

The Ideal 2024 Election Based on The Study of Decisions of The Republic of Indonesias Constitutional Court

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Abstract

The first election process in Indonesia was the holding of simultaneous elections on April 17 2019. This was a consequence of the Constitutional Court Decision 14/PUU/2013 concerning the review of Law Number. 42 of 2008 concerning Presidential and Vice Presidential Elections. Although the simultaneous general election is considered superior to the previous general election, its implementation is not without flaws. The issue that was most shocking was the large number of fatalities caused by general election organizers, this was allegedly caused by other technical problems and the 2019 simultaneous regional head elections. Based on Constitutional Court Decision Number: 55/PUU-XVII/2019, the Association for General Elections and Democracy (Perludem) conducted a judicial review of the 1945 Constitution by considering the various parties that emerged from the 2019 general election. The Petitioner conveyed a number of points in his argument related to the analysis of how the 2019 simultaneous general elections. The Constitutional Court ruled that the petition had no legal basis, so that the petition was rejected completely. However, in accordance with the 1945 Constitution, the Constitutional Court provides an alternative model of simultaneous general elections that can be chosen and considered constitutional. The research method used is the normative juridical method, which is meant by "normative juridical" is a type of procedural scientific investigation of the scientific logic of law, especially based on norms, to find facts. Qualitative studies are used in the data collection and argumentation methods of this paper, in particular by collecting various primary and secondary scientific reference sources from related writings such as books, journals, papers and mass media news about the impact of holding the 2019 simultaneous elections and their impacts. efficacy. refuses to hold simultaneous elections in 2024. In qualitative research, data is collected continuously until it is saturated from various sources using various data collection methods. A comprehensive analysis is needed of the 2024 general election model by looking at several indications of the findings. Several aspects can be considered, starting from the emergence of impacts on voters, election organizers, political parties, up to the regional and presidential government systems. The national general election is to elect simultaneously starting from the members of the People's Representative Council (DPR), the Regional Representatives Council (DPD), and the President and Vice President, which is an ideal general election model system and is discussed in this study. Starting from this process, new governors, mayors and regents, were elected in a system simultaneously with regional head elections for provincial-level Regional People's Representative Councils, regency and city-level Regional People's Representative Councils, as well as governors. Apart from that, the government can advance the system for holding general elections simultaneously in 2024 by using e-voting system technology to expedite support for the performance of holding elections. The author hopes that the problems of the previous general election will become valuable lessons during the upcoming 2024 general election. Expect various parties to be ready to hold democratic elections. This is of course public participation in the election event is highly anticipated. Respect the various choices of each without dividing the relationship in the family.

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INTRODUCTION

With the same model, Indonesian election organizers should have been able to build an election system that can be used for a long time. Therefore, new laws and regulations should not be required for each election because the existing regulations are already comprehensive and consistent. An example of democracy practiced in Indonesia is a general election, which allows citizens to directly elect officials. This shows that the people are still sovereign. Democracy and democratic elections are “highly necessary,” meaning they cannot be separated. In a sense, elections are seen as a means to preserve democracy or to entrust the sovereignty of the people to certain candidates for political office. Therefore, under certain conditions, this method can be maintained or modified if it is considered to be a correct democratic method. Determining the pros and cons of a choice requires a lot of thought and experience.

Direct elections for the president and vice president are a political system in Indonesia. This is a form of popular sovereignty where the people directly elect their head of government. Although in various regions in Indonesia, especially at the village level, communities directly elect local leaders, this is not something new in the Indonesian government system. However, direct elections for the president and vice president only took place nationally in 2004, unlike previous practices in Indonesia. Many people also believe that elections held every five years will not have a positive impact on society. Justice and prosperity for the people cannot be solely based on election results, as desired by the Founding Fathers. Although they are aware that many people are not yet ready, this cannot explain their true existence.

Pallevi stated that the state of emergency had increased public awareness of politics and participation in elections. When voting was a personal matter, changing the fact that political awareness really began in the early electoral phase and ended at the time of voting did not support any monetary policy. If society is smart today, we must understand that anyone who offers bait will be accepted.

