



**THE CONSTITUTIONAL COURT**

**REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION**

**ON CASES NUMBER 55 / PUU-XVII / 2019**

**Concerning**

**Concurrent Election Model**

**Petitioner:** Association for Elections and Democracy (*Perkumpulan untuk Pemilu dan Demokrasi* [Perludem]).

**Case:** Review of Law Number 7 of 2017 concerning General Elections (Law 7/2017), Law Number 8 of 2015 concerning Amendments to Law Number 1 of 2015 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors into Law (UU 8/2015), and Law Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors into Law (Law 10/2016) on the 1945 Constitution of the Republic of

Indonesia (UUD 1945)

**Case of Lawsuit:** Article 167 paragraph (3), Article 347 paragraph (1) Law 7/2017, Article 3 paragraph (1) of Law 8/2015, and Article 201 paragraph (7) and paragraph (9) of Law 10/2016 are contrary to Article 1 paragraph (2), Article 4 paragraph (1), Article 18 paragraph (3), Article 18 paragraph (4), and Article 22E paragraph (1) Constitution 1945

**Injunction:** In Provision:

Reject the Petitioners' petition for provisions;

In the Principal of Application:

Reject the Petitioner's petition in its entirety.

**Date of Decision : Rabu, 26 Februari 2020**

**Decision Overview :**

The Petitioners are the Association for Elections and Democracy (*Perkumpulan untuk Pemilu dan Demokrasi* [Perludem]).

Related to the Authority of the Court, because what was requested by The Petitioners are reviewing laws, *in casu* Article 167 paragraph (3), Article 347 paragraph (1) Law 7/2017, Article 3 paragraph (1) Law 8/2015, and Article 201 paragraph (7) and paragraph (9) Law 10/2016 against the 1945 Constitution so that the Court has the authority to try the Petitioner's petition.

With regard to the Petitioner's legal position, arguing that he is a Non-Governmental Organization or Non-Governmental Organization (NGO) grow and develop independently of their own will and desire in a society that is founded on the basis of concern and in the context of participating in realizing democratic elections

and democratization in Indonesia. Apart from the fact that the Petitioner has repeatedly received his legal position in judicial review of the 1945 Constitution, it has been the Court's establishment since its inception which gave legal standing to non-governmental organizations like the Petitioner, as long as the aims and objectives of its establishment or activities related to the substance of the law that is petitioned for review and represented by a party who according to the provisions of the organization concerned is indeed given the right to represent the organization inside or outside the court, as decided by the Court in the Constitutional Court Decision Number 20 / PUU-XVII / 2019, dated March 28, 2019, Constitutional Court Decision Number 135 / PUU-XIII / 2015, dated October 13, 2016, Constitutional Court Decision Number 8 / PUU-X / 2012, dated February 13, 2013, and Constitutional Court Decision Number 96 / PUU- X / 2012, dated 5 September 2013. Therefore, the Court is of the opinion that Pe please have a legal position to act as a Petitioner in the a quo petition.

Whereas in the petition, the Petitioner also submitted a petition for provisions which basically asked the Court to speed up the examination process and decide on the a quo petition because it is directly related to the election implementation system, especially with regard to the election schedule which will have a wide impact on the process of organizing elections in Indonesia. With regard to the Petitioners' petition for provisions, the Court is unlikely to grant it because the problem being petitioned for a constitutional review requires comprehensive examination and discussion so that the Court requires the views of a number of parties who pay attention to general election problems during the trial process. After all, the remaining time for the 2024 Election stages is still sufficient to prepare everything for the intended state agenda in 2024. Therefore, it is irrelevant to link the Petitioners 'petition for provisions with the schedule for the 2024 General Election. Thus, the Petitioners' petition for provisions is

groundless according to law.

The main issue of the Petitioners' constitutional is the review of the constitutionality of Article 167 paragraph (3) and the norms in Article 347 paragraph (1) of Law 7/2017 and the norms in Article 3 paragraph (1) of Law 8/2015 and the norms in Article 201 paragraph (7) and paragraph (9) Law 10/2016 which according to the Petitioner the holding of the Five Box Concurrent Election as held in 2019 is unconstitutional. For the Petitioners, the constitutional implementation of simultaneous elections is the holding of simultaneous elections separated between national and local elections. Due to the choice of time or distance between simultaneous elections at the national level (electing members of People's Representative Council, Regional Representative Council, and electing the president and vice president) and simultaneous elections at the local level (electing the governor, regent / mayor, and electing members of the Provincial Regional People's Representative Assembly and Regency / City of Regional People's Representative Assembly members ), therefore the Petitioners at the same time asked to state the transitional norms in Article 201 paragraph (7) and paragraph (9) of Law 10/2016 are contrary to the 1945 Constitution and have no binding power.

