

Trends and Challenges of Asymmetrical Regional Head Election System in Indonesia

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Abstract

This study examines the regional head election (*Pilkada*) system in Indonesia, particularly focusing on the asymmetric decentralization approach applied to specific regions with special autonomy: DKI Jakarta, Yogyakarta, Aceh, and Papua. Under Indonesian Law No. 23 of 2014, which governs regional governance, these regions are permitted to implement unique electoral systems based on their cultural, historical, or political contexts. Asymmetric decentralization, applied differently across these regions, aims to



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enhance governmental performance in providing services and maintaining regional identity. From an Islamic perspective, selecting a leader, referred to as Imam or Imamah, emphasizes selecting a trustworthy and responsible figure. The study aims to (1) examine how the regional head election system is regulated in Indonesia according to Article 18 (4) of the 1945 Constitution and (2) analyze the implementation of the asymmetric electoral system across different regions in Indonesia. Employing a normative legal approach, this study uses conceptual, legislative, and historical methods to provide a comprehensive understanding of these objectives. Findings reveal that the 1945 Constitution, particularly Article 18 (4), does not specify a singular election system for regional heads, allowing democratic elections to be tailored to regional needs. DKI Jakarta uses a combination of direct elections and gubernatorial appointments, Yogyakarta appoints hereditary leaders, Aceh includes Islamic legal requirements in elections, and Papua adopts the Noken voting system, which respects indigenous customs. This research underscores Indonesia's flexibility in balancing national democratic principles with regional diversity, recommending further exploration of asymmetric models to optimize governance outcomes in other regions.

Keywords

election, Regional Head, Asymmetric

I. Introduction

Regional Head Elections (Pilkada) are one of the important aspects in the dynamics of Indonesian democracy, attracting widespread public attention as part of the political process that determines leaders at the local level. The Pilkada system implemented in Indonesia is a forum for the community to realize direct people's sovereignty, where every citizen can participate in choosing their regional leader.¹This is in line with the mandate of Article 18 Paragraph (4) of the 1945 Constitution of the Republic of Indonesia which emphasizes that regional government heads are elected democratically. In the context of a country with diverse cultures, ethnicities, religions, and traditions, the implementation of regional elections with an asymmetric model – where each region can have an election method that suits its own specificities and specialties – is a concrete effort to maintain harmony between democratic values and local uniqueness. This policy aims to ensure more inclusive participation, while avoiding discrimination between regions. The embodiment of this concept can be seen in the four provinces that are given special status in the regional election system, namely Aceh Province, Papua Province, the Special Capital Region of Jakarta Province, and the Special Region of Yogyakarta, which implement an election system that is adjusted to the socio-cultural conditions of each. It turns out that the implementation of this asymmetric regional election not only illustrates efforts to maintain the stability of local democracy in Indonesia, but also facilitates the

¹ Budiarsih Fajar Sugianto, "Strengthening the Institution of People's Sovereignty as an Implementation of Pancasila Democracy," National Seminar of UNTAG Consortium Throughout Indonesia, no. 1 (2018): 235–250.

fulfillment of people's political rights in a more contextual and adaptive manner, in accordance with the constitution and basic values of democracy.²

The literature on the regional head election system in Indonesia has developed along with the political dynamics and policy changes post-reformation, which strengthen the importance of direct regional elections as a manifestation of the principle of people's sovereignty as stipulated in Article 18 of the 1945 Constitution of the Republic of Indonesia. Several studies emphasize that direct regional head elections provide the community with the opportunity to choose their own leaders and create a stronger relationship between the local government and the people, with the main goal of achieving democratic and participatory governance at the local level.³In addition, the asymmetrical democratic aspect of the regional election system in Indonesia shows differences in the rules and implementation of elections in special or special regions such as Papua, Aceh, Yogyakarta, and Jakarta. This asymmetric policy is based on the diversity of culture, ethnicity, and local traditions, which are accommodated through Articles 18A and 18B of the 1945 Constitution of the Republic of Indonesia and the Special Autonomy Law which recognizes the special characteristics and traditional rights of each region.

Previous studies have highlighted asymmetric decentralization as a strategy to maintain the integrity of the Republic of Indonesia but have not responded to the demands for diverse autonomy in regions with special

² Muhammad Fauzan Azim, ELECTION AND THE CONSTITUTIONALITY OF THE NOKEN SYSTEM, nd

³ Ali Muhammad Johan, "Regional Head Election System in Regions Implementing Asymmetric Decentralization," *Al-Qisth Law Review* 5, no. 1 (2021): 70.

characteristics. This literature also shows that an asymmetric system in regional head elections can reduce the potential for discrimination and dissatisfaction at the regional level, as long as democratic principles such as direct, general, free, secret, honest, and fair are still implemented. As for the implementation of regional elections in special regions, such as the noken system in Papua⁴ and the laws in Aceh⁵, sparking controversy regarding its suitability with the principles of constitutional democracy, but at the same time considered as a solution that takes into account cultural aspects. Thus, this literature factor emphasizes the need for more in-depth research regarding the effectiveness of the asymmetric regional election system in fulfilling the principles of democracy and justice for each region, as part of an effort to create an inclusive, responsive, and non-discriminatory election system in the context of the Republic of Indonesia.

