

Indonesia's democratic dilemma: why asymmetric regional head elections are the future*

El dilema democrático de indonesia: por qué las elecciones asimétricas de jefes regionales son el futuro

Syofyan Hadi † Sultoni Fikri ‡ Baharuddin Riqiey §
Reza Maulana Hikam ¶



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†Universitas 17 Agustus 1945 Surabaya. Correo: syofyan@untag-sby.ac.id. ORCID: 0000-0003-4265-6297.

‡Universitas 17 Agustus 1945 Surabaya. Correo: sultonifikri@untag-sby.ac.id. ORCID: 0000-0001-9798-3653.

§Universitas Airlangga. Correo: baharuddin.riqiey-2024@fh.unair.ac.id. ORCID: 0000-0002-8769-5604.

¶University of Hawai'i at Manoa. Correo: rezamh@hawaii.edu. ORCID: 0000-0002-7523-3947.

Abstract

The purpose of this study is to construct asymmetric regional head elections. Asymmetric regional head elections need to be constructed as a response to the problems that exist in the regional head selection model in Indonesia. Therefore, this study aims to examine and analyze the mechanism of regional head elections in Indonesia, the problems associated with symmetric regional head elections, and the construction of asymmetric regional head elections. This research is classified as legal research. The results indicate that the mechanism of regional head elections in Indonesia encompasses various models.

These models include appointment or promotion by the central government, appointment due to urgent circumstances, elections by the Regional House of Representatives with candidates determined by the President, elections by the Regional House of Representatives without presidential involvement, and direct elections by the people. The models of direct regional head elections by the people and those conducted by the Regional House of Representatives fall into the democratic category.

However, these models raise various issues, including the risk of conflict, high costs of regional head elections, state capture corruption, regulatory capture, and others. To address these problems, it is necessary to construct asymmetric regional head elections. This framework for asymmetric regional head elections includes direct elections by the people, elec-

tions by the Regional House of Representatives, and elections through regional mechanisms. To determine which type of regional head election model is appropriate for a region, it is essential to consider several indicators. These indicators include the regional independence index, human development index, democracy index, and other relevant indices, such as societal heterogeneity and local customs.

Keywords:

asymmetrical regional head elections, democratic, regional Heads

Resumen

El propósito de este estudio es diseñar elecciones regionales asimétricas. Estas elecciones deben resolver los problemas que presenta el modelo electoral regional en Indonesia. Por lo tanto, este estudio busca examinar y analizar el mecanismo de las elecciones regionales en Indonesia, los problemas de las elecciones simétricas y la construcción de elecciones regionales asimétricas.

Esta investigación es de carácter jurídico. Los resultados indican que el mecanismo de las elecciones regionales en Indonesia se rige por diversos modelos. Estos modelos incluyen el nombramiento o ascenso por el gobierno central, el nombramiento por urgencia, la elección por la Cámara de Representantes Regional con candidatos designados por el presidente, la elección puramente por la Cámara de Representantes Regional y la elección directa por el pueblo. Tanto el modelo de elección directa por el pueblo como el modelo de elección por la Cámara de Representantes Regional son modelos democráticos.

Sin embargo, estos modelos plantean diversos problemas, como el riesgo de conflicto, los elevados costos de las elecciones regionales, la corrupción por captura del Estado, la captura regulatoria, etc. Para abordar estos problemas, es necesario diseñar elecciones regionales asimétricas. Estas elecciones asimétricas de jefes regionales incluyen elecciones directas por el pueblo, elecciones por la Cámara de Representantes Regional y elecciones a través de mecanismos regionales. Para determinar el modelo de elecciones regionales que utiliza una región, es necesario prestar

atención a varios indicadores. Estos indicadores incluyen el índice de independencia regional, el índice de desarrollo humano, el índice de democracia y otros indicadores relacionados, como la heterogeneidad social y las costumbres.

Palabras clave:

elecciones asimétricas de jefes regionales, democracia, jefes regionales

Introducción

The 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia) confirms that there are two elections held by the people to elect their leaders, namely general elections (hereinafter referred to as the Election) and regional head elections. In relation to the regional head elections, Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia states that the regional head elections is elected democratically. The meaning of being elected democratically in the original intent is that it can be elected directly by the people and can also be elected by the Regional House of Representatives. Grammatically, the meaning of being elected democratically is that whatever the forum is as long as the procedures, mechanisms, and processes are in accordance with the principles of democracy, then it is constitutional (Hadi, 2023, p. 63).

If we look in detail at the regional head elections model mandated by Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia, in fact the 1945 Constitution of the Republic of Indonesia does not indicate the most democratic regional head elections model, but rather it must be elected democratically (Ulum, 2021, p. 318). The democratically elected model can of course continue to develop along with the development of society. The government and the People's Representative Council as lawmakers cannot be trapped by the regional head elections model that already existed previously, but lawmakers must always evaluate each regional head elections journey in Indonesia whether it is still within the democratic corridor or not. If it is felt that the regional head elections model that is currently running is far from the democratic meaning as mandated

by Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia, then lawmakers can think about a democratic regional head elections model in the future by considering various aspects in each region (Latorre, Donzis, Caamaño and Lindo, 2023, p.97).

