

Postponement Arrangements of Election From The Perspective of The 1945 Constitution of The Republic of Indonesia

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ABSTRACT

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Abstract. Provisions regarding the postponement of the implementation of elections have been regulated in Article 1 paragraph (Huda, 2012) of the 1945 Constitution of the Republic of Indonesia. Prior to the election, there have always been efforts from several parties who wished that elections could be held in a direct, public, free, honest, fair, and transparent manner. However, this matter was deliberately brought up, so that the implementation of the General Election could be delayed from the previous schedule for some reason. Nevertheless, the implementation of the Election can be postponed, as long as it does not violate the applicable laws and regulations, and has received legal approval based on the results of a Judge's decision in court. The after-effect of the delay in the implementation of the election itself can end in the need for an amendment to Article 22E paragraph (Jimly Asshiddiqie, 2021) of the 1945 Constitution of the Republic of Indonesia. Thus, even though it is legal in the eyes of the law if the implementation of the election is postponed, considering the impact that needs to be caused, all parties, starting from elements of the Legislature and Judiciary in making decisions related to the possibility of holding elections properly and correctly, without political elements involved.

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1. Introduction

The Indonesian National Police is one of the roles that the state government plays in the areas of public safety and security, law enforcement, protection, and community service (Danendra, 2013) . which is frequently abbreviated as Polri. Its goal is to realize domestic security, which includes fostering public peace by upholding human rights, law enforcement, the implementation of protection, protection, and community service, as well as maintaining

public order and security.

The concept of people's sovereignty (democracy) cannot be separated from the understanding of Indonesia's rule of law. Democracy, also known as "people's sovereign law," or "democracy rechtsstaat," is both a democratic state based on the law and "constitutional democracy." Thus, the standard of a majority rules system expresses that a country's administration is an administration of individuals, by individuals, and for individuals. ³ The equal participation of all citizens in determining government policy is a fundamental democratic principle.

The General Election (Pemilu) is an example of how the democratic principle is put into practice (Marita, Chairuna, & Effendi, 2022) . A process of putting people's sovereignty into action to fill positions in a government through direct, public, free, confidential, honest, and fair elections is known as a general election. ⁵ One of the characteristics of a democratic government is the direct and indirect participation of citizens (the people) in political decision-making during general elections. This democratic embodiment is primarily an effort to empower the community's role and participation in the realization of their constitutionally guaranteed political and social rights.

The democratic party is characterized by the development of the Republic of Indonesia's constitutional system as a result of the Amendment to the 1945 Constitution, which established the foundations for the life of the nation and state and declared that sovereignty belonged to the people (Situmorang, 2021) . This principle was then implemented through the development of the domestic political system and the system of government, which included the system of administering regional government. as well as the system for holding general elections to encourage the establishment of a more representative government.

The public has become increasingly agitated recently as a result of the election's recent postponement from its original 2024 date to 2027. According to Article 7 of Article 22, paragraph 1, the election was postponed in violation of the constitution. The principles of constitutionalism that must be followed are outlined in the 1945 Republic of Indonesia Constitution (Jumadi, 2016) .

A clear violation of the constitution is related to Article 7 in conjunction with The following is from Article 22E paragraph 1 of the Republic of Indonesia's 1945 Constitution:

"The President and Vice President hold their positions for five years, and after that, they can be re-elected. The President and Vice President hold office for five years, and after that, they can be re-elected in the same position, only for one term of office".

Then, Article 22 E paragraph (Jimly Asshiddiqie, 2021) states that

"General elections are held directly, publicly, freely, secretly, honestly and fairly every five years". The Republic of Indonesia's constitution stipulates that political power is subject to restrictions. It will have implications for (if there are no restrictions): 1) dictatorship; (2) maltreatment of force; thirdly, anyone can be a dictator.

Apart from that, the postponement of the General Election will lead to a decrease in public perception of the quality of democracy in Indonesia. Thus, a comprehensive review is required, and the previous judge's decision needs to be clearly discussed on its material and substance.

A formulation of the problem can be derived from the preceding problems, namely: From the perspective of the Republic of Indonesia's 1945 Constitution, how to arrange for the postponement of the election's implementation.

2. Materials and Methods

This applied paper was written using an analytical and descriptive approach (Imanina, 2020). First, data that clearly describes the issues directly in the field were used, and then an analysis was done and a conclusion was made to find a solution to a problem. Observation and literature review as methods of data collection for this paper's problem-solving aspect.

The sociological juridical approach is a way to look at problems from a legal and systematic perspective. It also serves as a guide to rules that can be used as a foundation for analyzing legal phenomena. The sociological approach is one that is used to study a problem in society or the community with the goal of getting facts, then finding problems, figuring out how to solve problems, and so on.

3. Results and Discussions

3.1 Postponement Arrangements of Election Implementation Based on the 1945 Law of the Republic of Indonesia

The presence and execution of decisions have been managed in the constitution, Article 22E passage (Jimly Asshiddiqie, 2021) of the 1945 Constitution of the Republic of Indonesia which specifies that races are completed straightforwardly, openly, unreservedly, secretly, truly, and genuinely like clockwork. The state's structure is set by the constitution, which also oversees the government and regulates the relationship between it and its citizens.