The purpose of this study is to provide an in-depth understanding of the implementation of the asymmetric regional head election system in Indonesia, by using Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia as the main guideline. This study aims to thoroughly explore how these constitutional norms are implemented in democratic regional head elections, while considering the uniqueness and specificity of the regions recognized by Article 18B paragraphs (1) and (2) of the 1945 Constitution of the Republic of Indonesia. In this context, the study will evaluate controversial aspects, necessary changes,

⁴ Riris Katharina, "Analysis of Regional Election Problems in Papua," DPR RI Expert Body Research Center IX, no. 06 (2017): 17–20, http://berkas.dpr.go.id/puslit/files/info_pendek/Info_Pendek-IX-6-II-P3DI-Maret-2017-176.pdf.

⁵ Department of Education and Culture, "Department of Education and Culture," North Aceh Education and Culture Office, no. 1 (2020): 1–4, <https://disdikbud.acehutara.go.id/>.

emerging trends, and solutions that can be implemented to ensure that the asymmetric regional head election system remains in line with democratic principles. This objective also includes an analysis of the asymmetric decentralization policy as an instrument to protect the uniqueness and diversity of regions in Indonesia, as well as its contribution to strengthening people's sovereignty and community involvement in the local political process.⁶

In the context of the Regional Head Election (Pilkada) in Indonesia, the asymmetric regional head election system reflects an approach that takes into account the specificity and diversity of regions. Based on Article 18B paragraph (1) and paragraph (2) of the 1945 Constitution of the Republic of Indonesia, the state recognizes and respects the special characteristics and uniqueness of certain regions. This system not only prioritizes democratic principles, but is also responsive to local characteristics, which allows regions with certain characteristics, such as the Provinces of Aceh, Papua, the Special Region of Yogyakarta,⁷ and DKI Jakarta, to implement different election mechanisms. However, the diversity of the Pilkada system has raised various controversies related to the implementation of the principles of democracy that are equal, transparent, and inclusive throughout Indonesia. The asymmetry applied requires an in-depth study of how this system can work without causing inequality or jealousy between regions that have special status and other regions that do not have it.

In this analysis, the research is expected to reveal the extent to which the asymmetric regional election system is

⁶ Fajar Sugianto, "Strengthening the Institution of People's Sovereignty as an Implementation of Pancasila Democracy."

⁷ Bastian Widyatama, *Democracy as a Strategy: The Political Footprint of Sultan Hamengku Buwono IX*, 2017.

able to guarantee the political rights of the people, reduce conflict and political inequality, and align the principle of people's sovereignty with regional characteristics.⁸The hypothesis put forward is that an asymmetric regional election system, although it has the potential to facilitate fairness and diversity, can trigger differences in political participation and sense of justice between regions, especially if it is not based on fair and consistent policies.⁹Deep understanding and innovative solutions are needed to ensure that this asymmetry remains within the democratic corridor, and to ensure that its implementation is in line with the objectives of the Indonesian constitution in prioritizing the welfare and political participation of all people without exception.

The literature on regional head election systems in Indonesia has evolved alongside the political dynamics and policy shifts post-reformation, underscoring the importance of direct elections as an embodiment of popular sovereignty as enshrined in Article 18 of the 1945 Constitution. Several studies highlight that direct regional head elections empower citizens to elect their leaders, thereby fostering a stronger relationship between local governments and the people, aimed at achieving democratic and participative governance at the local level. Furthermore, the asymmetric democracy aspect in Indonesia's regional election system reflects differences in the regulations and election mechanisms across special or unique regions, such as Papua, Aceh, Yogyakarta,

⁸ Bawaslu of Riau Islands, "Election of Governors, Regents and Mayors in One Manuscript" (nd): 189, https://kepri.bawaslu.go.id/file_rk/KOMPILASI_UNDANG-UNDANG_PILKADA.pdf.

⁹ Wahyu Widodo, "Implementation of Regional Elections Based on the Principles of Democracy and Pancasila Values," *Civis* 5, no. 1 (2015): 679–691, <http://journal.upgris.ac.id/index.php/civis/article/view/629>.

and Jakarta.¹⁰This asymmetric policy is rooted in cultural, ethnic, and local traditions, acknowledged through Articles 18A and 18B of the 1945 Constitution and Special Autonomy Laws, which grant recognition to the distinctiveness and traditional rights of each region.

Ros Intan Hasinah Hasibuan (2020) from Muhammadiyah University of North Sumatra Medan examined the effectiveness of both direct and indirect regional head elections (via DPRD) within the democratic system, particularly through the lens of Law No. 22 of 2014. This law sparked debate due to its stipulation of indirect elections, which was perceived as potentially conflicting with the Constitution and Pancasila. Utilizing an empirical legal method, Hasibuan's findings suggest that direct elections enhance democratic engagement by providing citizens with clearer insight into the vision and mission of candidates, thus fostering more informed choices. This research offers insights into the practical effectiveness of direct elections as opposed to indirect ones, which might limit citizens' ability to influence local governance directly.