Lawmakers should not force one model of regional head elections without considering the democratic conditions in each region. Because, it could be that for certain regions, the direct regional head elections model by the people is a democratic regional head elections model, but in other regions it is not, even in other regions they consider that regional head elections by the Regional House of Representatives are a democratic regional head elections model, or even there are certain regions that consider the two regional head elections models to be far from the meaning of democracy itself (Zulfajri et al., 2020, p. 378). These three things are certainly caused by various factors, including the level of education of voters in each region, the potential for conflict when the regional head elections take place, the budget spent is too large, and so on. Thus, it is necessary for lawmakers to think about this in order to create a democratic regional head elections as mandated by Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia.

The law is currently struggling to adapt to the realities of a state society, as the adage states, *“het recht hink achter de feiten aan”* (Hadi, 2021, p. 52). However, the law should not merely attempt to adjust to the life of a state society; rather, it must also balance this adjustment with the principles of state society, as the rule of fiqh states, *“la yunkaru taghayyur al ahkam bi taghayyur al azman”* (Riqiey y Janah, 2025, p. 57). In this context, lawmakers must reconsider the model for democratic regional head elections. This reconsideration is necessary due to the numerous shortcomings that have arisen thus far, particularly concerning the regional head elections model implemented in Indonesia. Although direct regional head elections by the people may appear more democratic than those conducted by the Regional House of Representatives, this model has various drawbacks, including higher costs, the potential for vote manipulation or vote buying, and other issues. Similarly, the model of regional head elections conducted by the Re-

gional House of Representatives also presents several shortcomings, such as the lack of direct community participation and the emergence of dynasty politics.

Seeing the problems as above, the author wants to offer an idea to create a democratic regional head elections while still paying attention to the democracy index in each region. Therefore, this study aims to study and analyze the practice of the regional head elections model in Indonesia and the construction of asymmetric regional head elections in order to realize a democratic regional head elections. It is hoped that through this study, we can find out about the practice of the regional head elections model in Indonesia and be able to explain the construction of asymmetric regional head elections in order to realize a democratic regional head elections. Research with the same object by studying asymmetric regional head elections has previously been conducted by Umi Zakia Azzahro et al. (Azzahro et al., 2023, p. 215), then by Ahmad Gelora Mahardika and Sun Fatayati (Mahardika and Fatayati, 2020, p. 50), and by Ali Muhammad Johan (Johan, 2021, p. 70), but this study has a difference that distinguishes it from previous studies, namely this study specifically describes the practice of the regional head elections model in Indonesia and specifically this study constructs asymmetric regional head elections to realize a democratic regional head elections by paying attention to various aspects in it. Thus, this study has originality.

The legal materials utilized in this study consist of primary and secondary legal materials. Primary legal materials are collected using the inventory and categorization method, while secondary and tertiary legal materials are gathered through the literature search method. All legal materials that have been collected are then identified, classified, and systematized according to their sources and hierarchies. Subsequently, the legal materials are reviewed and analyzed using legal reasoning with the deductive method (Irwansyah y Yunus, 2020, p. 65).

Result and Discussion

Model for filling regional head positions in Indonesia

Article 27 paragraph (1) of the 1945 Constitution of the Republic of Indonesia emphasizes that all citizens have equal opportunities in government (Rustam and Handoko, 2020, p. 86; Yasin, 2022b, 2022a, p. 197). Equal opportunities in government can be realized by providing the right to be elected and to choose for every citizen to choose their leader candidate or to nominate themselves as a leader candidate (Winata and Agustine, 2023, p. 18). The above is clearly stated in the provisions of Article 43 of Law Number 39 of 1999 concerning Human Rights. The phrase every citizen as stipulated above shows that this provision applies to anyone as long as he is an Indonesian citizen. Because he is an Indonesian citizen, the law recognizes and guarantees the existence and continuity of his basic rights.

The right to be elected and to vote can be implemented in the election contestation in Indonesia, one of which is through the regional head elections. The implementation of this right is also balanced by the existence of the Constitutional Court which can protect these rights from being violated by anyone (M. Gaffar, 2016, p. 12; I D.G. Palguna et al., 2022, p. 5; Tibaka and Rosdian, 2018, p. 272). In relation to the regional head elections in Indonesia, historically the regional head elections model in Indonesia has had quite interesting developments. The model for filling regional head positions in Indonesia can basically be divided into two periods, namely before and after the issuance of Law Number 32 of 2004 concerning Regional Government as revoked by Law Number 23 of 2014 concerning Regional Government (hereinafter referred to as the Regional Government Law). The Regional Government Law is a differentiating point because it regulates the filling of regional head positions through a direct election mechanism.