Throughout the history of the electoral process, legislators and presidents have been elected separately. Therefore, some people consider its implementation ineffective and not in accordance with the 1945 Constitution. In response to this case and the issue, Effendi Gazali filed a request with the Constitutional Court to review Decision no. 14/PUUXI/2013, which regulates that Law no. 42 of 2008 concerning the Election of the President and Vice President violates the 1945 Constitution. The Constitutional Court changed its opinion on the unconstitutionality of the conduct of the election of the president and vice president after the election of members of the DPR. The Constitutional Court had previously decided in Sentence no. 51-52-59/PUU-VI/2008, dated February 18, 2009, that Article 5 paragraph 3 of Law no. 42 of 2008 was not unconstitutional because it was generally unconstitutional, but may be against legal reasoning. In fact, it is the members of Congress who formally appoint the president and/or vice president. Therefore, some argue that the People's Revolutionary Party should be formed first. So, it makes sense to vote for the DPR, DPRD, and DPD. To avoid violating the constitution,

the Constitutional Court referred to this as *desuetudo* - constitutional convention.

The Constitutional Court stated that the conduct of the Presidential Election after the Election of Members of the People's Representative Council is not a constitutional matter but a choice based on the interpretation of constitutionalism related to the context of the decision, based on Decision no. 14/PUU-XI/2013.” The relationship between the presidential system of government and the general election system, the basis of the 1945 Constitution, the efficiency and effectiveness of elections, and the right of Indonesian citizens to determine one choice using these three basic choices. The Constitutional Court has an opinion that in practice, the presidential general election system in 2004 and 2009 depended heavily on the support of the DPR, which consisted of political parties, for nomination.

In general, the Constitutional Court agrees with the petitioner's argument about the relationship between the election system and the presidential system of government. It is also never heard that political negotiations are done solely for tactical and instantaneous purposes, without considering the workings of government or long-term benefits. It is a means to realize the idealization of its system.

The constitutional description of a presidential system of government is not strengthened by the coalition model created by political parties by determining the candidates for President and Vice President. As a result, the definition of the 1945 Constitution regarding elections does not allow for presidential and vice-presidential elections following the election of members of the legislature. Various issues developed from time to time as a result of the 2019 simultaneous elections. The 5-box simultaneous regional elections to elect presidential and vice-presidential candidates, as well as members of the DPR, DPD and DPRD at the provincial and district/city levels, were criticized by many due to the lack of preparation of the KPU as the organizer. And other factors. The Association for Elections and Democracy (Perludem) submitted the law to the Constitutional Court for a judicial review because it violated the 1945 Constitution. on democracy and general elections, which trains the general public on democracy and elections, as well as monitors the development of democracy and general elections. The decision of the Constitutional Court in the judicial review proposed by Perludem can be found in the Constitutional Court Decision Number: 55/PUU-XVII/2019. The Petitioner's presentation of several points in his argument was then related to the analysis that was carried out later regarding the simultaneous implementation of regional elections in 2019.

The Petitioner stated that the legal considerations in the Constitutional Court Decision Number 14/PUU-XI/2013 regarding the holding of simultaneous elections intended to strengthen Indonesia's presidential system did not produce the desired results. Because the *pilkada* and *pilkada* are not simultaneous, the holding of simultaneous regional elections actually weakens the president's position in the harmonization of government and the development agenda. As a consequence, regional autonomy carried out by regional heads is an extension of the central Indonesian government which will affect changes in the political configuration that will occur during the election of DPD

members at the provincial and district/city levels throughout Indonesia. So that in its decision, Decision Number: 14/PUUXI/2013, the Constitutional Court emphasized that the presidential threshold provision is an open law policy or an open delegation of authority that can be stipulated by legislators as a legal policy. Because of this, the Constitutional Court delegated the issue of presidential thresholds to legislators, especially the DPR and the government. From the decision of the Constitutional Court it can be concluded that the adoption of presidential thresholds in the election of the President and Vice President as well as their abolition is not against the constitution. Therefore, the election of the President and Vice President is constitutional regardless of whether there is a presidential threshold or not. The Petitioner is considered to have violated the election principle regarding election readiness by holding simultaneous elections. There is no doubt that the goals of democratic and constitutional elections have led to elections that are considered unprepared. From the point of view of the very measurable and rational aspects of the electorate and elections, a legal framework system is needed that accommodates the fulfillment of the principle of people's sovereignty. A professional election is anticipated as a result of this. Be able to fairly facilitate political rights for all.