Misalina (2022) from IAIN Batusangkar explored the mechanism of direct regional elections in Indonesia through the lens of Al-Mawardi's principles, particularly during the 2020 elections amidst the COVID-19 pandemic. This study highlighted the tensions between public health restrictions and the democratic process. Al-Mawardi's perspective contrasts the voluntary selection by the Caliph with direct elections, suggesting that if Indonesia were to implement a non-direct selection according to Al-Mawardi's principles, public trust in local leaders might diminish. Using a

¹⁰ Bawaslu Riau Islands, "Election of Governor, Regent and Mayor in One Manuscript."

comparative descriptive approach, Misalina emphasizes the unique challenges of adapting Islamic governance principles to Indonesia's democratic context, especially amid crises like pandemics.

Kustiaturun Hasanah (2023) from UIN Syarif Hidayatullah Jakarta investigated asymmetric regional elections within Indonesia's legal framework, particularly in special autonomy regions. Hasanah's study employs an empirical legal approach to analyze how these regions operate under unique electoral mechanisms compared to those without special autonomy. This research underscores the legal basis for asymmetric decentralization as an essential element of political organization in Indonesia, highlighting both the shared and divergent principles between Islamic law and Indonesia's democratic norms in the context of special regions.

Collectively, these studies underscore the complexity and diversity of Indonesia's regional head election system, particularly in special regions with unique sociocultural identities. The asymmetric election policies reflect a broader commitment to accommodating Indonesia's extensive diversity, yet these policies also require nuanced regulatory oversight to prevent democratic inconsistencies and ensure equitable political participation across regions. Further research might focus on refining legal frameworks to bridge these democratic disparities, thereby aligning regional autonomy with national objectives of unity and inclusive governance.

Research Question

Based on the description above, this study attempts to answer a number of important questions related to the diversity of regional head election systems (Pilkada) that are

implemented asymmetrically in Indonesia. The main question underlying this study is: How is the implementation of asymmetric decentralization in regional head elections in Indonesia in accordance with constitutional norms, especially Article 18 paragraph (4) and Article 18B paragraphs (1) and (2) of the 1945 Constitution of the Republic of Indonesia? Furthermore, this study explores whether asymmetric variations in Pilkada in several regions, such as Aceh, Papua, Jakarta, and Yogyakarta, can be implemented without violating the principles of inclusive, fair, and non-discriminatory democracy. These questions lead to further examination of the legal and social implications of differences in Pilkada mechanisms between regions, the impact of such asymmetry on the political rights of the community, and how the government can balance regional specialties with democratic principles mandated by the constitution. Thus, the main objective of this study is to find solutions that can accommodate local specificities without sacrificing the principles of justice and equality in the democratic process.

II. Method

This type of research is normative legal research. Normative research positions law as a system of norms. Research with this type is legal research conducted by examining secondary data and library materials.¹¹Peter Mahmud Marzuki stated that normative legal research is a process of finding legal rules or doctrines that are considered

¹¹Soerjono Soekanto, *Normative Legal Research*, (Jakarta: Raja Grafindo Persada, 2010), 13.

appropriate.¹² Normative legal research is basically an activity that studies the internal aspects of positive law.¹³ Meanwhile, this type of research uses a conceptual approach, a statute approach which is based on consideration of legal standards, namely on the subject or legal facts being implemented, and a historical approach which is based on reviewing the background and development of the regulation of the legal issues being faced.¹⁴

In this study, the data or information sources used include primary, secondary, and tertiary legal materials that are relevant to answering legal issues regarding the asymmetric regional head election system in Indonesia. Primary legal materials include related legal documents, such as the 1945 Constitution, Law No. 32 of 2004, Law No. 23 of 2014, Law No. 10 of 2016, and special regulations such as Law No. 29 of 2007 concerning DKI Jakarta, Law No. 13 of 2012 concerning Yogyakarta, Law No. 2 of 2021 concerning Papua, and Law No. 11 of 2006 concerning Aceh, in addition to Aceh's special qanun concerning regional head elections. Secondary legal materials include legal and scientific literature, relevant journals, related research results, and scientific articles that support the discussion of the research problem. This study also uses information from trusted online sources to obtain the latest perspectives. Meanwhile, tertiary legal materials, such as legal dictionaries and Indonesian dictionaries, serve as additional references to ensure the accuracy of the terminology

¹²Peter Mahmud Marzuki, *Legal Research Revised Edition*, (Jakarta: KencanaPrimeGroup, 2005), 57.

¹³Basuki Kurniawan, *Logic and Legal Reasoning*, (Bondowoso:License, 2021), 106.

¹⁴Peter Mahmud Marzuki, *Legal Research Revised Edition*, (Bandung: PT Kharisma Putra Utama, 2016), 133-135.

used. The combination of these sources allows the study to conduct a comprehensive analysis of legal principles, legal systematics, and legal history in the context of asymmetric regional head elections in Indonesia.

