

Indonesian Democracy: Folk Party or Humanitarian Tragedy?

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ABSTRACT

Democracy and the holding of general elections (Elections) are two sides of a coin that are closely intertwined. In 2019, a new history begins in the General Election, along with the Constitutional Court ruling Number 14 / PUU-XI / 2013 in the trial case of Law Number 42 Year 2008 concerning General Elections which states that the Election of Members of DPR RI, DPD and DPRD (Legislative Election), and Election of President and Vice President (Pilpres) must be simultaneous, not separate as practiced so far. However, after the simultaneous elections, many people died from the Voters Organizing Group (KPPS), the Election Supervisory Committee (Panwaslu), and members of the National Police. Based on preliminary data compiled by the Ministry of Health, the number of election organizers who died totaled 527 people and the number of sick people numbered 11,239 people. This is an ironic fact, the election which should be a place to determine political rights for the people, actually caused many casualties. The problem in this research is, How is the simultaneous election law construction in 2019 in Indonesia related to the norms contained in the 1945 NRI Constitution? The method used in this research is normative juridical with descriptive analysis approach. The expected results in this study are the simultaneous elections in 2019 need to be re-evaluated its implementation. On this basis, it is of course very much expected that the government together with the DPR will immediately draw up the regulation of the Special Law on simultaneous elections, with the aim that the legal certainty aspect is realized as it should. This can be done by judicial review or towards a higher direction, namely the 5th Amendment to the NRI Constitution of 1945.

Keywords: *Democracy, simultaneous elections, Constitutional Court decisions*

1. INTRODUCTION

In today's modern, almost all countries claim to be adherents of the democratic system.[1] When we talk about a system called democracy, we will indirectly also talk about General Elections. This is because one indicator of the success of holding an election is public participation in participating in the general election. People who give their votes in elections are a form of a country that applies a democratic system. So we can say, the higher the level of public participation in participating in an election will be directly proportional to the success rate of holding the election.

General Election, hereinafter referred to as Election, is a means of implementing the people's sovereignty which is 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. This is intended to produce democratic state government. Related to this direct general election, the 1945 Constitution has been mandated in Article 1 paragraph (2), stating that "sovereignty is in the hands of the people and is carried out according to the Constitution".

Organizing direct, general, free, secret, honest and fair elections can be realized by a country if carried out by election organizers who also have integrity and professionalism. So that the elections are carried out properly will be aligned with the better election of candidates desired by the people. Meanwhile, when viewed from the perspective of political science, the electoral system can also be interpreted as a collection of

methods or an approach with procedural mechanisms for citizens in using their voting rights.[2]

Elections are one of the most important instruments for a country that adopts a democratic system, especially a country that adopts a modern political-democratic system. Elections are even used as one of the main parameters that are internationally recognized by the international community to see whether a country is democratic or not. Although on the other hand, elections are often held only to legitimize the concrete actions of the regime which are autocratic. Because today, the international community agrees that no country is categorized as a democratic country if it does not hold elections, regardless of how the quality of its implementation and the quality of candidates elected in the election.

Elections are an important instrument in a democratic country that adopts a system of representation, elections function as a filtering tool for politicians who will represent and bring the voice of the people in representative institutions.[3] Elections are also considered as a tool used to imply an orderly, orderly and peaceful governance mechanism and the birth of a society that can respect the opinions of others. Because in the election, there will definitely be differences of opinion and differences in choices that could have damaged unity and cohesion. In addition, further elections will be able to give birth to a society that has a high level of criticism, in the sense of being selective or used to choose the best according to his beliefs. And can provide criticism to the leader if the leader makes policies that are not pro to the people. This of course also avoids arbitrariness by the government in making a policy.

In other words, the election is a means of democracy to form a system of state power that is sovereign of the people and

the deliberation of representation outlined by the Basic Law. Power that is born through elections is power that is born from below according to the will of the people and is used in accordance with the wishes of the people. In the development of democracy in Indonesia has experienced many developments. Elections in Indonesia were originally intended to elect members of representative institutions, namely the DPR, the provincial DPRD, and the regency or city DPRD. Specifically the international world praised the election in 1999 as the first election in the reform era that had taken place in a safe, orderly, honest and fair manner, seen as meeting global democratic standards with a participation rate of 92.7%, so that Indonesia was considered to have made a democratic leap.

Indonesia began holding elections for the first time in 1955 and was run according to Law No. 7 of 1953 concerning the General Election of Constituent Members and Members of the House of Representatives. This election was considered to be one of the most democratic elections at the time, because it was the first election held in Indonesia. All people who have qualified as voters are given political rights to be elected and elected, regardless of race, ethnicity, and between groups, and skin color.

