of Indonesia Number 1 of 2015 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 In 2014 concerning the Election of Governors, Regents and Mayors became a Law, which stated that: “Pemungutan suara serentak nasional dalam Pemilihan Gubernur dan Wakil Gubernur, Bupati dan Wakil Bupati, serta Walikota dan Wakil Walikota di seluruh wilayah Negara Kesatuan Republik Indonesia dilaksanakan pada bulan November 2024”

In this paper using normative juridical methods by collecting data or information through library research (Library Research), namely research conducted through literature studies through laws, decisions of the Constitutional Court, the internet and so on that are appropriate or relevant to the issues discussed, namely ahead of the 2024 election, there are still those who filed a lawsuit with the Constitutional Court because there are still pros and cons to the provision for the presidential threshold. In addition, the obstacles to the problems that occurred in the implementation of the 2019 simultaneous elections and the 2020 simultaneous regional elections should be re-evaluated by the KPU, Bawaslu and DPR RI so that simultaneous elections for the election of President and Vice President, DPR, DPD and DPRD as well as regional elections are scheduled for February 2024 can run democratically, accountably.

Indonesia, since the changes to the 1945 Constitution of the Republic of Indonesia which were implemented from 1999 to 2002, has chosen a presidential system in constitutional practice. The implementation of direct presidential and vice-presidential elections is the result of reform through the third amendment to the 1945 Constitution of the Republic of Indonesia, namely Article 6 A paragraph (1) which states that: “Presiden dan Wakil Presiden dipilih dalam satu pasangan secara langsung oleh rakyat”

Since the 2004 election, in the direct election of the President and Vice President, provisions regarding the threshold for the nomination of president and vice president or presidential threshold have become one of the requirements for the nomination of president and vice president.

In Indonesia, the presidential threshold was first formulated in the Law of the Republic of Indonesia Number 23 of 2003 concerning the Election of the President and Vice President based on Article 6 A paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that: “pasangan calon presiden dan wakil presiden diusulkan oleh partai politik dan/ atau gabungan partai politik peserta pemilu sebelum pelaksanaan pemilihan umum”.

In the 2004 election, the presidential threshold was set at least 15% (fifteen percent) of the number of seats in the DPR or 20% (twenty percent) of the national valid votes in the election for members of the DPR.²

In the 2009 election, the presidential threshold was set at least 20% (twenty percent) of the number of seats in the DPR or obtaining 25% (twenty five percent) of valid national votes

² Lihat Pasal 5 ayat (4) Undang-Undang Republik Indonesia Nomor 23 Tahun 2003 Tentang Pemilihan Umum Presiden dan Wakil Presiden, Lembaran Negara Republik Indonesia Tahun 2003 Nomor 93, Tambahan Lembaran Negara Republik Indonesia Nomor 4311

in the election for members of the DPR, prior to the implementation of the presidential and vice-presidential election.³

Furthermore, in the 2014 election, the presidential threshold setting still refers to the provisions stipulated in Article 9 of Law Number 42 of 2008, namely 20% (twenty percent) of the number of seats in the DPR or obtaining 25% (twenty five percent) of valid votes. in the election of DPR members.

The 2019 elections were held simultaneously, regulations regarding elections are regulated in the Law of the Republic of Indonesia Number 7 of 2017 concerning General Elections, provisions regarding the presidential threshold are formulated in Article 222 which states that: *“pasangan calon diusulkan oleh partai politik atau gabungan partai politik peserta pemilu yang memenuhi persyaratan perolehan kursi paling sedikit 20 persen dari jumlah kursi DPR atau memperoleh 25 persen dari suara sah nasional pada pemilu anggota DPR sebelumnya”*.

Now, ahead of the 2024 elections, the issue of the presidential threshold is being discussed again. A number of parties want the threshold for presidential and vice presidential nominations to be abolished because they are seen as limiting democracy and some political parties consider the presidential threshold of 20 percent to be too high.

Articles related to the Presidential Threshold have been challenged many times, repeatedly rejected by the Constitutional Court ("MK"). The Constitutional Court has issued several decisions related to reviewing the constitutionality of Article 222 of the General Election Law, including namely:

1. Decision of the Constitutional Court Number 6/PUU-XX/2022
2. Constitutional Court Decision Number 74/PUU-XVIII/2020
3. Decision of the Constitutional Court Number 55/PUU-XVII/2019
4. Decision of the Constitutional Court Number 53/PUU-XV/2017,
5. Decision of the Constitutional Court Number 59/PUU- XV/2017,
6. Decision of the Constitutional Court Number 70/PUU-XV/2017,
7. Decision of the Constitutional Court Number 71/PUU-XV/2017,
8. Decision of the Constitutional Court Number 72/PUU-XV/2017

The most ideal simultaneous elections in 2024 are based on the choice of the simultaneous election model based on Constitutional Court Decision Number 55/PUU-XVII/2019, that from the results of the Decision, the Constitutional Court rejected the applicant's application in its entirety because it considered the application to have no legal basis. However, the Constitutional Court provided options regarding simultaneous election models that could be selected and considered constitutional based on the 1945 Constitution of the Republic of Indonesia, which included:

1. Simultaneous general elections to elect members of the DPR, DPD, President/Vice President, and DPRD members;
2. Simultaneous general elections to elect members of the DPR, DPD, President/Vice President, Governors, Regents and Mayors;
3. Simultaneous general elections to elect members of the DPR, DPD, President/Vice President, DPRD members, Governors, Regents and Mayor;
4. National simultaneous general elections to elect members of the DPR, DPD, President/Vice President, and some time after that simultaneous local elections were held to elect members of the Provincial DPRD, members of the Regency/City DPRD, elections for Governors, Regents and Mayors;

³ Lihat Pasal 9 Undang-Undang Republik Indonesia Nomor 42 Tahun 2008 Tentang Pemilihan Umum Presiden dan Wakil Presiden, Lembaran Negara Republik Indonesia Tahun 2008 Nomor 176, Tambahan Lembaran Negara Republik Indonesia Nomor 4924.

5. Simultaneous national elections to elect members of the DPR, DPD, President/Vice President, and sometime after that a simultaneous provincial election was held to elect members of the Provincial DPRD and elect the Governor and some time after that a simultaneous general election of the Regency/City was held to elect DPRD members Regencies/Cities and elect Governors, Regents and Mayors;

Other options as long as maintaining the simultaneous nature of general elections to elect members of the DPR, DPD, President/Vice President. The election simultaneous model can be a solution to the deficiencies and problems experienced in the 2019 simultaneous elections, especially voter participation, the performance of election organizers, as well as strengthening the prudential system and strengthening the local government system.

CONCLUSION

Indonesia is entering its 24th (twenty-fourth) year after the 1998 reform. The history of Indonesian democracy has experienced quite complex dynamics and underwent very dynamic developments. The end of the New Order regime, known as the reformation era, is a phase of democracy that returns to the basic principles of democracy, namely direct elections, freedom of the press, decentralization, more guaranteed basic rights of citizens, inclusive politics. A democratic process in Indonesia in general has made significant progress in democratic life. People's participation in elections has increased, therefore it needs to be re-evaluated by the KPU, Bawaslu and DPR RI so that elections are held simultaneously for the election of President and Vice President, DPR, DPD and DPRD as well as the General Elections scheduled for February 2024 can run in a democratic, accountable manner.

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