

Electoral Reform: From Separated to Simultaneous General Election

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ABSTRACT

Indonesia has gone through a long and dynamic election journey. Since the first election held in 1955, this democratic fiesta has undergone several changes, both related to the laws and regulations governing it and the mechanism for its implementation. Considering the need to improve the effectiveness and efficiency of the elections, the Government and the Parliament (DPR, dewan perwakilan rakyat) agreed to change the implementation of elections from separate to simultaneous. This is supported by the Constitutional Court Decision No. 14/PUU-XI/2013 which became the basis for holding simultaneous elections. The implementation of simultaneous elections based on the Constitutional Court's decision gave rise to the idea of legal reform to unify the previously scattered electoral law arrangements into one election law, namely Law No. 7 of 2017 (the Election Law). This study aims to investigate the law-changing aspects behind the change in the electoral system from separate to simultaneous in Indonesia. Thus, it is expected that the readers can gain an understanding of what are the aspects that influence the change of the Election Law from separate to simultaneous with the issuance of Law No. 7 of 2017.

Keywords: Election, Law Changing Aspects, Separate, Simultaneous

ABSTRAK

Indonesia telah melalui perjalanan pemilu yang panjang dan dinamis. Sejak diselenggarakan pertama kali pada 1955, pesta demokrasi ini telah mengalami beberapa perubahan baik terkait peraturan perundang-undangan yang mengaturnya maupun mekanisme penyelenggaraannya. Melihat adanya keperluan untuk meningkatkan efektivitas dan efisiensi penyelenggaraan pemilu, Pemerintah bersama DPR menyepakati perubahan penyelenggaraan pemilu dari terpisah menjadi serentak. Hal ini didukung dengan Putusan MK No. 14/PUU-XI/2013 yang menjadi landasan penyelenggaraan pemilu serentak. Pemberlakuan penyelenggaraan pemilu serentak berdasarkan Putusan MK tersebut memunculkan gagasan reformasi hukum untuk mengharmonisasikan undang-undang pemilu dari yang sebelumnya tersebar menjadi satu undang-undang pemilu, yaitu UU No. 7 Tahun 2017 (UU Pemilu). Penelitian ini bertujuan untuk menginvestigasi aspek-aspek pengubah hukum yang melatarbelakangi perubahan sistem pemilu dari terpisah menjadi serentak di Indonesia. Dengan demikian, diharapkan para pembaca dapat memperoleh pemahaman mengenai apa saja aspek-aspek yang mempengaruhi perubahan UU Pemilu dari terpisah menjadi serentak dengan lahirnya UU No. 7 Tahun 2017.

Kata Kunci : Aspek Pengubah Hukum, Pemilu, Serentak, Terpisah

1. Introduction

Indonesia is a democratic country. This is mentioned in Article 1 paragraph (2) of the 1945 Constitution which states "Sovereignty is in the hands of the people and implemented according to the Constitution." As the largest democratic country in Southeast Asia, Indonesia recognizes that people's sovereignty must be the highest concept to ensure that government power is limited (*de macht van de overheid*) (Jurdi 2018). One form of popular sovereignty is reflected in the implementation of elections.

According to Hai (2002), elections are contests to gain supreme power in national politics, while an electoral system is a mechanism for holding elections and determining their results. Fuadi (2021) defines it as an arena of competition to fill political positions based on the recognized choice of citizens who meet the requirements to participate. Elections are an indicator of a democratic country. In addition, elections also have broad implications for various aspects of life and are one way to end authoritarian regimes. Therefore, elections are an important mechanism for maintaining the continuity of a country's democracy (Fuadi, 2021).

Indonesia has gone through a long and dynamic electoral journey (Wahdini, 2022). In Indonesia, the first elections were held in 1955 based on Law No. 7 of 1953 (Yusriadi et al. 2020). The second election was held in 1971 followed by the holding of further elections in 1977, 1982, 1987, 1992, 1997, 1999, 2004, 2009, 2014, and 2019. Likewise with the regulation changes governing the elections. The first election was marked by the issuance of Government Regulation No. 9 of 1954 concerning the Implementation of the General Election Law, which was later updated by Law No. 3 of 1999 concerning General Elections. The presidential and vice-presidential election legislation then developed again with the issuance of Law No. 23 of 2003, Law No. 22 of 2007, Law No. 42 of 2008, and Law No. 15 of 2011 concerning General Election Organizers.