The Petitioner claims that if the elections for regional heads, both provincial and district/city, in this case the governors and regents and mayors, have not been held simultaneously with the election of members of the provincial and regency and city DPRD, the regional government will weaken. The tendency of transactional politics and political corruption is the basis. In order to create more democratic elections, the Petitioner proposes that the Pilkada and Candidates for DPRD members at the provincial and regency/city levels be held simultaneously. The petition of the applicant was declared to have no legal grounds in a decision of the Constitutional Court which resulted in a total rejection.

On the other hand, the Constitutional Court based on the 1945 Constitution offers various contemporary alternative election models that are constitutional in nature. These options include:

- 1) General election, simultaneously electing the People's Representative Council (DPR), MPR (People's Consultative Assembly), President and Vice President, as well as members of the MPR.
- 2) Simultaneous general elections for Governors, Regents, Mayors, (DPR) House of Representatives, and the Senate.
- 3) Simultaneous general elections for Governors, Mayors, Members (DPR) of the People's Representative Council, President and Vice President as well as Members of the People's Representative Council;
- 4) Simultaneous general elections for members (DPR) of the People's Representative Council, (DPD) of the Regional Representatives Council, including the President and Vice President; and not long after, governors, regents, and mayors were elected simultaneously in regional head elections for members (DPRD) of the provincial Regional Representative Council, members of the DPRD district and city Regional Representative Councils, along with the governor;
- 5) Simultaneous general elections for members (DPR)

of the People's Representative Council, (DPD) of the Regional Representatives Council, and the President/Vice President; In addition, provincial general elections were held shortly thereafter to elect the governor and members of the provincial Regional Representative Council (DPRD) simultaneously; After that, district/city simultaneous general elections were held to elect Regents and Mayors, as well as members (DPRD) of the City and Regency Regional Representative Councils;

- 6) Representative Council, (DPD) Regional Representative Council, and the President and Vice President are still held simultaneously;

With the issuance of the Constitutional Court decision above, the author is interested in discussing the impact of the 2019 simultaneous elections on voter participation, election organizers, and Indonesia's presidential system. Then, using the model selected in the Constitutional Court Decision Number 55/PUU-XVII/2019, it is examined to find a solution regarding the ideal model of simultaneous elections that must be held in 2024.

RESEARCH METHODS

The research method used is the normative juridical method, which is meant by "normative juridical" is a type of procedural scientific investigation of the scientific logic of law, especially based on norms, to find facts. Qualitative studies are used in the data collection and argumentation methods of this paper, in particular by collecting various secondary and primary scientific reference sources from appropriate writings from books, journal excerpts, papers, and news in the mass media about what the impact of holding general elections is. simultaneously in 2019 and its impact. efficacy. refuses to hold simultaneous elections in 2024. In qualitative research, data is collected continuously until it is saturated from various sources using various data collection methods. Qualitative research always uses scientific logic and emphasizes the analysis of inductive thinking processes related to the dynamic relationships between observed phenomena. Without the support of quantitative data, qualitative research is meaningless; however, more emphasis is placed on the in-depth formal thinking of the researcher when answering the problem. The purpose of qualitative research is to develop an understanding of one or more of the phenomena encountered, explain the reality associated with tracing the theory from below, and develop the concept of sensitivity to the problems encountered. In the sense that the broad range of data sources (people, participants, or respondents who were asked) makes qualitative data unstructured. Researchers can find a deeper understanding of the problems under investigation thanks to the openness of the participants to express their opinions. As a result, exploratory research usually uses qualitative data.