The data collection technique in the study uses a literature study technique, namely by collecting data by searching and reviewing library materials such as literature, research results, scientific magazines, journals. Legal materials are collected through the procedure of identifying Legislation, as well as classifying and systematizing legal materials according to research problems. Literature studies are carried out by reading such as books from the Gunung Malang Village library, the UIN Khas Jember Faculty of Sharia library, and the UIN Khas Jember library, reviewing, taking notes, making reviews of library materials related to the Asymmetric Regional Head Election System in Indonesia.¹⁵

Data analysis uses descriptive analysis techniques by examining the legal events being experienced in as much detail as possible, so that it can provide an overview of the problem being studied.¹⁶ Descriptive analysis techniques are carried out by grouping the same data and information according to sub-aspects, then interpreting to give meaning to each sub-aspect and its relationship to each other. After that, conducting an analysis of all aspects to understand the meaning of the relationship between one aspect and another and all aspects

¹⁵Ishaq, *Legal Research Methods: Writing Theses, Dissertations, and Dissertations*, (Bandung: Alfabeta 2020), 66.

¹⁶I Made Pasek Diantha, *Normative Legal Research Methodology in Justifying Legal Theory*, (Jakarta: Prenada Media Group, 2017), 152. <https://lib.unika.ac.id/index.php?p=fstream-pdf&fid=3620&bid=51219>

that are the main problem of the research carried out inductively so as to provide a complete picture of the results.¹⁷

III. DISCUSSION

Regional Head Elections in Indonesia

Table 1 Aspects and Details of the Regional Elections

Aspect	Detail
Legal Foundation	Article 18 Paragraph (4) of the 1945 Republic of Indonesia Constitution: Governors, Regents and Mayors are elected democratically.
Role of Regional Heads	Regional heads are responsible for regional autonomy, developing a vision and mission that focuses on democracy, justice, equality, welfare, and maintaining central-regional relations for the sake of the integrity of the Republic of Indonesia.
Function of Regional Head Elections	1. Fulfilling the wishes of the people in the region. 2. Basing the choice on the vision, mission, program, and integrity of the candidate. 3. Determining the success of the implementation of regional government.

The role of regional heads in the implementation of regional autonomy is expected to be able to make changes that occur quickly and precisely in a national and international perspective. Success in adapting to changes is determined by the Governor, Regent, and Mayor as regional heads who can develop the vision and mission of the organization. Regional Heads have a strategic role in the development of democratic

¹⁷Nur Solikin, Introduction to Legal Research Methodology, (Pasuruan: Qiara Media, 2021), 133-134. <http://digilib.uinkhas.ac.id/12273/1/Buku%20Penantar%20Metodologi%20Penelitian%20Hukum-Nur%20Solikin%20%281%29%20%281%29.pdf>

life, justice, equality, community welfare, and maintaining relations between the Central and Regional Governments to maintain the integrity of the Republic of Indonesia.¹⁸

The election of regional heads has a regulatory mechanism to realize democracy in its implementation. The election of regional heads is the sovereignty and confirmation of the election that exists around the community in each region.¹⁹The election of regional heads in the implementation of regional government has three (3) functions as follows:

1. Regional head voters choose according to the will of the people in the region so that they are expected to understand and realize the will of the people in the region;
2. Through regional heads, it is hoped that the people's choice in the region will be based on the vision and mission of the program as well as the quality and integrity of the regional head candidates, and will determine the success of the implementation of government in the region;
3. The election of regional heads is expected to be based on the people's choice of the regional head based on the vision and mission of the program as well as the quality and integrity of the regional head candidate, and determine the success of the implementation of government in the region.²⁰

After the amendment to the 1945 Constitution of the Republic of Indonesia, regional elections were specifically

¹⁸Deddy Supriady Bratakusumah and Dadang Solihin, *Autonomy in the Implementation of Regional Government*, (Jakarta: Gramedia Pustaka Utama, 2001), 76. http://repository.unsada.ac.id/225/1/Buku_DSB.pdf

¹⁹Ali Muhammad Johan C, "Regional Head Election System in Regions That Implement Asymmetric Decentralization", *Al-Qisth Law Review Journal* Vol. 5 No. 1 (Jakarta 2021), 13.

²⁰ JanedjriM. Gaffar, *Election Law Politics*, (Jakarta: Konstitusi Press, 2012), 90.

regulated in Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia, which stipulates that governors, district heads and mayors, each as head of the provincial, district and city regional government, are elected democratically.²¹The intent of Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia is that regional head elections are democratically elected. This does not specifically determine the system that must be used in regional head elections, but rather provides space to choose an election system, as long as the system used meets the principles of democratic elections.²²

In the process of discussing the provisions for regional head elections in Article 18 number 4 of the 1945 Constitution of the Republic of Indonesia, there were two (2) different views, namely:

1. Propose that regional head elections be carried out directly by the people, not through a representative system by the DPRD;
2. Wants regional head elections to continue to be carried out by the DPRD.²³

In the Constitutional Court Decision Number 97/PUU-XI/2013, the background to the idea of the birth of the formulation of Article 18 number 4 of the 1945 Constitution of the Republic of Indonesia is a regional head election system that is applied in accordance with the development of society and the conditions of society in each region. The formation of

²¹ Ethical and Democratic Information, “Social Transformation Towards a Civil Society” (nd), www.ut.ac.id.

²²Ali Muhammad Johan C, “Regional Head Election System in Regions Implementing Asymmetric Decentralization”, *Al-Qisth Law Review Journal* Vol. 5 No. 1 (Jakarta 2021), 14.