Meanwhile, legislative elections (*pileg*) have also been regulated in Law No. 15 of 1969 concerning General Elections for Members of the Consultative Council/People's Representative Council, which was later amended by Law No. 12 of 2003 concerning the General Election of Members of the DPR, DPD, DPRD. Then there was a revision with the enactment of Law No. 10 of 2008 and Law No. 8 of 2012 concerning the General Election of Members of the DPR, DPD, DPRD. Seeing the need to increase the effectiveness and efficiency of holding elections, in the end the DPR and the government formulated a new law that

regulates the simultaneous implementation of elections by issuing Law No. 7 of 2017 concerning General Elections has been in force since 16 August 2017 which revoked Law No. 8 of 2012 concerning the Election of Members of the DPR, DPD and DPRD, Law No. 15 of 2011 concerning Election Organizers, and Law No. 42 of 2008 concerning Presidential and Vice Presidential Elections.

Prior to the issuance of Law No. 7 of 2017 concerning General Elections, the journey of the electoral system in Indonesia has a flow of stages in the form of holding legislative elections (*pileg*), followed by presidential and vice-presidential elections (*pilpres*), and regional head elections (*pilkada*). The evaluation of the implementation of separate elections for each element of power, both at the national and regional levels, show that the implementation system is less effective and efficient, especially for a presidential system of government like that adopted by the Indonesian state (Fuadi, 2021). In addition, the occurrence of various problems and social-political friction both vertically and horizontally also became a consideration for changing the election management system from separate to simultaneous (Fuadi, 2021).

The fundamental difference between the 2019 election and the previous election is the mechanism for holding it simultaneously (Yusriadi et al. 2020). The simultaneous election is based on the Constitutional Court Decision No. 14/PUU-XI/2013 which was decided on 23 January 2014. This Constitutional Court decision marks a new chapter in the development of democracy in Indonesia, especially related to holding elections. The implementation of simultaneous election gave rise to the idea of legal reform to unify the election law arrangements that were previously scattered into one codified election law (Natalia, 2016). Simultaneous elections are regulated in Article 167 paragraph (3) of Law No. 7 of 2017 which reads "Voting is carried out simultaneously on holidays or national holidays," and Article 347 paragraph (1) of the Election Law which reads "Election voting is held simultaneously."

2. Focus of Problems

Regarding the proposal to change the election administration system from separate to simultaneous, this has been discussed for a long time. Talking about the Election Law, especially regarding its simultaneity, certainly involves many aspects. However, due to the wide scope of material and issues contained in this Election Law, this research focuses only on the aspects underlying the change in the electoral system from separate to simultaneous. Thus, it is hoped that readers can gain an understanding of what are the aspects that influence the

change in the Election Law from being separate to being simultaneous with the existence of Law No. 7 of 2017.

3. Research Methodology

This study adopts a normative legal research with a normative and conceptual juridical approach. Data is collected from literature studies based on laws and other relevant regulations, scientific articles, and books and other scientific works. The analysis carried out is descriptive qualitative by following the existing legal norms (*ius constitutum*), previously applicable legal norms, and future legal norms (*ius constituendum*) (Mertokusumo, 2006).

4. Finding & Discussion

The Constitutional Court's decision regarding simultaneous holding of elections can be seen as a judicial political law. Judicial legal politics is legal politics made by the Constitutional Court which provides direction for the formation of national law (Rachman, 2020). Here, the Constitutional Court acts as a protector of the constitution in terms of its authority to review a law against the 1945 Constitution (Rachman, 2020; Fuadi, 2021). This research focuses on the changing aspects of the law that are the background to the change in the electoral management system from separate to simultaneous. Table 1 below summarizes the aspects of changing the law along with the expected factors and consequences. The discussion of each aspect is described in detail.

