



**SUCCESSIVE ELECTION OF REGIONAL HEADS:
A COMPARISON STUDY OF THE STATE CONSTITUTIONS
OF MAJAPAHIT, INDONESIA, AND THE UNITED STATES**

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Abstract:

A constitution is a written regulation and a state convention (state administration) that determines the composition and position of state bodies, regulates relations between the bodies, and regulates the relationships between these bodies and the citizens. The enactment of a constitution as a binding fundamental law is based on the highest power or the principle of sovereignty adopted by a certain country. If the country adheres to the notion of popular sovereignty, then the source of the legitimacy of the constitution is the people. If monarchical sovereignty is applied, then the monarch will determine whether or not a constitution may be enforced. A constitution also contains regulations for the election of regional heads. Regional head elections are one of the characteristics of a state that applies democratic principles. This study aims to analyze the election of regional heads by comparing the constitutions of Majapahit, Indonesia, and the United States of America. The method used in this research is normative juridical, namely by reviewing the norms of Constitution, laws and other sources of legal material, including journals. The results of this research are that regional heads in Majapahit were directly elected by the Prabu (King). It was a District/majority representative system since the regional heads were directly elected by the king, an Organic and Non-Democratic electoral system. Whereas in Indonesia, regional heads (Governors, Regents and Mayors) are

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democratically elected, elected directly by the people or by the Provincial, Regental and Municipal House of Representatives (district representation system based on the majority and balance). However, in the reform era, the legislators interpreted the democratic system as direct election by the people. The electoral system is mechanical, organic and democratic. In the United States, the Head of State is directly elected by the people but at the discretion of the legislature, hence the representative system is a balanced representation system. The electoral system is organic and semi-democratic.

Keywords: successive regional head election, Constitution of Majapahit, Constitution of Indonesia, Constitution of the US

1. Introduction

Reformation has brought fundamental changes in the life of nationality and citizenship. One of these fundamental changes is the implementation of a political policy to amend the 1945 Constitution in order to accelerate the process of law and human rights enforcement, strengthen the presidential government system by applying the principle of mutual supervision and checks and balances between the high state institutions in implementing the popular sovereignty, as well as in the context of encouraging the process of democratic consolidation. In the 1945 Constitution, as the result of the amendment, there are some new points of thought, including (a) affirmation of simultaneous adoption of the ideals of democracy and nomocracy, which complement each other in a complementary manner; (b) separation of power and the adoption of the principle of "checks and balances"; (c) refinement of the presidential system of government; and (d) the strengthening the ideals of unity and diversity within the Unitary State of the Republic of Indonesia.ⁱⁱ

The affirmation of the adherence to the ideals of democracy and nomocracy at once and in completion to each other is indeed a new breakthrough in the formulation of Indonesian constitution. In the Preamble to the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) paragraph IV, it is stated that: "... *The independence of the nation of Indonesia is arranged in a Constitution, formed in the structure of the Republic of Indonesia which is based on the sovereignty of the people...*" In Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, it is stated: "*Sovereignty is in the hands of the people and is carried out according to the Constitution*". And in Article 1 paragraph (3) that "*The State of Indonesia is a state of law*". The meaning in the constitution that Sovereignty is in the hands of the people and implemented according to the Constitution explicitly confirms that the Unitary State of the Republic of Indonesia adheres to the notion of people's sovereignty (democracy); this means that the people has the highest power over

ⁱⁱJimly Asshiddiqie. The Structure of Indonesian State Administration after the Fourth Amendment to the 1945 Constitution, Paper presented at the 8th National Law Development Seminar with the theme of Law Enforcement in the Era of Sustainable Development, Organized by the National Law Development Agency, Indonesian Ministry of Justice and Human Rights, Denpasar, 14-18 July 2003, p.1.

the state and it is the people who determine the style of government and the goals to be achieved by Indonesia as a nation. Therefore, the state must submit to the wishes of the people, both in the political, social, economic, and cultural fields, because real power comes from the people, is administered by the people, and for the welfare of the people as a whole without any exceptions. Thus, it is clear that power in an idealized democracy is carried out in cooperation with its people. In the constitutional system the implementation of the popular sovereignty, its dissemination and operation, must subject to the constitutional procedures stipulated in the law and constitution (constitutional democracy). So, the principles of popular sovereignty (democracy) and the rule of law (nomocracy) must be implemented together as two sides of the same coin. In other words, the 1945 Constitution of the Republic of Indonesia adopts the notion that Indonesia is a democratic state based on the rule of law (*demokratischerechtstaat*), or a democratic state based on law (constitutional democracy).