²³ JanedjriM. Gaffar, *Election Law Politics*, (Jakarta: Konstitusi Press, 2012), 93.

the Law can formulate the election system desired by the community in the election of regional heads so that the community has the choice of implementing a representative system carried out by the DPRD or through a direct election system by the people. The purpose of the adjustment is to be able to adjust the dynamics of national development to build a democratic system desired by the community.²⁴ Looking at the Constitutional Court's decision Number 97/PUU-IX-2013, it can be concluded that direct elections by the people and indirect elections have democratic meaning. However, the requirements for regional head elections are implemented by applying the principles of democratic general elections, namely directly, generally, freely, secretly, honestly and fairly.²⁵

If based on Article 18 paragraph 4 of the 1945 Constitution of the Republic of Indonesia, it is even more firmly stated in the Constitutional Court Decision Number 072-073/PUU II/2004 stating that the authority to elect directly or indirectly is in accordance with the background of the discussion of the provisions on regional head elections in the 1945 Constitution. The 1945 Constitution also determines the regional head election system differently according to each region. If in the Jakarta region the regional head election is carried out directly, then in the Yogyakarta region it must also be the same, this also applies to the Papua region and other

²⁴Ali Marwan Hsb, "Democratic Regional Head Elections Based on the Court's Decision" Constitution Number 97/PUU-IX/2013", Indonesian Legislation Journal Vol. 13 No. 03 (September, 2016), 233. <https://e-jurnal.peraturan.go.id/index.php/jli/article/view/147/pdf>

²⁵Ali Marwan Hsb, "Democratic Regional Head Elections Based on the Court's Decision" Constitution Number 97/PUU-IX/2013", Indonesian Legislation Journal Vol. 13 No. 03 (September, 2016), 233. <https://e-jurnal.peraturan.go.id/index.php/jli/article/view/147/pdf>

regions. This is in accordance with the diversity of Indonesian society, both in terms of customs, social structure and level of readiness.²⁶

According to Jimly Asshiddiqie, the provisions on democratic elections are contained in paragraph (4) which can be implemented through direct or indirect elections, namely through the DPRD. Both of these methods have the same constitutional and democratic meaning. However, these provisions are further explained in the Law, namely that the election is carried out through regional head elections. However, if changes are made so that elections are held indirectly through the DPRD, then this must also be seen as equally democratic and equally constitutional.²⁷

In the regulation of Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia, it states that the Governor, Regent, and Mayor, respectively as Head of the Regional Government of the Province, Regency, and City, are elected democratically, not by choosing one of the forms of direct democracy or representative democracy, a provision that is appropriate in describing the value of regional diversity in Indonesia. Article 18 paragraph (4) can also be seen as the implementation of Article 18B paragraph (1) which states that the state recognizes and respects regional government units that are special and unique in nature and Article 1 paragraph (2) of the 1945 Constitution, whose sovereignty lies in the hands of the people and is implemented according to the Constitution.²⁸

²⁶ JanedjriM. Gaffar, *Election Law Politics*, (Jakarta: Konstitusi Press, 2012), 95.

²⁷Jimly Asshiddiqie, *Comments on the Constitution of the Republic of IndonesiaIndonesia1945*, (Jakarta: Sinar Grafika, 2009), 58-59.

²⁸Ali Marwan Hsb, "Democratic Regional Head Elections Based on the Court's Decision"ConstitutionNumber 97/PUU-IX/2013", *Indonesian Legislation Journal*

Therefore, the election of regional heads according to Article 18 number 4 of the 1945 Republic of Indonesia Law is intended to adopt an asymmetric regional head election system. What is meant by the regional head election system can vary, whether elected directly or elected through the DPRD. However, the selection of the system must be in line with and not contradict the principles of democracy. Article 18 paragraph 4 of the 1945 NRI Constitution broadly contains two (2) legal norms, namely regarding the position of the regional head and the procedure for filling the position of regional head. Regarding the position of the regional head, it is interpreted in Article 18 Paragraph (4) of the NRI Constitution as follows:

1. Governors, Regents, and Mayors as autonomous regional governments (chief local government). As heads of autonomous regions, Governors, Regents, and Mayors carry out decentralized government affairs based on the principle of autonomy;
2. Only the Governor, Regent and Mayor must be present as chief of local government, with the number having to be one (1) person, so it cannot be in the form of a commissioner or council;
3. Deputy Governor, Deputy Regent, and Mayor are open (opened legal policy) so they are not mandatory. Autonomous regions can have deputy regional heads and can also not have deputy regional heads. Deputy regional heads can have more than one person, in which case it is left

to the law makers to be able to adjust the conditions of each autonomous region.²⁹

Article 18 Paragraph (4) of the 1945 Constitution of the Republic of Indonesia does not require a democratic election of regional heads, it is not mandatory to be elected in one candidate pair package with the regional head. Therefore, the deputy regional head can be elected by appointment or appointed by the elected regional head. Article 18 Paragraph (4) of the 1945 Constitution of the Republic of Indonesia also requires that only the Governor, Regent, and Mayor or those often referred to as regional heads be democratically elected. In other words, the deputy regional head is not required to be elected with the regional head.