Table 1. Changing Aspects of Election Law

Changing aspects	Influencing factors	Consequences
State administration aspect	The scheme that prioritizes holding the legislative election follows by the presidential election	The candidacy for the presidential election is driven by the results of the legislative election (not all political parties can nominate candidates for the presidential election)
	Evaluation for both legislative and presidential elections that have not been effective	There is a need to design an electoral system that strengthens the effectiveness of a democratic presidential government
Political aspect	Conflicts of interest between groups and individuals	There is unfair competition
	Bureaucratic politicization	There are electoral arrangements and inconsistencies in electoral system arrangements
	Presence of money politics	There are unfair election arrangements
Economic aspect	Waste of budget for each holding of elections	There is a need for budget efficiency by being held simultaneously

	Periodic principle	There is a need for efficient implementation time that is not too intense so that the community's economy can run normally
	A waste of budget for human resources in every election	There is a need for efficiency in the human resources of organizers which also saves the election budget
Social aspect	The intensity of holding elections is too frequent	The low level of public participation is due to the boredom of too frequent elections
	Political stability that affects the socio-economic activities of society	Community socio-economic activities can run normally without frequent intervention by democratic parties

1. State Administration Aspect

The holding of legislative elections (pileg) which are held prior to the holding of presidential elections (pilpres) has risks in a presidential system of government. Fuadi (2021) calls it an anomaly where the candidacy for the presidential election is driven by the results of the legislative elections. An election scheme like this shows that a separate electoral system is not designed to support the effectiveness of a presidential government. The holding of legislative elections is only to fill legislative seats, while the presidential election is not associated with the need to optimize government performance (Fuadi, 2021).

Jones' research (1995) shows that there are indications of strengthening the presidential government if the president obtains adequate political support in the legislature. The holding of a simultaneous election system is considered to support the presidential system with a party system that is simpler and more moderate (Fuadi, 2021). Thus, it is hoped that there will be sufficient political support from the legislature to the president.

In addition, election congruence is expected to increase the effectiveness of the presidential government system (Fuadi, 2021). The holding of simultaneous election can have implications for the occurrence of a coattail effect where the influence of president and vice-president candidates carried by certain political parties can increase the party's votes in legislative elections. Thus, there is an opportunity that the victor of the legislative elections will be the political party that carries the elected president (Fuadi, 2021). This can be seen in the 2019 elections where the PDIP party won the most votes ahead of other political parties such as Gerindra, Golkar and PKB (<https://pemilu2019.kpu.go.id/#/dprri/hitung-voice/>). This also has

an impact on increasingly close relations between the executive and the legislature in government (Efriza, 2019).

In Decision No. 55/PUU-XVII/2019, the Constitutional Court has determined six constitutional simultaneous election models (judicial law politics). This decision provides an alternative time mechanism for holding simultaneous elections according to the Constitutional Court. The six models are:

1. Simultaneous elections to elect members of the DPR, DPD, President and Vice President, and election of DPRD members (5 boxes).
2. Simultaneous elections to elect members of the DPR, DPD, President and Vice President, Governors, Regents/Mayors (5 boxes).
3. Simultaneous elections to elect members of the DPR, DPD, President and Vice President, DPRD members, Governors, and Regents/Mayors (7 boxes).
4. Simultaneous national elections to elect members of the DPR, DPD, President and Vice President (3 boxes), and sometime after that simultaneous local elections were held to elect members of the Provincial DPRD, Regency/City DPRD, Governor and Regent/Mayor elections (4 boxes).
5. Simultaneous national elections to elect members of the DPR, DPD, President and Vice President (3 boxes), and sometime after that simultaneous provincial elections were held to elect members of the provincial DPRD, Governor (2 boxes), and then some time after that simultaneous district elections were held /city to elect the Regency/Municipal DPRD and elect the Regent/Mayor (2 boxes).
6. Other options as long as maintaining the simultaneous nature of general elections to elect members of the DPR, DPD, and the President and Vice President.

Furthermore, the Constitutional Court emphasized that the Constitutional Court has no authority to determine the simultaneous election model above which has been declared constitutional if it maintains the nature of simultaneity in the holding of elections.

2. Political Aspect

Simultaneous elections are expected to encourage the formation of policy-based coalitions and increase public participation in politics (Fuadi, 2021). From a political point of view, the holding of simultaneous elections aims to facilitate the simplification of the party system in order to build sustainable democratic political institutions (Syafei & Darajati, 2020). With

simultaneous elections, political parties are required to simplify the political party system with simple multi-party which leads to the conception of government policies that receive strong support from parliament (Subiyanto, 2020). Thus, political power becomes more stable because political parties and coalitions can start a presidential nomination program before the presidential election is held. This is expected to create a stronger and more effective parliament (Solihah, 2018). The holding of separate elections in the previous four elections has shown political party disputes which resulted in weak coalitions of political parties in supporting government programs (Syafei & Darajati, 2020).