RESULTS AND DISCUSSION

Voter Participation

Increased citizen participation was helped along with the 2019 simultaneous elections. The General Election Commission (KPU) reported that 81.97 percent of voters

were entitled to vote in the 2019 simultaneous Presidential and Vice Presidential elections. Meanwhile, 81.67 percent of voters were eligible to take part in the Legislative Elections. Voter participation in the 2014 election was only 70 percent for the presidential election and 75 percent for the legislative election, as in the previous elections. Based on these data, it can be seen that the holding of simultaneous elections helps the public exercise their right to vote more. The increasing number of voters cannot be separated from the problems it causes. Student Suprianto claims that the 2019 5-box simultaneous local elections are the most difficult to organize and burden not only voters but also election organizers. There is a significant difference in public participation in the presidential and legislative elections due to voters being confused due to socialization that is still not well targeted and evenly distributed in society and the large amount of paper used.

The founder of the Indonesian Survey Institute (LSI)¹⁸ emphasized that because the presidential and legislative elections were held simultaneously, public discussion about legislative elections was not diminished or neglected because approximately 70% of public discussion focused on the presidential election and 30% on the legislative election. When compared to the legislative election, the presidential election has a higher level of voter turnout because the media focuses on the presidential election. So that compared to legislative elections, more information about candidates, vision and mission, and political parties supporting cawapres and cawapres is reported in the media. So that many people of origin vote in legislative elections or abstain in voting. So because of the increasing number of choices and ballots, voters struggle to choose based on rationality. Therefore, it makes sense to conduct a review of the electoral model in the future.

Organizing Elections

In general, there are a number of metrics that can be used to assess how well election administrators are carrying out their duties. From a legal standpoint, election organizers determine the success or failure of elections in Indonesia. This applies both to Article 22 E Paragraph 5 of the 1945 Constitution, Law 10/2016, and Law 7/2017, as well as laws or other decisions related to elections in Indonesia. The challenges and obstacles posed by the simultaneous implementation of the 2019 elections were apparently ignored by the election organizers. As a result, the organizers of the 2019 elections, KPU and Bawaslu, are deemed not to have carried out their duties optimally. The performance of election organizers, especially the KPU and Bawaslu, is assessed based on the findings of studies by Indonesia Corruption Watch (ICW), the Constitutional and Democracy Initiative (Code Initiative), the Association for Elections and Democracy (Perludem), and the Election and Democracy Syndicate (SPD). Regarding the independence of the KPU and Bawaslu, there are several questions that need to be answered, such as how to make decisions and writing rules regarding how to verify political parties as election participants when the KPU changes the sampling method while the political parties themselves choose the sample. Experts say that the level of professionalism is quite high.

Based on the ability to divide tasks and roles, scale priorities, socialize election administration, and apply the principle of collaborative decision making. The contributions of KPPS officers, police, Hansip (Civil Defense), and several other general election organizers should also be appreciated. Especially for officers from the KPPS (Voting Organizing Group) to function properly. Based on information submitted from the Provincial Health Office and the Ministry of Health, it is known that 527 people died and 11,239 members of the Voting Organizing Group (KPPS) were sick. In the 2019 simultaneous local elections, the 5 ballot box model was considered to be very burdensome for KPPS officers. They complain that the burden is too heavy because they have to check twice, making the task doubly difficult. In addition, vote counting must be completed by 10:00 p.m., and only seven employees can prepare C1 forms to be submitted the next day. Because KPU Regulation No. 3 of 2019 states that KPPS members only consist of seven people, so you cannot increase the number of KPPS members at will because you remember this phenomenon. Following is the use of information technology so that voting uses the Electronic Voting method, vote counting uses the Electronic Counting method, and vote recapitulation uses the E-Recap method is the best way to reduce incidents like this in the midst of the 2024 Election. This can be achieved by dividing working hours and control the increase of the organizing staff.

Strengthening the Presidential Electoral System

The strengthening of the presidential election system was greatly assisted by the general election which was held simultaneously in 2019. Because party elements had no choice but to form a coalition before the election because this was the right choice in order to be able to nominate the proposed presidential candidate according to regulations, the simultaneous general election simplified the system. parties in the Indonesian parliament, where the president chosen by each party is the choice of a coalition of parties that get a majority of votes in parliament. So the coattail effect on the theory that coalitions will form before elections is a contributing factor. The social stigma that upholds the presidential election has an impact on the electability of members of parliament from coalition parties supporting presidential candidates.