The results of the study show that Article 18 Paragraph (4) of the 1945 NRI Constitution does not require a democratic election of regional heads, it is not mandatory to be elected in one candidate pair package with the regional head. Therefore, the deputy regional head can be elected by appointment or appointed by the elected regional head. Article 18 Paragraph (4) of the 1945 NRI Constitution also requires that only the Governor, Regent, and Mayor or those often referred to as regional heads be democratically elected. In other words, the deputy regional head is not required to be elected with the regional head.

²⁹Syofyan Hadi, "The Meaning of Article 18 Paragraph (4) of the 1945 Constitution of the Republic of Indonesia", *Journal of Legal Studies* Vol. 19 No. 1 (Surabaya 2023), 64-65. <https://jurnal.untag-sby.ac.id/index.php/dih/article/view/7920/5445>

Asymmetric Regional Elections in Indonesia

Table2 Regional Election System in Indonesia

Aspect	Detail
Characteristics of Asymmetric Systems	The asymmetric system is based on the geographical, demographic and economic characteristics of Indonesia, centered on Java Island and Jakarta, to respond to the specific needs of the region.
The Basis of Asymmetric History	The Dutch colonial government implemented the asymmetric principle through special agreements with the kingdom areas (example: VOC with Mataram), granting autonomy or special rights to certain areas according to local customs and traditions.
Understanding Asymmetric Selection	A system that allows for differences in regional head election mechanisms between regions according to conditions, cultural uniqueness, regional capacity, and other technical factors.
Grand Design of Decentralization	Establishing the Law that is the basis for asymmetric decentralization policy through: a. Law No. 23 of 2014 (Regional Government). b. Law No. 29 of 2007 (DKI Jakarta) and Law No. 21 of 2001 (Papua).

Asymmetry in Indonesia is a concern in both politics and government. The country of Indonesia has unique characteristics that make a central and regional relationship find a more ideal format. These characteristics include geography, demographics, and economics centered on Java and the economy centered in Jakarta. Geographical and demographic characteristics supported by economic strength cause decentralization matters.³⁰Based on economic considerations which are the asymmetric differences in the

³⁰Bayu Dardias Kurniadi, "Asymmetric Decentralization in Indonesia", (Yogyakarta: UGM Seminar LAN Jatinangor 2012), 1-4. <https://bdardias.staff.ugm.ac.id>.

regions in Indonesia, there is evidence that the management of government relations with colonial areas has implemented asymmetric principles, namely as follows:

- a. Only in Java is managed seriously. In areas outside Java did not get the attention they deserve, for example the port of Makassar which is an important area in the spice trade from Maluku which is not divided into administrative areas such as provinces or regencies.
- b. In Java and areas outside Java, the colonial government has implemented asymmetry by giving special treatment to the kingdom's regions. For example, the VOC made a special agreement with Mataram before it was divided into two (2) in the Giyanti agreement in 1755. The 1945 Constitution explains that the Dutch government made agreements with traditional and customary institutions with a total of less than 250 (two hundred and fifty) contracts in the form of independent management or with *zelfbesturende landschappen* management. The Dutch economic and political contract is a form of appreciation for the asymmetry possessed by each job.³¹

As a form of the distribution of power that has an asymmetrical character towards special autonomy is one of the policy instruments to overcome a fundamental thing that exists in a country, namely in political issues and managerial technocratic issues. The political issues in question are based on the uniqueness and differences of culture, while the managerial technocratic issues are the limited capacity of a region and a region in carrying out the basic functions of

³¹Bayu Dardias Kurniadi, "Asymmetric Decentralization in Indonesia", (Yogyakarta: UGM Seminar LAN Jatinangor 2012), 5, <https://bdardias.staff.ugm.ac.id>.

government.³²The definition of asymmetric regional head elections itself is a system that allows for differences in the implementation of regional head election mechanisms between regions.³³The basis of asymmetric decentralization for Indonesia, which in the research conducted by JPP Fisipol UGM, shows several reasons why Indonesia must implement asymmetric decentralization, namely as follows:

- a. Reasons for conflict and demands for separatism. In the Papua Province and Aceh Province areas which received special treatment in the form of special autonomy caused by the problems in the two regions with the national government due to disputes over resources.
- b. Reason for the State Capital. For this reason, special treatment is only given to the Province of DKI Jakarta, considering that the area is the Capital of the Republic of Indonesia and its territory is accessible with the best infrastructure. Special treatment is realized by the absence of general elections for Governors, Regents, and Mayors and the election uses an absolute majority system.
- c. There are historical and cultural reasons. The region that received special autonomy for history and culture is DIY considering its history during the revolution and struggle for independence. Where the appointment of the Governor and Deputy Governor in the Special Region of Yogyakarta is carried out by the DPRD.