In addition, election supervision becomes more efficient since the presidential and legislative elections are held simultaneously. As we all know, there are many cases of money politics in every election procession. This money politics tarnishes the democratic party where the people should choose according to their awareness and conscience. The findings on the practice of money politics show that behavioral reform regarding awareness and the rule of law still needs to be fostered and improved (Perludem, 2018). Various practices of money politics such as political dowry, buying and selling of votes, bribery of judges and election organizers must be prevented and eradicated. Through holding simultaneous elections, it is hoped that intensive monitoring and scrutiny from all parties (including the public) can help reduce the practice of money politics.

3. Economic Aspect

Logically, holding simultaneous elections is expected to save the budget for holding elections (Fuadi, 2021). This budget savings can be made because the election infrastructure (TPS/voting places) and TPS committee fees can be reduced (because they are calculated in one event). However, according to the report on the results of the 2019 simultaneous election, there was a budget increase of 61% compared to the 2014 election. This was later clarified in the KPU (general election committee) trial case No. 37/PUU-XVII/2019 regarding several factors causing the increase in the budget, including the impact of regional expansion, price inflation from 2014 to 2019, increased involvement of ministries and state institutions, differences in the campaign financing system which in the 2019 election was partially borne by the KPU budget, longer campaign time, and increasing public participation so that it has an impact on aspects of logistics procurement and distribution.

4. Social Aspect

Elections are a mechanism for the citizens to realize their sovereignty. Therefore, the holding of elections should refer to the election principles as stipulated in the provisions of Article 22E paragraph (1) of the 1945 Constitution which reads “General elections are held directly, publicly, freely, confidentially, honestly, and fairly every five years.” This fulfillment aims to ensure that the implementation and results of the election gain legitimacy and bring benefit to all Indonesian people.

However, the implementation of separate elections which were carried out with high intensity had resulted in people's boredom (Solihah, 2018) and political instability which had an impact on people's socio-economic life. Therefore, the government sees an opportunity to hold elections through a simultaneous mechanism. It is hoped that this simultaneous election will encourage public participation in choosing a candidate for their leader (Fuadi, 2021). This can be seen from the voter turnout in the 2019 simultaneous elections which reached 81.9%, which was far higher than the 2014 election of 69.6% (Hamonangan et al. 2022).

In addition, by holding less intensity because it only takes one voting period, it is hoped that this democratic event will not waste time with the many holdings of elections as in separate elections. Simultaneous holding of elections will reduce the waste of time (Constitutional Court Decision No. 14/PUU-XI/2013). With simultaneous elections, the people no longer need to provide up to six times in a five-year period (Syafei & Darajati, 2020). In addition, citizens as voters are also not harmed by the holding of separate elections which are repeated over a period of five years because they also have their own activities, especially for Indonesian citizens who are abroad.

Frictions and social conflicts due to prolonged political tensions can also be minimized. It is conceivable if once every two years the people are faced with political conflicts due to the holding of separate elections for the presidential, legislative, and regional elections. This will have a negative effect on political stability which ultimately impact on the socio-economic life of society.

5. Conclusion

The complexity of holding elections in Indonesia cannot be avoided. Simultaneous elections have been held for the first time in the 2019 election. By law, there is no obligation to hold simultaneous elections. However, various factors that have occurred so far in the implementation of separate elections show that there is a tug-of-war between political interests

and an impact on political stability. The holding of simultaneous elections is based on considerations to support the presidential system and the effectiveness and efficiency of elections. These electoral system considerations influence the election technical implementation instruments. This study presents several aspects that changed the election administration mechanism from separate to simultaneous as shown by the issuance of Law No. 7 of 2017 (Election Law).

6. Recommendation

Although changes have been made to the mechanism for organizing elections from separate to simultaneous in order to increase the effectiveness and efficiency of elections in Indonesia, this does not mean that holding elections simultaneously is free from problems. An evaluation of the 2019 simultaneous election shows the emergence of new problems such as the death of voting officers due to fatigue and chaos in the holding of simultaneous election in various regions, especially in the hinterland areas. These problems are mainly related to the technical implementation of the election which lacks preparation and resources, the unavailability of adequate election infrastructure, and the size of the archipelago country. Reflecting on this experience, this study suggests carrying out more technical preparations to better prepare for the 2024 simultaneous elections.

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