“Up to now, democracy is believed to be a form of political system that will be able to bring people to a better life. This is because democracy will lead to the consequences of preventing a tyrannical system of government, respecting human rights, providing a general freedom, ensuring the right to self-determination, providing moral autonomy, ensuring human development for the better, and respecting private property. Democracy is also understood as a system of government that places the people as the holder of popular sovereignty through elections.”ⁱⁱⁱ

For countries that call themselves democratic countries, general election is an important feature that must be held periodically at certain times. General election is also one of the means of conducting the basic human rights of the citizens. Therefore, in the context of implementing the human rights of citizens, the government is obliged to ensure the implementation of the general election in accordance with a predetermined constitutional schedule. In accordance with the principle of popular sovereignty, wherein the people are the sovereign, all aspects of the conduct of general elections must be handed back to the people to be decided. If the government cannot guarantee the conduct of a general election, delays the conduct of the general election without the approval of the people's representatives, or does nothing so that the general election cannot be conducted properly, then the government is regarded to have violated the human rights. Constitution is the fundamental law used as the standard in the administration of a country^{iv}. The constitution can be in the form of a written fundamental law commonly called the Basic Law, or it can be in unwritten form. Not all countries have a written constitution or a Basic Law. The United Kingdom is commonly referred to as a constitutional state, but it does not have a single text of a Constitution as a written

ⁱⁱⁱSuko Wiyono. General Election of the Regional Head of Blitar Regency in the Perspective of Pancasila Democracy. Paper presented at the discussion on General Regional Head Election in the Perspective of Democratic Development and the Strengthening of National Insights, which was held by the Agency for National and Political Unity of the East Java Provincial Government, on July 8, 2010, at Puri Perdana Hotel, Blitar.

^{iv}Jimly Assidique. Indonesian Constitution and Constitutionalism. East Jakarta. Sinar Grafika.2017. p.29

fundamental law. The values and norms living in the practices of state administration are also recognized as basic law, and are included in the broad sense of a constitution. Therefore, a Constitution or a basic law as a written constitution, along with the values and norms of the basic unwritten law that lives as administrative conventions in the daily practices of state administration, is included in the definition of the constitution or basic law (*droitconstitutionnel*) of a country.

In the preparation of a written constitution, the basic values and norms alive in the society and in the practices of state administration also influence the formulation of a norm into the text of the Constitution. Therefore, the mystical atmosphere that forms the philosophical, sociological, political, and historical background for the juridical formulation of a Constitution provision needs to be carefully comprehended, in order to best grasp the provisions contained in the articles of the Constitution. A Constitution cannot be understood only through its text. To truly grasp it, we must understand the philosophical, socio-historical, socio-political, socio-juridical, and even the socio-economic contexts that influence its formulation.

The government system which is broadly stated in the constitutions of each analyzed state, namely the Majapahit state, the Indonesian state and the United States of America, naturally, also includes general election arrangements. More specifically, the regional head election system. It is evident that the election of regional heads of each state has a different system because historically, among others, this is evident from the form of its government. The State of Majapahit, the State of Indonesia, and the United States of America are different. The form of government of Majapahit is a kingdom, while the form of government of Indonesia is a republic, and the form of government of the United States of America is also a republic.

Therefore, the historical differences of the form of state and form of government of each country, namely the State of Majapahit, the State of Indonesia, and the United States of America will reveal interesting examinations on the successive Regional Head Elections.

2. Discussion

2.1 Regional Head Election Systems in the States of Majapahit, Indonesia and the US

a. The State of Majapahit

Three forms of state are distinguished by Aristotle in his *Politeia* (III, 4-5) according to the highest position of power, namely: monarchy (rule of a person), aristocracy (rule of the few) and democracy (rule of the many). These three forms of Aristotle's state may be used to compare the forms of states that gave birth to Indonesian civilization.