As a form of public policy for governance, political parties carry the vision and mission of their parties in parliament. So that political parties in parliament are disproportionately successful in carrying out their responsibilities, especially in government, both opposition and coalition. The goal is for the elected president's government to remain stable so that the president can easily get support from parliament to carry out the president's political policy duties. In a conceptual sense, a presidential system of government is a system of government in a government position that is not only subject to direct supervision, focusing on parliament, in other words, accountability to the House of Representatives. Because the legal basis for the provision of executive power will be returned to the people's elections in this system, then the position of the executive does not depend on the people's representative institutions. The re-

sults of research conducted by Scott Mainwaring provide indications that the figure of the president is rarely elected by the majority party. So if when the president is elected with a majority, then the president will try to strengthen his position through a coalition to get a majority in parliament.

However, it is much more difficult to form stable coalitions in a multiparty presidential democracy. This is because the desire of political parties to dissolve coalitions is stronger in presidential systems because alliances are not legally binding. The enforcement of political party discipline is a follow-up effect of this coalition based on ideological similarities. As a result, political party politicians are expected to shift their focus from power struggles to policy struggles. few votes if the choice of candidates for DPR elected by voters is influenced by the elected presidential and vice-presidential candidate pairs (coattail Political parties or coalitions of political parties nominating pairs of presidential and vice-presidential candidates who are not good enough in the eyes of voters ("less in demand") possible will get the effect). In addition, based on the fact that the parliamentary threshold has increased from 3.5% to 4% in the 2019 simultaneous elections, it is very likely that political parties or coalitions will not be able to cross the representation threshold. As a result, the reduction in the number of political parties is naturally the second result of the 2019 simultaneous elections. 26 Of course, with the stipulation of the presidential threshold, it excludes parties which incidentally do not have the enthusiasm to nominate for president and vice president and are ready to support only a few pairs of candidates who have already registered. official at the Commission.

This is right on the verge of reasonableness because if the candidate pairs in the 2019 simultaneous regional head election run the same as in the 2014 presidential election, then the battle will be fierce so that it will be between the Joko widodo camp and Prabowo voters, so that the provision for the number of presidential thresholds will also give rise to pragmatic alliances. To repeat themselves. The only thing that has changed is the number of coalition supporters in the 2019 Pilkada Simultaneous, indicating that Jokowi has more support than Prabowo. The Association for Elections and Democracy (Perludem), interprets the applicant's argument in the decision of the Constitutional Court Number: 55/PUU-XVII/2019, which provides confirmation that the model of simultaneous general elections in five squares does not have too significant an impact on strengthening the presidential system. Following are the legal considerations in the Decision of the Constitutional Court of the Republic of Indonesia 14/PUU-XI-2013 which contains the rights of citizens to make an intelligent choice by making checks and balances. The petitioner considers that the simultaneous general election model has indeed greatly influenced the election of DPR members from the same party and the President. The Petitioner argues that this will impact the president's role in aligning development and government agendas; as a result the post-conflict local election and the election of the Regional People's Legislative Assembly are not synchronized.

Ideal Simultaneous General Election 2024 Based on Constitutional Court Decision

All petitioner requests were rejected by the Constitutional Court in Decision Number 55/PUU-XVII/2019 as they were deemed legally unfounded. However, based on the 1945 Constitution, the Constitutional Court (MK) provides several options for a simultaneous election system that can be chosen and considered constitutional. These options include:

- a. General elections for members of the DPR, DPD, President/Vice President, and DPRD conducted simultaneously;
- b. Simultaneous general elections for choosing Governors, Regents, and Mayors, the House of Representatives, and Regional Representatives Council;
- c. Simultaneous general elections for choosing Governors, Mayors, and Regents, as well as members of the Provincial and City/District House of Representatives and the President/Vice President;
- d. Simultaneous general elections for choosing members of the Provincial and City/District House of Representatives, the President/Vice President, and soon after, Governors, Regents, and Mayors simultaneously in local elections for members of the Provincial House of Representatives, members of the City/District House of Representatives, and Governors;
- e. Simultaneous general elections for the House of Representatives, Regional Representatives Council, and President and Vice President. In addition, elections for members of the Provincial House of Representatives are immediately held, simultaneously choosing the Governor and members of the Provincial House of Representatives. After that, simultaneous elections for Regent/Mayor are held to choose the Governor, Mayor, and members of the City/District House of Representatives;
- f. The second option with the provision that the election for the House of Representatives, Regional Representatives Council, and President and Vice President are still held simultaneously.

According to assessments, a national election conducted simultaneously for choosing members of the House of Representatives, Regional Representatives Council, and President and Vice President is the best model for simultaneous elections. The simultaneous local election model can be a solution to the shortcomings and problems that arose in the 2019 simultaneous local elections, especially regarding voter participation, election organizer efficiency, and strengthening the presidential and provincial systems.

Having too many candidates in an election discourages many people from voting. With the abundance of elections or ballots, it's difficult for voters to make a wise choice. Additionally, the number of invalid votes increased from 10% in the 2014 legislative election to 11% in the 2019 legislative election. To obtain qualified candidates, it is hoped that the current simultaneous general election model will improve. This model should be able to understand the voter's chances of determining their choice and maintain

their rationality. From the perspective of the organizers of the general election, the national general election has gaps and differences in the election of the President/Vice President, members of the House of Representatives, and Regional Representatives Council. Then, the Provincial and Regency/City Regional Representatives Councils, Governors, and Mayors are elected. Although the simultaneous general election model is still used, such mechanisms allow the organizers of the general election to work efficiently because their workload is not too heavy. This model is believed to prevent problems that arose during the 2019 simultaneous general election, especially the many deaths caused by too many election officials working. This general election model can still be used to end the presidential government system.

The 2019 general election showed that the simultaneous general election model for the President and the House of Representatives created a united government where the presidential and vice presidential candidates received majority support from the House of Representatives. The most important foundation for building an effective presidential system is this harmonious government. Based on an analysis of the 2019 local elections, one of the factors causing the inability of city governments to respond to public demands for regional issues is the separation of the election of members of the Regional Representatives Council and the provincial and district leaders. Every policy proposed by a local leader but rejected by the Regional Representatives Council often results in a deadlock in the relationship between the two groups. Regional leaders and the Regional Representatives Council have different political backgrounds that act as triggers. With this general election model, it is hoped that the Regional Representatives Council and the provincial, district, and city leaders can carry out their roles in organizing regional government and implementing regional autonomy in the future.

CONCLUSION

After the Constitutional Court Decree No. 55/PUU-XVII/2019, in carrying out the upcoming 2024 election, it is concluded that a detailed analysis needs to be carried out on the simultaneous election system model which should be carried out in the 2024 election year based on the provisions above. All the several aspects that must be met, this will have an impact starting from the impact on the voters, election organizers, political parties, the system of government, both the presidential system and the system of government in the regions. So the general election system simultaneously involving all Indonesian people by simultaneously electing members of the People's Legislative Assembly in this case the DPR, the Regional Representatives

Council (DPD), and simultaneously electing the President and the Vice President is a form of an election model that is classified as ideal, it must be carried out in the title This article. Thus, governors and regents as well as mayors will be elected using a simultaneous election model system at the Regional People's Representative Council both at the province, the Regional People's Representative Council at the governor and regency and city levels, and of course elections at the governor and regency/city levels. Apart from that, the government can push the system for organizing simultaneous national elections in 2024 by using advanced technology with electronic voting so that preparations to support the operational implementation of elections run without fraud. The author provides suggestions and hopes that the shortcomings and various confusions of the general election can make lessons and learning for the upcoming 2024 general election a success. Finally, the writer suggests that political parties must be prepared and act democratically in holding general elections at the parliamentary level. Of course there must be public participation and obedience in parliamentary elections so that it is hoped that respect for each other's choices without jeopardizing friendship and family ties.

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