Initially, before the issuance of Law Number 22 of 1999 concerning Regional Government, namely during the New Order era, the mechanism for filling regional head positions was not carried out through elections as is the case now, but rather through appointment. The appointment of regional heads is distinguished between level I and level II. Regional heads

of level I are appointed by the President through the Minister of Home Affairs, while regional heads of level II are appointed by the Minister of Home Affairs through the Governor. This is regulated in Article 15 and Article 16 of Law Number 5 of 1974 concerning the Principles of Regional Government. Although textually in the provisions it is chosen by the Regional House of Representatives, in essence according to I Dewa Gede Palguna it is much more towards appointment (I Dewa Gede Palguna and Bisariyadi, 2023, p. 6; Riqiey, 2023, p. 21).

After the issuance of Law Number 22 of 1999 concerning Regional Government, the model for regional head elections utilized was the election through the Regional House of Representatives. In this model, the positions of Regional Head and Deputy Regional Head are elected by Regional House of Representatives simultaneously. This process is regulated in Article 34, paragraph (1) of the law, which emphasizes that regional head elections are conducted by the Regional House of Representatives through simultaneous elections. The aim is to create harmony in the democratic process at the regional level. This model is important for ensuring effective and accountable political representation in the selection of the regional head; however, it also raises various challenges related to community participation and transparency in the election process.

After the second amendment to the Constitution, specifically on August 18, 2000, the mechanism for regional head elections was strictly regulated in Article 18, paragraph (4), which states that regional heads must be elected democratically. According to Syofyan Hadi, there are four meanings contained in Article 18, paragraph (4) of the 1945 Constitution of the Republic of Indonesia: (1) Governors, Regents, and Mayors must be elected democratically; (2) Candidates for Governor, Regent, and Mayor do not have to be nominated by political parties; thus, they may be independent candidates (individuals); (3) Elected candidates only need to obtain a simple majority of votes; and (4) Deputy regional heads do not have to be elected democratically; it is not mandatory for them to be in one package of candidate pairs with candidates for Governor, Regent, and Mayor, as deputy regional heads can be appointed (Hadi, 2023, pp. 65-69). The meaning of “democratically elected” in the compre-

hensive text of the amendment to the Constitution indicates that there are two models of regional head elections: direct election by the people and election by the Regional House of Representatives (Purwadi, 2019, p. 86). This provision serves as the basis for the Constitutional Court in interpreting the democratic meaning of Article 18, paragraph (4) of the 1945 Constitution of the Republic of Indonesia in its various decisions, thus providing clear direction for the implementation of regional head elections in Indonesia (Tandiasa and Mardatillah, 2023, p. 84).

The formulators of the amendment to the Constitution included two models of regional head elections: direct elections by the people and elections by the Regional House of Representatives. This dual approach was designed to provide an alternative in the implementation of democracy that is more flexible and responsive to the political context and the needs of the community (Sucipta and Ansori, 2016, p. 6). With this choice, it is hoped that a balance can be created between direct community participation and political stability, which may be more effectively guaranteed through elections by the Regional House of Representatives. Direct elections allow the public to determine regional leaders directly, thereby increasing accountability and transparency. In contrast, elections by the Regional House of Representatives can serve as a solution in certain situations where direct elections are perceived to have the potential to cause conflict or instability. This policy reflects an effort to accommodate the diverse aspirations of the community and to create a more inclusive system of government. Today, it is recognized as an open legal policy, which essentially means that lawmakers can modify the regional head election model to better align with the needs of the community, nation, and state.

Returning to the model of filling regional head positions in Indonesia, in 2004, there was a discourse on implementing direct presidential and vice-presidential elections by the people, in accordance with the mandate of the amendment to the Constitution. In addition, direct elections by the people at the village level have also been implemented for a long time; this shows a commitment to the principle of democracy at the grassroots level.

Input from various parties regarding the importance of implementing direct regional head elections by the people was finally accommodated in written regulations in 2004, as in Article 24, paragraph (5) of the Regional Government Law. This regulation emphasizes that regional head elections must be conducted through a direct election mechanism by the people, reflecting a commitment to strengthening community participation in the democratic process (Harsinta et al., 2020, p. 490). The implementation of this regulation is expected to enhance the accountability and legitimacy of regional leaders, as well as provide a more genuine voice for the people in determining the direction of regional development. Mahfud MD argues that direct elections are an effort to improve the representative democracy mechanism stipulated in Law Number 22 of 1999, which grants the Regional House of Representatives the authority to elect regional heads (MD, 2012, p. 7).