"The Indonesian nation has golden eras, such as the glory of the Sriwijaya state (8 c. – 11 c.) and the glory of the Majapahit state (13 c. – 14 c.), with geopolitical sovereignty beyond that of the current Republic of Indonesia, spreading from Taiwan to Madagascar."^v

The Majapahit state was closer to monarchy and aristocracy than democracy. Considering the village structure that is the base of the government according to Indonesian customary law, the whole government of Majapahit was formed on a populist basis according to Indonesian civilization in the course of history. The form of government of Majapahit was one of kinship, which was arranged according to the rank of the heads which was passed down from generation to generation and who always held the title of *Perabu*. By itself that Perabu system is not a Republic, because the state did not recognize representative democracy, or according to James Madison's explanation:

"Republican government is a people's power which is exercised directly or indirectly. This government is held by the people who are limited by the term of office in leading. As long as they behave well or do not violate the applicable regulations, they will continue to lead. In their term of office, they hold promises for the sake of the people"^{vi}.

From James Madison's explanation above, the Republic is a government that derives all its power, directly or indirectly, from a large group of people. The system is staffed by people who hold their offices either for pleasure for a limited period of time, or as long as they show good manners. It is essential for such a government to be derived from a great body of society, not from a minority or a preferred class. It is sufficient for such a government that the people who manage it are appointed, either directly or indirectly by the people, and that they keep their promise during the terms for which they have just appointed.

The conditions mentioned in this argument, the existence of a great body of society whose members are appointed or elected by the people, was unknown in the Majapahit state or in generally almost all Indonesian countries before the twentieth century, regarding the central or top government. The village government, which seemed to have existed long before Majapahit recognized the implementation of democracy, is discussed in another article. The term *keperabuan* is formed by using the inclusion of "ke-an" and the name of the rank of the community head in its middle.

The names of the forms of government: *kedatuan*, *kerajaan* (kingdom), *kesultanan* (sultanate), *susuhunan*, *keadipatian* (duchy), are all based on the names of the heads of the *nagara* (state): *datu*, *raja*, *sultan*, *susuhunan*, and *adipati*.^{vii} Such arrangement of words is also common for the names of lower communities, such as *kelurahan*, *kewedanan*,

^vSuko Wiyono. The Importance of Community Understanding of Political Ethics and Culture in Developing A Democratic Political Culture in Indonesia Regions. *Jurnal International Journal of Law and Politics Studies (IJLPS)*, Vol 3, No 1, 2021.

^{vi}James Madison. The Conformity of the Plan to Republican Principles. The thirty-ninth of The Federalist Papers, Published on January 16, 1788.

^{vii}Muhammad Yamin. The State Administration of Madjapahit. *Jajasan Prapantja*. Djakarta. p. 150.

kedemangan, kepatihan, kebupatian, because the prefix “ke” and the suffix “an” indicate an area (locus) controlled by a chief, as referred to in the middle of the terms. In the Javanese language of Majapahit, the government is called *Siwin* and *Sinici* (ruled) (Nag.XLV, 2). The king's order is called the Mahapati's decree. The ruling head of state is called the queen, king, or perabu, and the deceased has the title *hyanggramuhun*. In the Majapahit kingdom, the election of regents (regional heads) is determined by the *prabu* (king).

Regarding the division of the central area (Prapanca 1365), Negara-kertagama, Sarga LVIII LIX, told the old story of Kamalpandak which contains two parts, namely one that concerns the determination of boundaries between two states and that concerns the historical origin of the house of offerings. Therefore, the determination of the boundaries between the two states of Panjalu and Jenggalawas carried out by Empu Barada according to two crossed lines in the form of an uppercase Roman letter T. Panjalu, with Daha as its capital, was located in the west, and Jenggala, with Kahuripan as its capital, located in the east.

This line from West to East ran according to the flow of the Berantas River in its estuary section, approximately from Kertosono to the Madura Strait. This part is referred to in Nagarakertagama by the words “Kulwan purwiva dudug ring arnawa”, from West to East to the Madura Strait. Kahuripan area has its own history. The centres of the three areas of Dahana-Jenggala-Jiwana are located on the banks of the Berantas River in the rural, middle and downstream sections. So, the three areas are the central part of Majapahit. Relationships between the heads of those areas with the central state was that of family. The areas were ruled by a perabu and two queens, and the administrations were carried out by three *patih*s.