This first election resulted in Ir. Soekarno as President. Time passed until the old order ended. A new order emerged. After the collapse of the new order, until now it has developed the thoughts of the people to implement the principle of people's sovereignty in various ways, so that in every aspect of life, the sovereignty values of the people have always been the heart that pumps blood throughout the body of the Republic of Indonesia.[4]

Changes in the electoral system model from election to the next election would certainly be needed, this is because the development and political situation of the Indonesian nation continues to change. Changes in one element can affect other elements in the system itself. There are still many people who consider that so far the election is only a five-year routine agenda that consumes public money, while the results of the election itself have not been able to create a just and prosperous society. Such an assumption is certainly an input for election organizers to be better in carrying out the election agenda in the future.

After the Constitutional Court Decision No. 14 / PUU-XI / 2013 which partially granted the judicial review of Law Number 42 Year 2008 Concerning General Elections of President and Vice President proposed by Effendi Gazali et al the simultaneous election rules, the issuance of the Constitutional Court's decision was one of the breakthroughs new law. Where in its decision the Court stated: Article 3 Paragraph (5), Article 12 Paragraph (1) and Paragraph (2), Article 14 Paragraph (2), and Article 112 of Law Number 42 Year 2008 does not have binding legal force (unconstitutional).

From the series of provisions that are stated to have lost the constitutional validity, the Constitutional Court stressed, the general election of the president and vice president must be held simultaneously with the general election of members of the DPR, DPD and DPRD. With this decision, the provision that the General Elections of the President and Vice President (Presidential Election) is held after the General Elections of members of the DPR, DPD, and DPRD (Legislative Elections) are unconstitutional, in the second dictum of the Constitutional Court ruling emphasizes that the simultaneous election decision will be applied to 2019 election.[5]

However, the simultaneous election as a decision of the Constitutional Court in the view of some circles is felt not to

promise promising election results that can guarantee the creation of a stable and efficient government, especially in efforts to strengthen the presidential system that has been applied in Indonesia. Then, from a technical point of view the implementation may not necessarily be able to sustain an increase in voter turnout or be able to be an antidote to public boredom due to the intensity of the elections being too frequent.

Based on the above, through this paper the writer will discuss the construction of the simultaneous election law in 2019 in Indonesia in relation to the norms contained in the 1945 NRI Constitution.

2. METHODS

This research is a normative legal research (juridical normative) is a method of legal research conducted by examining library materials or secondary data. Secondary data analyzed in this study include: the 1945 Constitution, Law no. 42 of 2008 concerning Election of President and Vice President, Law No.15 of 2011 concerning Election Organizers; Law No.8 of 2012 concerning General Elections of Members of the People's Legislative Assembly, the Regional Representative Council, and the Regional People's Representative Council, Law No. 7 of 2017 concerning Elections, as well as the Constitutional Court Judge's Decision No.14 / PUU-I / 2013 . The analytical method used in this study is qualitative in nature, namely the truth of the data / final premise is determined by the researcher himself. The form of the results of the research will be presented in a prescriptive-analytical form.

3. RESEARCH RESULTS AND ANALISYS

As we alluded to above, elections are often referred to as a venue for a people's democratic party which reflects the people's participation in determining the leaders and direction of national development. Of the several concepts and characteristics of democracy that have been advanced by legal experts, there is one characteristic of democracy that is the existence of a free and confidential public electoral system. The exercise of popular sovereignty cannot be separated from general elections because elections are a logical consequence of the principle of popular sovereignty (democracy) in the life of the nation and state. The basic principle of democratic state of life is that every citizen has the right to take an active part in the political process.[6]

Ideally, elections are both a process and a democratic tool to channel people's aspirations. Elections are an inclusive process of elite circulation in which all citizens openly have the opportunity to vote and be elected. Through the election process, the people have the opportunity to determine their various hopes, desires and interests through political choices channeled in the election. In the ideal-normative level. Even through this electoral mechanism the people make a complete choice of state life direction.

In presidential democracies, presidential elections are as important as legislative elections. Ideally, every country has a balanced executive and legislative body. But in its development, elections in Indonesia are still lacking and become homework that needs to be fixed together by all elements of the nation. If we look at history, Indonesia has

made changes in the electoral system several times. In 1999, after the demands for reform, making the political process more dynamic, this can be seen from the increasingly colored fight between parties that is very open, until finally it takes a political strategy to win hearts and win the sympathy of constituents as a determinant of a political decision.

In elections, the public is given a space of appreciation in determining their political rights for a country's five-year agenda. Elections are the right momentum in implementing the rights of citizens to exercise sovereignty. That in the general election, it is hoped that the community will actively participate in the general election so that a democratic and sovereign community can be realized.

Democratic elections are marked at least by the implementation of three general principles, namely:

- a. Electional rights principles
- b. electoral justice, and
- c. electoral integrity.[7]

In the development of elections in Indonesia, there are some changes that occur in the electoral system, including the Simultaneous Election. Simultaneous elections were carried out as a result of a lawsuit against Law Number 42 of 2008 concerning General Elections of President and Vice President submitted by Effendi Ghazali and the Coalition of the People to the Constitutional Court with the decision of the Constitutional Court Number 14 / PUU-XI / 2013. The Constitutional Court's decision approved the lawsuit on the grounds that the simultaneous holding of elections would alleviate the cost and time.