The model of direct regional head elections by the people lasted quite a long time, until in 2013 or more precisely after the Constitutional Court Decision Number 97/PUU-XI/2013 which confirmed that the authority of the Constitutional Court in resolving disputes over regional head elections results was unconstitutional, making the legislators face a dilemma (Aris, 2022, p. 473; Hantoro, 2024, p. 101; Saragih, 2023, p. 129). This can be seen from the policy changes enacted by the legislators, namely changing the model for direct regional head elections in the Regional Government Law. Until finally in September 2014, the legislators issued Law Number 22 of 2014 concerning the Election of Governors, Regents, and Mayors, which in one of its contents changed the model of direct regional head elections by the people back to regional head elections by the Regional House of Representatives [see Article 3 paragraph (1) and paragraph (2)].

Not long after it was enacted, the a quo law received widespread rejection from the public, prompting the government to issue Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors. In the considerations of the Perpu, the reasons for its issuance were stated, namely: "... Law Number 22 of 2014 concerning the Election of Governors, Regents, and Mayors, which regulates the mechanism for indirect regional

head elections through the Regional People's Representative Council, has received widespread rejection from the people, and the decision-making process has caused problems and pressing urgency...".

Because the change in the regional head elections model, which shifted from direct elections by the people to elections by the Regional House of Representatives, was strongly rejected by the public. Consequently, through Government Regulation in Lieu of Law Number 1 of 2014, the model for regional head elections was reinstated to allow direct elections by the people. Ultimately, in February 2015, the House of Representatives, as a state institution with the authority to approve or disapprove the submission of Government Regulations in Lieu of Law, approved the Government Regulation in Lieu of Law, which was then enacted as Law Number 1 of 2015. This law pertains to the stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors.

In detail, if we examine history more closely, Indonesia has actually experienced five regional head election models (Sarundajang, 2005, p. 18). First, there was a system of appointment or nomination by the central government that was in effect during the Dutch colonial period, the Japanese occupation, and the early years of independence during the parliamentary system, as regulated by the Decentralisatie Wet van Nederland Indies 1903 and Osamu Seirei Number 27 of 1942. Second, an appointment system due to "compelling circumstances" was applied during the guided democracy period, based on Presidential Decree Number 6 of 1959. Third, there was a representative election system conducted by the Regional House of Representatives, with candidates determined by the President, in accordance with Law Number 5 of 1974. Fourth, a representative election system was implemented purely by the Regional House of Representatives without intervention from the central government, as regulated by Law Number 18 of 1965 and Law Number 22 of 1999. Finally, since 2005, Indonesia has implemented a direct election system, whereby regional heads are elected directly by the people, marking a shift towards a more participatory democracy.

Problems of symetrical regional head elections

Although historically Indonesia has experienced five models of filling the position of Regional Head, in the practice of Indonesian state administration, the models that have been most prominently implemented are two: being elected directly by the people and being elected by the Regional House of Representatives (Chakim, 2014, p. 116). Each of these two models has its own advantages and disadvantages (Sodikin, 2014, p. 101; Suparno, 2018, p. 1). The advantages of direct regional head elections by the people include, first, an increase in public participation in the political process, providing individuals with the opportunity to exercise their voting rights in selecting a leader deemed most suitable to meet the needs and aspirations of the region. By involving the people directly, this election fosters a sense of ownership and responsibility for the election results and encourages active engagement in monitoring and evaluating the performance of leaders.

The direct regional head elections model by the people is a real implementation of the principle of democracy that places power in the hands of the people (Saparbekova et al., 2025, p. 30). In this model, every individual has the same voting rights to elect their regional leader, without any influence or intervention from outside parties. This open election process allows citizens to be actively involved in determining the direction of regional policy and leadership, thus creating a strong sense of ownership of the political process. Thus, direct regional head elections reflect the essence of democracy, where the people's voice is the main determinant in decision making.

By involving the people in the election, the community is encouraged to actively contribute in various aspects, from public discussions to campaigns. This involvement not only increases political awareness but also strengthens social ties among citizens. When people feel involved in the decision-making process, they are more likely to invest in community development and maintain social stability. Therefore, the direct election model, implemented by the people, is not only a method for electing leaders but also an important step in building a stronger democracy and fostering inclusion.

Second, direct elections by the people tend to produce more accountable regional heads (Widodo, 2015, p. 681). Because they are directly elected by the people, these leaders feel more responsible to their constituents (Pardede, 2018, p. 127). This accountability encourages leaders to work harder to fulfill campaign promises and improve the quality of public services. If their performance is not satisfactory, the people have the power to express their dissatisfaction through the next election, creating a system that is more responsive to the needs of the people.

Third, direct elections by the people also increase transparency in the political process. The public can directly assess candidates based on their vision, mission, and track record, making the election process more open and accessible. This reduces the possibility of detrimental political intervention and corrupt practices, as election decisions are based on more informed choices made by the electorate. Thus, direct elections not only strengthen democracy but also build public trust in the governmental system. In addition to their advantages, direct elections by the people also have various disadvantages.

