



ASYMMETRICAL CONSTRUCTION OF REGIONAL HEAD ELECTIONS IN INDONESIA

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Abstract:

As stated by Sri Soemantri, the existence of the delegation of authority from the Central Government to autonomous regions is not because it is stipulated in the constitution, but because the issue is the essence of a unitary state, namely. "In order to maintain the unity and integrity of the state, this is one of the reasons for the central government to always dominate the implementation of government affairs by setting aside the role and rights of regional governments to be directly and independently involved in managing and fighting for the interests of their regions." This research is a qualitative research through a normative legal approach. The construction of Article 18 paragraph (4) in 1945 Constitution of Republic Indonesia which contains the phrase "democratically elected" in this case provides space for each region to implement regional elections that are in accordance with regional conditions and needs.

Keywords:

asymmetrical, construction; law

1. Introduction

As stated by Sri Soemantri, the existence of the delegation of authority from the Central Government to autonomous regions is not because it is stipulated in the constitution, but because the issue is the essence of a unitary state, namely. "In order to maintain the unity and integrity of the state, this is one of the reasons for the central government to always dominate the implementation of government affairs by setting aside the role and rights of regional governments to be directly and independently involved in managing and fighting for the interests of their regions." (Soemantri, 2023).

In the implementation of direct regional head elections, the problem that often arises is the relationship between the central government and regional governments in the context of Indonesia, namely in order to maintain the existence of regions within the framework of the Republic of Indonesia. The implementation of asymmetric policies is a manifestation of efforts to implement special status. This concept has been applied in the constitutional practice of the Republic of Indonesia by selecting four regions with special status / special autonomy, namely the Provinces of Papua and West Papua, Aceh Province, the Province of the Capital Region of Jakarta, and the Province of the Capital Region of Yogyakarta (Ali & Johan, 2021).

Basically, the asymmetric election system is part of the state's efforts towards regions that are classified as special regions and special regions to provide their rights to democracy within the framework of regional head elections. The existence of the Pilkada system from the four regions is a manifestation of Article 18B paragraph (1) and paragraph (2) of the 1945 NRI Constitution which then became the constitutional basis for asymmetric regional head elections which are included in the political realm. (Michael, 2025) The difference between this system lies in the consequences of the state's respect and recognition of the specialness and uniqueness of certain regions. However,

regarding the relationship between Pilkada, it also contains other regulations, namely Article 18 number 4 of the 1945 NRI Constitution stating that the Governor, District Head and Mayor, each as the head of the provincial, district and city regional government, are elected democratically (Ali & Johan, 2021). Based on these conditions, researchers provide an alternative by suggesting that regions in the East can do the same thing, in this case implementing regional elections with an asymmetric system. This is because, seeing the phenomena and realities that occur in every regional election implementation, namely by using large costs and the potential for conflict that occurs is also very high. If understood in substance from Article 18 of the 1945 NRI Constitution concerning Regional Head Elections, it states that the meaning of 'democracy' does not only mean direct elections (voting directly), but also includes indirect elections or in this case elections with a representative system.

2. Research Method

This research is a qualitative research through a normative legal approach. (Taira et al., 2025)

3. Results And Discussion

The Urgency Of Regulating Asymmetric Regional Head Elections In Indonesia

The urgency of asymmetric regional head elections in Indonesia can be seen from at least several perspectives, namely:

In a Legal Perspective

Asymmetric regional elections in a legal perspective refer to a system that allows for differences in the mechanism for electing regional heads between regions. These differences can arise due to the specific characteristics of a region such as administrative aspects, culture or other strategic considerations. Therefore, the unification of direct regional head elections since 2005 until now for all regions other than special and specific regions is basically contradictory (in conflict) with Article 18 paragraph (4) of the 1945 NRI Constitution which should be in accordance with local regional/regional conditions.

As in the process of discussing the provisions for regional head elections in the 1945 NRI Constitution Article 19 number 4, there are two different views, namely:

- a. Propose that regional head elections be carried out directly by people, not through representatives by DPRD;
- b. Wants regional head elections to continue be carried out by DPRD

In the Constitutional Court Decision Number 97/PUU-XI/2013 which was the background to the idea of birth formulation of Article 18 paragraph (4) in 1945 Constitution of the Republic Indonesia, the regional head election system that is applied is adjusted to the development of society and the conditions of society in each region. The formation of Law can formulate election system desired by community in the election of regional heads so that community has a choice of implementing representative system carried out by the DPRD or through a direct election system by the people. The purpose of this adjustment is to be able to adjust the dynamics of national development to build a democratic system as desired by the community.

Based on the Constitutional Court Decision Number 97/PUU-XI/2013, a conclusion can be drawn that elections carried out either directly or indirectly have a democratic meaning, meaning that there is involvement of the people in the election process carried out either directly or indirectly because it cannot be denied that the system adopted in the democratic system, the people as the holders of the highest sovereignty. In addition, the election process must continue to refer the principle of LUBER-JURDIL.