³²Debora Sanur L, "Implementation of Special Autonomy Policy in Aceh", *Politica Journal* Vol. 11 No. 1 (May 2020), 68. <https://jurnal.dpr.go.id/index.php/politica/article/download/1580/858>

³³Dimas Kuswantoro, "What is the Asymmetric Regional Election that is Again Discussed by Minister of Home Affairs Tito?", *National Tempo* (blog). June 21, 2020, <https://nasional.tempo.co/read/1355885/apa-itu-pilkada-asimetris-yang-re-diwacanakan-mendagri-tito>, accessed on Tuesday, August 22, 2023

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- d. In the Batam area with the reason of the center of economic development, it can be developed and formed and can compete with Singapore. Because of the allocation of specialties, for example concerning customs, infrastructure development, economic development such as ports and port system management. If Batam can be recommended as an asymmetric region with the reason of economic development, then it still requires further study.
 - e. In West Kalimantan for border reasons. Borders need to be given special treatment regarding their role as borders with other countries. Border areas play an important role due to the complexity of the problems faced. For example, by requiring the Governor to come from the military because of the high potential for cross-border travelers in addition to strengthening infrastructure and education and health services. If West Kalimantan is recommended as an asymmetric region for border reasons, then further study is still needed.³⁴

The asymmetric decentralization policy is carried out by creating a grand design for asymmetric decentralization which will later be contained in a legal product in the form of a Law which will become the Main Law which oversees three (3) groups of Laws as the implementation of regional autonomy, namely as follows:

- a. The implementation of regional autonomy as widely as possible is regulated in Law No. 23 of 2014 concerning Regional Government;

³⁴Bayu Dardias Kurniadi, "Asymmetric Decentralization in Indonesia", (Yogyakarta: UGM Seminar LAN Jatinangor 2012), 8-9. <https://bdardias.staff.ugm.ac.id>.

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- b. The implementation of special regional autonomy is based on laws, including Law No. 29 of 2007 concerning Regional Government of the Special Province of the Special Capital Region of Jakarta as the Capital of the Republic of Indonesia and Law No. 21 of 2001 in conjunction with Law No. 35 of 2008 concerning Special Autonomy of Papua Province;
 - c. The implementation of special regional autonomy includes: Law No. 44 of 1999 concerning the Implementation of the Special Status of the Special Region of Aceh and Law No. 13 of 2012 concerning the Special Status of the Special Region of Yogyakarta.³⁵

With the existence of the Law on the subject of asymmetric decentralization, it will become a legal umbrella for regional governments in determining the pattern of relations with the central government. There are several principles that can be proposed in compiling legal constructions related to asymmetric decentralization, namely as follows:

- a. The implementation of asymmetric decentralization is within the Republic of Indonesia. The concept of decentralization is not to realize a federal region or there is no state in the state. This is to maintain the integrity of the Republic of Indonesia which is based on Pancasila, the 1945 Constitution of the Republic of Indonesia, and Bhinneka Tunggal Ika.

³⁵Kadek Cahya Susila Wibawa, "Affirmation of Asymmetric Decentralization Legal Politics in the Framework of Regulating the Relationship between the Center and Regional Governments in Indonesia", *Administrative Law & Governance Journal* Vol. 2 No. 3 (August 2019), 408. <https://ejournal2.undip.ac.id/index.php/alj/article/view/6478>.

- b. Making the Law as the main law in the implementation of regional government in Indonesia. The Law becomes the grand design of the asymmetric decentralization policy that will oversee the Laws related to special autonomy and special autonomy.
- c. The establishment of a regional autonomy body that has the authority to provide direction to the central government to determine the relationship between regional governments and the central government. This institution is given the authority to oversee the implementation of asymmetric decentralization from each regional government.

There are many opportunities for the Regional Government, Provincial Government, and also Regency/City Government to propose regarding the pattern of their relationship with the central government in accordance with regional conditions by aligning the indicators of independence, specialness, and privileges.³⁶

Table 3 Regional Head Elections for DKI Jakarta, Aceh, Yogyakarta, Papua

Province	Legal Foundation	Regional Head Election System	Uniqueness/Specialty
Jakarta	Law No. 29 of 2007 concerning the Government	- The Governor and Deputy Governor are directly elected. - The	- Position as the Capital of the Republic of Indonesia. - Has a single autonomy system at the provincial level. - Cities and Regencies

³⁶Kadek Cahya Susila Wibawa, "Affirmation of Asymmetric Decentralization Legal Politics in the Framework of Organizing the Relationship between the Center and Regional Governments in Indonesia", *Administrative Law & Governance Journal* Vol. 2 No. 3 (August 2019), 408-409. <https://ejournal2.undip.ac.id/index.php/alj/article/view/6478>.

	of the Province of DKI Jakarta	Mayor/Regent is appointed by the Governor.	in Jakarta are administrative, not autonomous.
Special Region of Yogyakarta	Law No. 13 of 2012 concerning the Special Status of the Special Region of Yogyakarta	- The Governor is a descendant of the Sultanate of Ngayogyakarta Hadiningrat. - The Deputy Governor is a descendant of the Paku Alam Duchy.	- Based on history and culture. - Leaders may not join political parties. - Determination is not an election, but is recognized as constitutional.
Aceh	Law No. 11 of 2006 concerning Aceh Government Aceh Qanun No. 12 of 2016	- Direct election by the people, with the guidelines of Qanun Aceh. - Obligation to implement Islamic law for regional head candidates.	- Have a specially regulated local political party. - The implementation of elections is regulated by the Independent Election Commission (KIP). - Special requirements such as the ability to read the Quran.
Papua and West Papua	Law No. 2 of 2021 concerning Amendments to Law No. 21 of 2001 concerning Special Autonomy for Papua	- Noken system: using tribal chief representatives or noken as ballot boxes.	- The noken system is used as a respect for local culture. - Regional head candidates must be native Papuans. - Managing natural resources for the Papuan people with special autonomy.