Furthermore, the direct regional head elections model creates space for local resident participation in decision-making. When the local resident has access to participate in discussions and consultations on public policies, transparency in the decision-making process increases. Regional heads elected through this system are more likely to listen to the voices of the local resident and consider their input in formulating policies. Thus, the direct regional head elections model not only strengthens accountability but also builds trust between the government and the local resident through better transparency practices.

The weaknesses of direct regional head elections by the people include the following: *First*, one of the main weaknesses is the potential for conflict and polarization among the populace. In a competitive electoral process, rivalry between candidates can often trigger divisions within the community. The tension that arises from aggressive campaigns and fierce competition can create an unfavorable atmosphere, potentially leading to social conflict that is detrimental to regional stability.

Second, direct elections by the people often result in voters lacking sufficient information to make informed decisions. In many cases, voters can be influenced by emotional factors, popularity, or campaigns that are not grounded in substance and quality. This has the potential to produce leaders who are incompetent or misaligned with the needs of the region, as voters' decisions are not based on an in-depth analysis of the candidates' visions and missions. This lack of understanding can lead to the election of regional heads who are unable to carry out their duties effectively, ultimately harming society as a whole.

Third, the high political costs required for the campaign. Regional head candidates often have to spend significant funds to attract voters and build a positive image (Hafiz, 2021, p. 1; Risal et al., 2022, p. 135). These costs include not only spending on advertising and campaigning, but also the costs of building a network of support. These high political costs can create injustice, where candidates from wealthy backgrounds have a greater advantage than candidates from lower economic backgrounds. As a result, this can reduce the opportunities for more qualified but less financially fortunate candidates to compete in the election, hindering the creation of a truly representative government.

Similarly, regional head elections conducted by the Regional House of Representatives present both advantages and disadvantages. The advantages include: first, this model can create better political stability. Because the election is carried out by members of the Regional House of Representatives, who usually understand the dynamics of politics and regional needs better, this process can produce leaders who are more experienced and skilled in managing government affairs. This stability is important for creating a conducive environment for development and innovation in the region.

Second, the election by the Regional House of Representatives allows for a more planned and professional process. Members of the Regional House of Representatives can conduct a more in-depth evaluation of regional head candidates, considering their track records and the programs they offer. This reduces the potential for leaders to be elected based solely on popularity or non-substantive campaigns. Thus, the

elected leaders are expected to carry out their duties more effectively and efficiently, based on experience and thorough considerations.

Third, this election model can reduce the political costs that candidates must incur. In elections conducted by the Regional House of Representatives, high campaign costs are often unnecessary because the election process is more internal and does not involve extensive public campaigns. This provides an opportunity for candidates from various backgrounds to compete without facing significant cost barriers. Additionally, reducing political costs can minimize the potential for corrupt practices that often arise in the context of fundraising for campaigns, thus creating a cleaner and more transparent political environment. Despite having the advantages mentioned above, regional head elections by the Regional House of Representatives certainly have various weaknesses or shortcomings.

The weaknesses or shortcomings of the regional head elections by the Regional House of Representatives include, *first*, reduced community participation in the election process. With elections represented by Regional House of Representatives members, individual voices are often ignored, and many residents feel they have no control over who leads their region. As a result, the sense of community involvement and ownership of local government can decline, creating political apathy that is dangerous for the sustainability of democracy (Dhanuarta and Hijri, 2023, p. 17).

In this regional head election model, the decision to elect a regional head is made by elected legislators rather than directly by the people. This arrangement can diminish the sense of involvement and voting rights of the community in determining their regional leaders. For example, in some areas before 2007 such as Jakarta, East Java, and West Java, the community feels alienated from the political process because they do not have the opportunity to vote directly for the candidates they prefer, thereby reducing the legitimacy of the elected leaders.

In addition, the election of regional heads by the Regional House of Representatives can create injustices in political representation. In many cases, members of the Regional House of Representatives may be more inclined to choose candidates from large po-

litical parties or those who have good relations with them, rather than considering candidates with better qualifications who do not have strong political support (Satriawan, 2022, p. 54). For example, in certain areas, candidates proposed by large parties are often prioritized, while independent candidates or those from small parties are marginalized. This situation creates a political monopoly that can hinder diversity and the community's voice in government.

Second, there is the potential for patronage politics. In the practice of elections by the Regional House of Representatives, council members may prioritize the interests of certain groups or political parties over the aspirations of the community as a whole. This can lead to elected regional head candidates lacking strong legitimacy in the eyes of the public, as they may be perceived more as the result of political agreements than as the direct choice of the community. This weakness has the potential to hinder the development of leaders who genuinely represent the interests of the people.

Third, the election process conducted by the Regional House of Representatives can increase the risk of non-transparent political transactions. In many cases, members of the Regional House of Representatives may engage in behind-the-scenes deals with candidates for regional head positions, resulting in leaders who are elected based on negotiations rather than on their abilities or a clear vision. This practice can undermine democratic principles, as important decisions are made without involving the voice of the people, which can lead to an abuse of power and increased corruption in government (Muhtadi, 2020, p. 185).