In Philosophical Perspective

Regional head elections (Pilkada) that use an asymmetric model have relevance from a philosophical perspective, including:

- a. Balance and Justice
- b. Financial Capability
- c. Mature Democracy
- d. Regional Specificity

In Theoretical Perspective

As for a few problems with the direct regional election system in Indonesia, namely: first, direct regional elections make regions a direct 'contestation stage' in the fight for leadership seats. This condition would actually not be a problem if the contestants were willing to compete healthily and were willing to respect the end of direct regional elections they participated in; second, direct regional elections gave rise to many regional expansions from the provincial level to the city and district levels which were based on the intentions of certain individuals who only wanted to become regional heads; third, direct regional elections were full of corruption. Ironically, the transition from indirect to direct regional election systems was not effective enough to curb the disease of corruption.

In Sociological Perspective

Asymmetric regional elections, in a sociological perspective, are an interesting concept to explore. Therefore, there are several things that can be discussed regarding the context of asymmetric regional elections in a sociological perspective, including:

- a. Maturity of democracy
- b. Political participation and societal polarization
- c. Potential for regional discrimination

By standardizing the direct regional election model, there is the potential for horizontal conflict to arise in the regions and the community tends not to comply because direct regional elections do not reflect the values contained in the fourth principle of Pancasila and are not an election system that is in accordance with the majority (generally) of the local community's legal culture.

Asymmetric Selection

Asymmetric Election is a type of election that is specific to a particular region. Asymmetric is a prismatic concept which according to the Indonesian Language Dictionary (KKBI) is defined as the opposite (meaning) of symmetric, meaning not in line, not the same. Asymmetric in this case can be understood as something that is applied unequally or the same treatment. Asymmetric Election is an election that can be qualified as a type of election that is specific (*lex specialis*). Qualification as a form of election that is specific because asymmetric election is a type of election that only applies to certain regions or is not the same as the model for organizing general regional head elections (*lex generalis*). The implementation of this asymmetric regional election is a manifestation of the special characteristics of several regions in Indonesia such as administrative, cultural or other strategic aspects.

Asymmetric Regional Head Election System

The construction of Article 18 paragraph (4) in 1945 Constitution of Republic Indonesia states that regional governments are led by regional heads who are democratically elected. The use of phrase "democratically elected" has the consequence that constitution gives authority to policy makers to determine the mechanism for organizing regional elections (open legal policy) within the framework of a democratic mechanism. Thus, theoretically there is the possibility of more than one regional election mechanism in this case directly or indirectly.

Democracy is a system of government based on the legitimacy of government originating from the people, supervision of the process of organizing government by the people and must be aimed at the greatest possible prosperity of the people. Thus, the goal of democracy is to create a government that is able to govern and fulfill the needs of the people to achieve the people's welfare. Democracy as a theory does not determine a particular mechanism used in forming its government (Azzahra, Zakia, Oktavia, Enika, & Zahra, 2023).

This direct regional election opens the door for emergence of regional heads who are in accordance with the wishes of the majority of the people and maintain the stability of the government so that it is not easily overthrown in the middle of the road. However, this policy choice is also considered to have a significant negative impact. This is proven by the high political costs of regional elections, the many lawsuits against regional elections to the Constitutional Court, multidimensional crises and horizontal and vertical social political conflicts in the regions and the large number of corruption cases involving regional heads. (Hayati, Maulida, & Septian, 2020).

In theory and constitution, the democratic procedure in regional head elections does not mean that they must be directly elected by the people, but rather the possibility of implementing a regional head election mechanism through

representatives is open. The most important thing is that as long as the representative institution (in casu DPRD) is still directly elected by the people. Understanding the practice of regional head elections in special and special regions that is different from regional head elections in other regions, Indonesia has regulated and implemented asymmetric regional head elections. This means that there has been inequality in the rules and practices of regional head elections. Thus, the discourse on asymmetric regional head elections has existed and is in effect. However, the asymmetric regional head elections that are currently in effect are determined based on special and/or special status. This suggests that asymmetric regional head elections are only possible in other regions if they first have special or special status. Or asymmetric regional head elections can also be carried out by revising Law Number 10 of 2016 concerning Regional Head Elections (Nilardin & Asrizal, 2022)

Legal Construction the Concept of Asymmetric Regional Head Elections in Indonesia

The quality regional elections is basically determined by the product of elections themselves. Regional elections should be positioned as a medium to obtain regional heads who are more accountable and responsive in delivering better public services and shared welfare for the people in the regions. Therefore, whatever form of regional elections are implemented in each region, it is necessary to pay attention to the essence of what is to be achieved. If it is able to deliver the community to prosperity and justice, it can be done according to the needs of each region as long as it does not conflict with the principles of democracy.

4. Conclusion

The construction of Article 18 paragraph (4) in 1945 Constitution of Republic Indonesia which contains the phrase "democratically elected" in this case provides space for each region to implement regional elections that are in accordance with regional conditions and needs. These different models of implementing regional elections are then referred to as asymmetric regional elections. This asymmetric regional election is relevant to answer the problems that arise from the current direct regional elections. Therefore, from the uniqueness or diversity possessed by each region, this study proposes three models of asymmetric regional elections in Indonesia. First, direct elections for regions that have financial capabilities and are qualified in terms of democratic maturity. Second, elections through the DPRD for regions whose democratic maturity and financial capabilities are below average. Third, appointment by the central government for regions with administrative status and the nation's capital. This suggests that asymmetric regional head elections are only possible in other regions if they first have special or special status. Or asymmetric regional head elections can also be carried out by revising Law Number 10 of 2016 concerning Regional Head Elections.

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