Whereas the Court will consider the substance of the Petitioner's argument with three basic constructions by referring to the Constitutional Court Decision Number 14 / PUU-XI / 2013 dated 23 January 2013 which in essence states that the holding of the simultaneous elections is constitutional. The basis for evaluating the constitutionality of the Concurrent Elections is based on the original intent of the 1945 Constitution, strengthening the presidential system of government, and the meaning of "Concurrent General Elections".

That after tracing back the original intent regarding the simultaneous general

election; the relationship between general elections simultaneously in the context of strengthening the presidential government system; and tracing the meaning of simultaneous general elections in the Constitutional Court Decision Number 14 / PUU-XI / 2013, there are a number of choices of simultaneous general election models that can still be judged constitutional based on the 1945 Constitution, namely:

1. Simultaneous general election to elect members of People's Representative Council, Regional Representative Council, President / Vice President, and Regional People's Representative Assembly members;
2. Simultaneous general elections to elect members of People's Representative Council, Regional Representative Council, President / Vice President, Governor and Regent / Mayor;
3. Simultaneous general election to elect members of People's Representative Council, Regional Representative Council, President / Vice President, Regional People's Representative Assembly members, Governors and Regents / Mayors;
4. National simultaneous general election to elect members of People's Representative Council, Regional Representative Council, President / Vice President; and some time after that, local simultaneous general elections were held to elect members of the Provincial DPRD, Regency / City Regional People's Representative Assembly members, the election for the Governor and the Regent / Mayor;
5. Simultaneous national elections to elect members of People's Representative Council, Regional Representative Council, President / Vice President; and some time after that, simultaneous provincial elections were held to elect members of the Provincial Regional People's Representative Assembly and elect the governor; and then some time after that, district / city general elections were held to elect members of the Regency / City Regional People's Representative Assembly and elect the

Regent and Mayor;

6. Other options as long as they maintain the simultaneous nature of general elections to elect members of the People's Representative Council, Regional Representative Council and the President / Vice President.

Whereas with the availability of various possibilities for carrying out simultaneous general elections as stated above, the determination of the chosen model becomes the territory for legislators to decide. However, in deciding the choice of a model for the simultaneous implementation of general elections, legislators need to consider several things, among others, namely: (1) the selection of a model that has implications for law amendment is carried out with the participation of all groups who have concerns about election administration. general; (2) the possibility of changing the law on the choice of models to be carried out earlier so that there is time for simulation before the changes are actually implemented effectively; (3) legislators carefully take into account all the technical implications of the available model options so that their implementation remains within the limits of reasonable reasoning, especially for realizing quality general elections; (4) the choice of model always takes into account the convenience and simplicity of voters in exercising their right to vote as a form of exercising people's sovereignty; and (5) does not change the model of direct elections simultaneously so that the certainty and stability of the general election is built.

Whereas after considering several fundamental issues as outlined in Paragraph [3.15] and Paragraph [3.16] above, the Petitioners' argument has meaning as long as the phrase "voting is carried out simultaneously" in Article 167 paragraph (3) and Article 347 paragraph (1) of Law 7 / 2017 contradicts the 1945 Constitution, the Court is not authorized to determine the simultaneous election model among the

model choice variants considered at the end of Paragraph [3.16] above which are declared constitutional as long as they maintain the simultaneous nature of electing members of the People's Representative Council, Regional Representative Council, and the President and Vice President. Therefore, the Petitioner's argument regarding the meaning of the phrase "voting carried out simultaneously" in Article 167 paragraph (3) and Article 347 paragraph (1) of Law 7/2017 contradicts the 1945 Constitution is groundless according to law.

Whereas it has been stated that the Court is not authorized to determine the simultaneous election model among the model choice variants considered at the end of Paragraph [3.16] above which are declared constitutional as long as they maintain the simultaneous nature of the general election to elect members of the People's Representative Council, Regional Representative Council , and the President and Vice President, the Petitioners' argument regarding the meaning of Article 3 paragraph (1) of Law 8/2015 as well as the constitutionality issue of Article 201 paragraph (7) and paragraph (9) of Law 10/2016 has lost relevance for consideration by the Court. Therefore, the Petitioner's argument regarding Article 3 paragraph (1) of Law 8/2015 and Article 201 paragraph (7) and paragraph (9) of Law 10/2016 is also groundless according to law.

Whereas based on all the considerations above, the Court is of the opinion that the Petitioners' petition is legally groundless in its entirety.

Thus, the Court subsequently issued a decision which warned:

**In Provision:**

Reject the Petitioners' petition for provisions;

**In the Principal of Application:**

Reject the Petitioner's petition in its entirety.