The emphasis contained in the constitution is a requirement that must be obeyed and implemented. The talk on deferring the execution of the Overall Political race will prompt a contention with the constitution. The sovereign's constitutional right to elect the mandate bearer who will carry out this sovereignty is put on hold for five years if the general election is postponed. So if forced to postpone the implementation of the election must change the constitution first. Amending the 1945 Constitution of the Republic of Indonesia must not only rely on the formal power of the MPR because the holders of sovereignty are the people as contained in the constitution. This constitutional change will lead to abuse of power alias abuse of power from the legislators.

Given that the People's Consultative Assembly, or MPR, has 711 members, including 575 members of the DPR and 136 members of the DPD, the debate regarding the postponement of elections is actually a significant issue. The People's Consultative Assembly, or MPR, is the formal and political space for amendments to the Republic of Indonesia's 1945 Constitution. Alluding to the arrangements of Article 37, proposition to correct protected arrangements can be remembered for Individuals' Consultative Gathering meeting whenever presented by no less than 33% of the all out number of individuals from Individuals' Consultative Get together. After that, the meeting of the National Council to amend the Constitution will be attended by at least two-thirds of all People's Consultative Assembly members. In addition, the People's Consultative Assembly and at least fifty percent of its members will need to agree on any changes to the Constitution (Huda, 2012).

Meanwhile, if the government wants to postpone the election, then amendments must be made, especially to Article 22E paragraph (Jimly Asshiddiqie, 2021). However, apart from changing the provisions of Article 22E paragraph (Jimly Asshiddiqie, 2021), the postponement of the 2024 elections will have an impact on other articles in the Indonesian state constitution. The postponement of the 2024 elections will cause the President and Vice President to serve longer than should be mandated by the constitution. This means, to postpone the 2024 elections, the government must choose the option between increasing the presidential term or presenting the presidential term for 3 terms. This then has an impact on the need for

amendments to Article 7 of the 1945 Constitution of the Republic of Indonesia related to the 5-year presidential term.

Referring to the constitution, The President and Vice President will lose their authority and legitimacy when their terms of office come to an end. As a result, state institutions whose appointments depend on the legitimacy of the President and the House of Representatives can be paralyzed. Even though there is room for amendments to postpone the election, the postponement of the election will have an impact on the democratic system in Indonesia (Fitriana & Budyatmojo, 2022).

Postponing the General Election means postponing the constitutional right of the sovereign holder to elect the mandate bearer who will carry out this sovereignty for five years. So, if forced to postpone the implementation of the election must change the constitution first. Amending the 1945 Constitution of the Republic of Indonesia must not only rely on the formal power of the MPR because the holders of sovereignty are the people as contained in the constitution. This constitutional change will lead to abuse of power alias abuse of power from the legislators.

The discourse on postponing the 2024 Election comes with problems. The regulatory limits People's Consultative Assembly stipulated in the constitution contained in Article 22E paragraph (Jimly Asshiddiqie, 2021) strictly limit implementation every five years. If the postponement of the General Election is still carried out, the implications that will arise will also be very diverse. The postponement of elections requires an amendment to the constitution which in practice is very full of political interests. This will lead to new political upheavals that will have implications for the uncertainty of national policy direction during the transition period. In addition, postponing the election will also betray the constitutional contract between citizens and the government officials they choose through democratic contestation so that the abuse of power that is feared by all parties will occur.

Starting from the start, the Republic of Indonesia has had guidelines in regards to races. This demonstrates the significance of elections to Indonesia's state life. However, it appears that these ideal conditions do not always operate without any anomalies or phenomena that undermine the election's idealistic values; from the first election to the most recent, election norms have always been violated. Therefore, all politicians ought to think rationally and not justify any means of gaining power by hindering or even harming democracy.

The case of the postponement of the holding of elections is an example of the existence of political elites who want to gain power by sacrificing constitutionality and sacrificing a sense of just democracy, without considering the victims who will become the people. The people will feel the impact directly or indirectly, starting from the uncertainty of the situation and conditions that occur in society, because the people are already feeling fed up with the disputes of the political elite.

The election enforcement agency ought to be firm and comprehend that there are, in fact, multiple main stages through which elections are conducted, and that there is a high probability that there will be disagreements or violations at each stage. This possibility could be brought about by oversight, fraud, or election-winning tactics that don't break the law but hurt public trust (non-fraudulent misconduct). Therefore, early efforts to prevent fraud, oversight (mistake), and election-winning strategies that do not violate the law but undermine public trust (non-fraudulent misconduct) are essential).

4. Conclusion

The proposal to postpone the 2024 general election is very important to look at from a constitutional perspective because the constitution is the highest source of positive law that must be used as a basis for every policy. Referring to related articles such as Article 7 and The Republic of Indonesia's 1945 Constitution, Article 22 E, Paragraph 1, it is true that there is an allusion or discrepancy between the proposal and existing constitutionality. There are also several other constitutional consequences considering that in Indonesia. The relationship pattern between the executive, legislature, and judiciary applies (Trias Politika), such as who will take office if the presidential term is extended considering that members of the legislature will be discharged according to their term of office for five years. Apart from that, the proposal to postpone elections is not taboo.

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