Fourth, another equally important shortcoming is the lack of accountability among regional elected leaders. In a system of election by the Regional House of Representatives, regional heads may feel less responsible to the community because they are not directly elected by the people. This can lead leaders to focus more on short-term political interests and the satisfaction of council members rather than on meeting the needs and expectations of the community. With this reduced accountability, government performance can decline, and the community may feel increasingly alienated from the decision-making process that affects their daily lives.

Given the advantages and disadvantages of the direct regional head elections model, both by the people and by the Regional House of Representatives, it is important to conduct a comprehensive evaluation of these election systems. Each model possesses unique characteristics that can contribute to the quality of democracy in Indonesia. Direct regional head elections encourage public participation and accountability; therefore, these elections should be maintained as the primary model. However, they also risk causing conflicts and incurring high political costs (Insiyah et al., 2019, p. 163). Conversely, elections conducted by the Regional House of Representatives can offer stability and professionalism, but they often overlook the voice of the people and have the potential to foster non-transparent political practices. Thus, a holistic approach that considers local conditions is essential.

In the future, it is necessary to consider a democratic and ideal model for regional head elections model by taking into account the democracy index in each region, as well as the social, economic, and cultural factors that influence society. An effective model for regional head elections must balance public participation with accountability and transparency. By designing an electoral system that aligns with the characteristics and needs of each region, it is hoped that a more responsive and representative government will be established, thereby increasing public trust in the political process. This is an important step toward strengthening democracy and ensuring that the voices of the people are truly heard and appreciated.

Asymmetrical regional head elections construction

The regulation regarding the filling of regional head positions in Article 18, paragraph (4) of the 1945 Constitution of the Republic of Indonesia, which states “...elected democratically,” is open-textured, placing it the category of an open legal policy. If we refer to the original intent behind the formulation of Article 18, paragraph (4) of the 1945 Constitution and the ratio decidendi of the Constitutional Court Decision Number 97/PUU-XI/2013, the model for regional head elections is left to the legislators to determine, whether through the Regional House of Representatives or by direct election by the people. The crucial requirement is that the mechanism must align

with democratic principles. In fact, a closer examination of the Constitutional Court Decision Number 97/PUU-XI/2013 reveals that it implicitly allows for models beyond these two options, in order to respect and protect the diversity of customs, laws, and cultures within a diverse or plural region. This model is theoretically known as the asymmetric regional head elections model.

Constitutionally, the asymmetric regional head elections model is recognized by Article 18B of the 1945 Constitution of the Republic of Indonesia. This article stipulates that the state recognizes and respects (1) special and exceptional regions, and (2) customary law communities and their traditional rights within the system of the Unitary State of the Republic of Indonesia. This recognition is then realized at the level of filling regional head positions through the asymmetric regional head elections model. Currently, asymmetric regional head elections are applied only on a limited basis for special and exceptional regions, such as the positions of Governor and Deputy Governor of the Special Region of Yogyakarta, the regional head elections of the Special Capital Region of Jakarta, the regional head elections of Aceh, and the regional head elections of Papua. Meanwhile, at the level of filling the position of Village Head, asymmetric Village Head elections are applied according to Law Number 6 of 2014 concerning Villages, particularly for Traditional Villages.

The concept of asymmetric regional head elections was born as a response to the challenges faced by the regional head election system in Indonesia, which has been implemented directly since 2005. Over time, various issues such as high political costs, the potential for conflict, and low community participation in several regions have increasingly emerged, indicating that the direct regional head elections model is not always effective for all local contexts (Katharina, 2017, p. 17). In other words, asymmetric regional head elections emerged as a response to the advantages and disadvantages of both election models, namely direct regional head elections by the people and those conducted by the Regional House of Representatives (Fatayati y Mahardika, 2022, p. 197). According to researchers, the urgency of regulating asymmetric regional head elections arises from the main weaknesses of the symmetric regional head elections model,

whether direct or through the Regional House of Representatives: (1) the emergence of high-cost politics, which creates the potential for state capture, regulatory capture, and other corrupt practices in the implementation of regional government; (2) the occurrence of horizontal conflicts in the regions that can hinder regional development, as they are forced to elect leaders who do not align with the culture and laws of the community; and (3) the symmetric regional head elections model does not respect the conditions of regional diversity. To overcome the weaknesses of the symmetrical regional head elections model, an asymmetrical regional head elections model is needed.

Conceptually, asymmetric regional head elections are a model of regional head elections that are regulated differently between one region and another, with the aim of creating a regional head election system that is more responsive and aligned with the characteristics of each region. There are at least three asymmetric regional head election models that can be applied, namely:

- a. Direct regional head elections model, where the people directly elect regional head candidates by implementing the principle of one man one vote;
- b. the Regional House of Representatives, wherein regional head candidates are elected by the members of the Regional House of Representatives, who serve as representatives of the people.
- c. Regional head elections may adopt models other than direct elections or elections conducted through the Regional House of Representatives, which are tailored to the diverse and plural cultural, legal, and customary conditions of the region. Researchers refer to this approach as the regional head elections model through local mechanisms.