The implementation of asymmetric decentralization in Indonesia aims to provide special autonomy to certain regions in order to increase efficiency, effectiveness, and community

participation in government. In Indonesia, there are four regions that have special or special autonomy status, namely DKI Jakarta, Aceh, the Special Region of Yogyakarta, and Papua. Each of these regions is regulated by laws that give them special and privileged rights in regional governance. This policy is driven by the diversity of characteristics of each region in terms of geography, history, culture, and national interests so that each region can manage its resources independently and strengthen the structure of local democracy.³⁷

Each special autonomous region has a different regional head election system. Like DKI Jakarta, regional head elections are carried out through a single autonomy system, where the Governor is directly elected while the Mayor is appointed by the Governor. The Special Region of Yogyakarta Province regulates its gubernatorial election based on the descendants of the Ngayogyakarta Hadiningrat and Paku Alam Sultanates, with the aim of preserving cultural and historical heritage. Aceh has special rules with local political parties and the implementation of Islamic law, including the obligation for regional head candidates to be able to read the Quran. Papua, with its noken system, allows the election process through a mechanism based on local traditions where tribal chiefs represent the voice of the people in the interior.³⁸

This asymmetric system is set to maintain a balance between decentralization and democratic principles. Although there are differences in election mechanisms, each region still refers to the principles of democracy stipulated in the

³⁷ Azim, ELECTIONS AND THE CONSTITUTIONALITY OF THE NOKEN SYSTEM.

³⁸ Pilkada System, Which is Compatible with Regional Autonomy, “Prof. R. Siti Zuhro, MA, PhD” (nd).

constitution. In this context, asymmetric decentralization allows for the adjustment of regional identities within the structure of the Indonesian government, prioritizing local rights and maintaining harmony with democratic values. This system is expected to support regional welfare, maintain cultural uniqueness, and maintain national stability within the framework of the Unitary State of the Republic of Indonesia (NKRI).³⁹

The results of the study on the asymmetric regional head election system in Indonesia reveal that the implementation of asymmetric decentralization in four provinces (DKI Jakarta, Special Region of Yogyakarta, Aceh, and Papua) reflects the government's efforts to respect the specificity and uniqueness of each region. The main findings show that each province has different electoral system characteristics according to its social, cultural, and historical needs. In Jakarta, the single autonomy election system applies at the provincial level with direct elections for Governors and the appointment of Mayors, while Yogyakarta determines regional heads based on the Sultanate's lineage, which is considered constitutional even though it does not go through general elections. Aceh implements direct elections, but with special requirements that emphasize Islamic law and the existence of local parties, while Papua uses the noken system to respect customs, with the requirement that regional head candidates be native Papuans.⁴⁰

The explanation of these findings shows that the implementation of an asymmetric system allows for political

³⁹ Ibid.

⁴⁰ Widodo, "Implementation of Regional Elections Based on the Principles of Democracy and Pancasila Values."

flexibility that is in accordance with local dynamics, thus creating harmony between regional uniqueness and the principles of national democracy. In comparison, it is seen that DKI Jakarta and Aceh emphasize elements of political autonomy and government structure, while Yogyakarta and Papua emphasize cultural and customary specificity. Although different in their implementation, each region continues to implement democratic values in the election process with adjustments to local norms.⁴¹

The interpretation of these results is that the asymmetric electoral system in Indonesia functions not only as a democratic tool, but also as a bridge to accommodate the diversity of regional identities within the framework of a unitary state. This shows that asymmetric decentralization in Indonesia is able to support political stability and public participation in an inclusive and contextual way.⁴²As an action plan, this study recommends strengthening the legal framework of asymmetric decentralization through the establishment of a Basic Law that regulates special and exceptional autonomy, ensuring that the principles of equality and inclusiveness are maintained throughout the regions. In addition, it is recommended to establish a regional autonomy monitoring institution to evaluate the implementation of the asymmetric system so that it remains relevant to the developing social and political dynamics, while maintaining democratic values at the local level.

⁴¹ Johan, "Regional Head Election System in Regions Implementing Asymmetric Decentralization."

⁴² Azim, ELECTIONS AND THE CONSTITUTIONALITY OF THE NOKEN SYSTEM.

IV. Conclusion

The conclusion of this study highlights that Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia provides ample space for the implementation of a democratic regional head election system, without establishing a specific system, thus allowing the implementation of an asymmetric election system. The important findings of this study indicate that each province that implements asymmetric decentralization—DKI Jakarta, DIY, Aceh, and Papua—has unique regional head election characteristics. This system is designed to respect the social, cultural, and historical conditions of each region, such as the *noken* system in Papua or the appointment of the Sultan in DIY, which enriches Indonesian democracy with various forms of local expression.

The strength of this study lies in its in-depth analysis of the variation in electoral mechanisms across provinces and its understanding that flexibility in local democracy can enhance community engagement and accommodate cultural identities. However, this study is limited in terms of regional coverage, as it focuses only on four provinces with special autonomy status, thus failing to fully explain the potential for implementing asymmetric decentralization in other regions in Indonesia. This limitation indicates the need for further studies to explore whether asymmetric systems can be implemented more widely and how this may affect national political stability.

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