After the three regions above recognized the authority of kings Kertarajasa and Jayanegara, the states were joined to the central part of Java Island. The path chosen was to join the regional heads by way of marriage or kinship. Thus, a state area named Mandalika was formed, which contained: Mataram, Pajang, Paguhan, Lasem, Wengker and Matahun. It is clear that the system of regional head elections in the Majapahit State was a hereditary system. It started with the King appointing someone to be married off to a relative of his after a new territory had been formed to become its leader.

b. The State of Indonesia

Since the Proclamation of Independence on August 17, 1945, the Indonesian nation has idealized the form of a unitary state, a republican form of government and a presidential system of government.^{viii} Based on the Indonesian Constitution, namely the 1945 Constitution of the Republic of Indonesia, the statement that the sovereignty is in the hands of the people and implemented according to the Constitution^{ix} means that all state

^{viii}Suko Wiyono, Re-actualization of Pancasila in National and Statial Life, Wisnuwardhana University Malang Press, Malang, 2018, p.31.

^{ix}Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Secretary General of the People's Consultative Assembly of the Republic of Indonesia. Jakarta. 2015, p.116

administration for the welfare of the people must be accountable to the people themselves. In this case, the State of Indonesia adheres to the principle of democracy.

Literally, the word democracy means "government by the people",^x but operationally the meaning given to democracy is very diverse, even its development is much uncontrollable. Many people talk about democracy without knowing the true meaning of democracy.

Besides adhering to the theory of popular sovereignty and the rule of law, it is stated in the Preamble to the 1945 Constitution of the Republic of Indonesia that the declaration of Indonesia's independence is based on "the grace of God Almighty". This implies an acknowledgment of God's power as the holder of the highest authority over His creatures and all of His other creations.

Indonesian people seem to believe that the most fitting democracy for their nation is a democracy that originates from indigenous values, or a democracy that is original to Indonesia, namely Pancasila Democracy. Pancasila democracy, materially or substantially (the general sense of Pancasila democracy), is a democracy that is imbued with the principles of Pancasila as a totality. Therefore, in implementing Pancasila Democracy, all state institutions as well as the citizens must always be responsible to God Almighty, uphold human dignity and rights, guarantee and strengthen the unity of the Indonesian nation, and always fight for the realization of social justice for all Indonesian people. This is the characteristic of Pancasila Democracy. Inherently, Pancasila Democracy is a democratic concept that seeks to unite the foundations of Western democracy (elections, triaspolitica, etc.) and original Indonesian elements (God, deliberation, consensus, etc.) in a synergy. In other words, Pancasila democracy mainly still has the basic goal of creating decisions or public policies whose makings are made with the consent of and based on the aspirations of the people, but has some special characteristics that give it a different color from Western liberal democracy^{xi}. Here it can be seen that Pancasila Democracy is not only a political democracy, but also an economic and social democracy.

Democracy and elections as mentioned above are difficult to separate and for the Indonesian people are not novel, because they have been carried out repeatedly, even since 1955 which was famous for clean and honest elections attended by many political parties (multi-party). In other words, the Indonesian people have experiences in conducting a general election, which is often referred to as a democracy party.

An election is one of the important aspects of democracy and must also be held democratically. Therefore, usually in countries that call themselves democracies, it is a tradition for holding elections to elect public officials in the legislative and executive fields, both for the central and regional governments. Democracy and elections are "*qonditio sine qua non*", one can not exist without the other, in the sense that election is

^xMunir Fuady, *The Concept of Democratic State*, PT Refika Aditama, Bandung, 2010, p.2.

^{xi}Bambang Purwoko, *Democracy Seeking Forms of Contemporary Indonesian Political Analysis*, the Department of Politics and Governance of UGM, Yogyakarta, 2009, p 5.

interpreted as a procedure to achieve democracy or a procedure for transferring popular sovereignty to certain candidates to occupy political positions.^{xii}

Elections are conducted on the principles of being direct, general, free, confidential, honest and fair as regulated in Law Number 7 of 2017 concerning General Elections (Pemilu). In accordance with Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia, which states that Governors, Regents and Mayors, as heads of provincial, regental, and municipal governments respectively, are elected democratically. Thus, the meaning of democratic elections can be interpreted as being directly elected by the people or by their representatives, namely being directly elected by the Provincial House of Representative (*Dewan Perwakilan Rakyat Daerah/DPRD*) for the Governor office, the Regental DPRD for the Regent, and the Municipal DPRD for the election of the mayor.