Asymmetric regional head elections aim to create a more democratic and responsive system by taking into account the varying social, cultural, and political conditions in each region, thus producing more accountable and qualified leaders (King Faisal Sulaiman, 2019, p. 1). These elections can be designed to suit the unique characteristics of each diverse region. In this model of asymmetric regional head elections, the community retains the right to participate in various ways. This approach aims to ensure that the regional

head elections are conducted in accordance with the specific conditions of each community, thereby reducing the potential for horizontal conflict and high political costs, while ensuring that the elected leaders possess legitimacy—politically, legally, and socially (Suárez Ramírez, 2018, p. 142). Thus, asymmetric regional head elections seek to mitigate the risk of patronage politics, enhance accountability, and create more democratic, transparent, and responsive elections that reflect the aspirations and needs of the local community, while also strengthening the integrity and quality of local government.

To implement the asymmetric regional head elections model, lawmakers need to assess the readiness of all autonomous regions, including provinces and districts/cities. To this end, lawmakers must establish indicators to measure the regional head elections model that will be implemented in each region. In this regard, researchers propose several indicators as follows: (1) regional independence index; (2) human development index; (3) democracy index; and (4) other relevant indices, such as societal heterogeneity and local customs. These indicators can be explained as follows:

a. Regional independence index

Philosophically, the regional head elections are held with the aim of improving the welfare of the community by ensuring that the elected leaders can represent and accommodate the aspirations and needs of the people. Through a democratic election process, the community is given the opportunity to determine who will lead and manage regional resources so that the community can contribute to the formulation of policies that have a direct impact on daily life. Transparent and accountable regional head elections are expected to produce leaders who are responsive to social, economic, and environmental problems and are capable of creating programs that improve the quality of life for the community. Thus, regional head elections are not just a political ritual but also a means to realize sustainable welfare and social justice for all residents of the region.

Realizing public welfare through regional head elections becomes impossible when the cost of organizing these elections exceeds the regional financial capacity to support them. Therefore, the implementation of

regional head elections must also take into account the cost-benefit analysis. Consequently, the model of regional head elections adopted by each region must prioritize regional independence. Regional independence can be quantified using the formula proposed by the Ministry of Finance, which involves the ratio of Regional Original Income to total income, as well as the transfer ratio to total income. These two ratios exhibit opposite characteristics; namely, a higher ratio of locally generated revenue indicates greater regional independence, while a higher transfer ratio signifies lower independence (Indonesia, 2011, p. 25). The ratio of Regional Original Income to total income can be formulated as follows:

$$\text{Regional Independence Ratio} = \frac{\text{Locally-generated revenue}}{\text{Total Revenue}} \times 100\%$$

Meanwhile, the transfer ratio to total income can be formulated as follows:

$$\text{Regional Independence Ratio} = \frac{\text{Transfer Income}}{\text{Total Revenue}} \times 100\%$$

Based on this formula, the regional independence indicator can use the indicator proposed by Halim with researcher modifications which can be seen in the table below (Halim, 2007, p. 68):

Regional Independence	Locally-generated revenue Ratio to Total Revenue	Transfer Fund Ratio to Total Income
Very Low	0-25%	>75%
Low	>25%-50%	>50-75%
Medium	>50-75%	>25%-50%
High	>75%	0-25%

The higher the independence of a region, the more likely it is that the region can implement a model for direct regional head elections. Conversely, the lower the independence of a region, the more likely it is that the region will adopt other models for regional head elections, rather than direct elections. The various models of regional head elections, along with these indicators, can be seen in the table below:

Regional Independence	Regional Head Elections Model
High	Direct Regional Head Elections
Medium	Direct Regional Head Elections
Low	Regional Head Elections Through Regional House of Representatives
Very Low	Local Mechanism Regional Head Elections

This article presents an example of calculating regional independence for East Java Province using the 2024 Regional Budget, as stipulated in East Java Provincial Regulation Number 9 of 2023 concerning the East Java Provincial Revenue and Expenditure Budget for the 2024 Fiscal Year. The calculation is detailed as follows:

a. Locally-generated revenue ratio to total revenue

$$\text{Regional Independence} = \frac{20.392.168.927.007,00}{31.418.164.711.007,00} \times 100\% = 65\%$$

b. Transfer Income Ratio to Total Income

$$\text{Regional Independence} = \frac{10.996.697.112.000,00}{31.418.164.711.007,00} \times 100\% = 35\%$$