Simultaneous elections are also considered to strengthen the Indonesian presidential system, this is the first step to building a presidential system that is purely of parliamentary mixed elements. Simultaneous elections are expected to be more honest, fair, direct and clean elections. Prasetyoningsih considered that the Constitutional Court's Decision was a good and very acceptable decision, the reasons were:

- 1) Simultaneous elections will weaken the presidential government system;
- 2) Simultaneous Election is the mandate of the Constitution;
- 3) Simultaneous Election will lead to the effectiveness and efficiency of the holding of elections, and the right of citizens to vote intelligently will be more secure, and that will also make Simultaneous Elections more efficient in financing their implementation.

However, after being held, simultaneous elections have many obstacles, such as the election logistical delivery that was late in sending, the KPU stated as many as 2,249 of 810,193 polling stations who did not hold elections on April 17, 2019, and were forced to vote aftershocks. Furthermore, related to errors in the recapitulation of the 2019 Simultaneous vote count, Bawaslu also stated that the KPU's Voter Data Information System often had errors which disrupted the process of uploading and downloading data, and many other problems in the implementation of the Simultaneous Elections that had been carried out.

Other problems arising from the Simultaneous Election are the number of Voting Organizers (KPPS) organizing groups who became victims in holding the simultaneous elections in 2019. Furthermore, there were also election supervisors (panwaslu) and the National Police who died due to various reasons during the 2019 Simultaneous Elections.[8]

This cannot be separated from voting and the vote count must also be completed on the same day, although the Constitutional Court Decision MK No.20 / PUU-XVII / 2019 allows an extension of the vote counting period no later than 12 hours from the end of voting day at the TPS / TPSLN. However, the death toll is unavoidable, many KPPS officers experience physical and mental exhaustion. Since the beginning the KPU has tried to anticipate this, for example article 350 paragraph (1) of Law No.7 of 2017 on Elections regulates the number of voters for each polling station at a maximum of 500 people. But through KPU Regulation (PKPU) No.3 2019 concerning Voting and Vote Counting in Elections, the number of voters for each polling station is at most 300 people.

The implementation of Law No. 7 of 2017 concerning Elections, which combines simultaneously the legislative elections with the election of presidential and vice-presidential candidates to save costs, in fact leaves some bad records for the Indonesian people. The General Election Commission (KPU) released a total of polling group officers (KPPS) who were sick and died while carrying out their duties in the 2019 simultaneous elections. The Ministry of Health released the number of election organizers who died totaling 527 people and sick victims totaling 11,239 people. Furthermore, the budget has also increased, initially from Rp. 15.62 trillion in 2014 to Rp. 25.59 trillion.

This condition is assessed due to the workload of multiple organizers because they have to count the votes of the legislative and presidential election. Plus it matches the number of DPT, then escorts form C1, all of which are still counted manually. Of course this is very unfortunate. The election, which should have been felt as a party for all Indonesian people, claimed lives.

Without a system change, the simultaneous next election can be worse quality than the 2019 simultaneous election. Without perfecting the system, the 2024 election can be a venue for more widespread money politics, failing to realize the idealized presidential system, and consequently will distort implementation constitutional provisions related to popular sovereignty. The legislative election system in Indonesia should return to the spirit of the constitution which has established political parties as election participants. Open proportional elections based on legislative candidates (candidates) must be returned to be based on political parties that are election participants.

This change can overcome the weaknesses of our current electoral system such as the rise of money politics, 'civil war' between candidates, fraud committed by both participants and organizers / and / or committed by participants and organizers. This political party-based proportional system also fits in with the pattern of presidential government.

With a proportional system based on political parties, the political parties that carry out campaigns and voters only choose political parties, not elect candidates for legislative members (candidates) directly. Legislative candidates support their political parties campaigning, by raising clear and targeted issues. They do not need to carry out individual campaigns by raising personal issues which are confusing. Moreover, voters can be made easy in making choices.

In addition, according to the author, elections can be separated into several levels, namely: Presidential Election can be held simultaneously with Pileg for the DPR, Governor Election with Provincial, and Regent / Mayor Election with Regency. From the beginning there were weaknesses in the formulation of policies for implementing simultaneous

elections. The Constitutional Court's decision should be followed by an evidence-based policy making process with strong data, based on a simulation of the implementation. Thus, the burden of organizing elections can be identified from the outset and steps to mitigate risk can be considered if things happen that are not desirable.

4. CONCLUSIONS

The conclusion in this study is the simultaneous elections in 2019 need to be re-evaluated its implementation. On this basis, it is of course very much expected that the government together with the DPR will immediately draw up the regulation of the Special Law on simultaneous elections, with the aim that the legal certainty aspect is realized as it should. This can be done by judicial review or towards a higher direction, namely the 5th Amendment to the NRI Constitution of 1945.

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