Regarding legal products that regulate the election of regional heads, it is unmistakable that the Regional Head Elections in the State of Indonesia are directly elected by the people every five years.

c. The United States of America

Theories, institutions and practices of democracy in Western lives are always the result of interactions between non-democratic and anti-democratic traditions with the existing democratic traditions, as well as new perceptions in the fields of social, humanitarian, religious, political needs and political rights. The fact that the idea of popular sovereignty was incompatible with the theocentric concept of monarchical power and the increasingly rigid imperial structure of the Roman Church did not prevent Christians from creating democratic systems in Western Europe and North America.

The United States Constitution was completed on September 17, 1787 and was adopted by the Constitutional Convention in Philadelphia, Pennsylvania. It was subsequently ratified by special conventions in each state. In the American constitution regarding the election of regional heads, it is implied in Article II Paragraph 1 that after the president is elected to occupy a position in the federal government, the state heads are also elected by the people directly, with the consideration of the states' legislatures.

According to the procedure, it is within the authority of the head of state to change the constitution. The change mechanism is by addendum system. The things changed are the ones in accordance with the substance of the constitution in the state. An analysis may show that a head of the state is directly elected by the people, but with the consideration of the legislative body in that state. So that the power of the election is in the hands of the legislature to determine who becomes the head of state in the future.

^{xii}Veri Junaidi. Organizing the Democratic Election Law Enforcement System: A Review of the Constitutional Court's Authority on the Settlement of Election Results Disputes (PHPU). *Jurnal Konstitusi*, Volume 6, Number 3, September 2009. p. 106

3. Similarities and Differences in the Regional Head Election System in the Majapahit State, Indonesia, and the United States

Because a general election is one way to decide the people's representatives who will sit in the People's Representative Council, naturally there are various electoral systems.^{xiii} Election systems differ from one another, depending on the system of government.

Table 1: Differences in the Regional Head Election Systems

Majapahit	Indonesia	The US
<ol style="list-style-type: none"> 1. Organic election system: Regional heads (<i>kelurahan, kawedanan, kabupatihan</i>) are directly elected by the Prabu 2. District/Majority representative system because the regional head is directly elected by the king 3. Non-democratic regional head elections 	<ol style="list-style-type: none"> 1. Organic election system: Regional Heads (Governors, Regents and Mayors), democratically and mechanically elected by representatives, namely the Provincial, Regental, or Municipal DPRD; democratically elected Governors, Regents and Mayors are directly elected by the people. 2. District/Majority and Balanced Representative Systems. 3. Democratic regional head elections 	<ol style="list-style-type: none"> 1. Organic Election System: Regional Heads are elected directly by the people but with the consideration of the state legislatures. 2. Balanced representative system because it is the legislature that determines the outcome of an election 3. Semi-democratic regional head elections.

4. Conclusion

The regional heads in Majapahit were directly elected by the *Prabu* (King), while in Indonesia it is a democratic election, which is interpreted by legislators as direct election by the people. Whereas in the United States the head of a state is elected by the people on a semi-democratic basis with the consideration of the state's legislature.

Differences in the Regional Head Election Systems:

- 1) In Majapahit, a Regional Head was directly elected by the *Prabu* (King). Thus the representation system was a district-majority representative system. The electoral system was Organic and Non-Democratic.
- 2) In Indonesia, the Regional Heads (Governor, Regent and Mayor) are democratically elected; they can be directly elected by the people, and they can be elected by the Provincial, Regental and Municipal House of Representatives (district-majority and balanced representation system). However, the legislators interpreted it democratically as direct elections by the people. The Electoral System is Mechanical, Organic and Democratic.

^{xiii}Jimly Asshiddiqie. *Op-Cit.* p. 421.

- 3) In the United States, the Head of State is directly elected by the people but at the discretion of the legislature. So that the representation system is a balanced representation system. The electoral system is organic and semi-democratic.

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Conflict of Interest Statement

The authors declare no conflicts of interests.

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