Based on the example, East Java Province is a province with a moderate level of independence; therefore, it can hold direct regional head elections. To provide a comparison of regional independence, the researcher also presents an example of Papua Province, using the 2024 Regional Revenue and Expenditure Budget as stipulated in Papua Province Regional Regulation Number 2 of 2024 concerning the Papua Province Regional Revenue and Expenditure Budget for the 2024 Fiscal Year, as follows:

a. Locally-generated revenue ratio to total revenue

$$\text{Regional Independence} = \frac{565.381.850.000,00}{2.739.243.604.215,00} \times 100\% = 20,64\%$$

b. Transfer Income Ratio to Total Income

$$\text{Regional Independence} = \frac{2.172.861.754.215,00}{2.739.243.604.215,00} \times 100\% = 79,32\%$$

Based on this example, Papua Province is a region with a very low level of autonomy; therefore, it may

be more effective not to conduct direct regional head elections. Instead, a model for regional head elections that aligns with local mechanisms should be utilized.

b. Human development index

Symmetrical regional head elections are currently implemented uniformly, without consideration of the level of public education. In fact, it is impossible for symmetrical regional head elections especially those utilizing the direct regional head elections model to function effectively if the majority of voters are illiterate or possess a low level of education, as this hinders their active participation and understanding of the democratic process. Individuals with low levels of education tend not to have the capacity to evaluate prospective leaders and the programs they offer, making them vulnerable to manipulation and unrealistic political promises. Voters with limited political education often base their decisions solely on physical appearance, religion, ethnicity, and other primordial factors, rather than on the programs presented. There is even a tendency for voters to select candidates who engage in money politics because their attention is more focused on basic needs, such as food and shelter, rather than on electing leaders who are committed to fostering change. Consequently, regional head elections can devolve into mere formalities without substance, where voters cannot effectively exercise their voting rights to elect leaders genuinely dedicated to the welfare of the people. If this condition is not addressed, the potential for regional head elections to enhance public welfare will continue to be impeded.

Democracy can be realized effectively and with quality in areas where the population has a high level of education, as these conditions create a conducive environment for active and critical participation in the political process. Educated individuals tend to be better equipped to understand political issues, evaluate potential leaders, and demand accountability from the government, thereby enabling them to make informed decisions based on accurate information. Furthermore, a high level of education is directly proportional to access to resources and information, which enhances individuals' ability to engage in political discussions and advocacy.

Based on the provisions outlined in the description, the Human Development Index (HDI) should serve

as an indicator for determining the model of regional head elections to be applied. According to the criteria established by the Central Statistics Agency, the researchers propose various models of regional head elections that can be implemented by different regions, as illustrated in the table below:

Human Development Index	Human Development Index (HDI) Score	Regional Head Elections Model
Very high	$HDI \geq 80$	Direct Regional Head Elections
High	$70 \leq HDI < 80$	Direct Regional Head Elections
Medium	$60 \leq HDI < 70$	Regional Head Elections Through Regional House of Representatives
Low	$HDI < 60$	Local Mechanism Regional Head Elections

c. Democracy Index

To determine the regional head elections model applied by a region, it is also necessary to utilize the Democracy Index. The success or failure of the implementation of regional head elections in a region depends on the level of its Democracy Index. The higher the Democracy Index, the better the direct regional head elections will function. Conversely, it is unlikely that direct regional head elections will operate effectively and with quality in regions that have a low Democracy Index. Therefore, considering the Democracy Index across different regions, the regional head elections should not be conducted using a symmetrical model; instead, an asymmetric regional head elections model should be employed.

The higher the Democracy Index of a region, the more effectively it can implement the model of direct regional head elections. Conversely, if a region has a medium or low Democracy Index, it is advisable not to utilize direct regional head elections; instead, another asymmetric regional head elections model should be employed. Lawmakers apply the formula presented in the table below:

Democracy Index	Democracy Index (DI) Score	Regional Head Elections Model
High	$DI \geq 80$	Direct Regional Head Elections
Medium	$60 \leq DI < 80$	Regional Head Elections Through Regional House of Representatives
Low	$DI < 60$	Local Mechanism Regional Head Elections

- d. Other relevant indices such as heterogeneity of society and customs

One of the problems with symmetrical regional head elections, especially direct regional head elections, is the lack of respect for the social, cultural, and legal conditions of the local community. It appears that there is a legal imposition that does not align with the spirit of the law as understood by the local community in electing their leaders. Additionally, the current symmetrical regional head elections pay little attention to the heterogeneity and homogeneity of the community. In fact, symmetrical regional head elections are only suitable for implementation in a heterogeneous legal community and are not appropriate for a homogeneous community with social, cultural, and legal practices that are still original and influenced by customary law. As a result, direct regional head elections in several regions often lead to horizontal conflicts that can disrupt community security and even hinder regional development. One example that can be cited is the direct regional head elections in Papua, which frequently result in horizontal conflicts within the community. This situation arises from the excessive imposition of direct regional head elections, which fundamentally contradicts the spirit of the law as understood by the Papuan community in electing their leaders. Lawmakers should seek to recognize and incorporate the laws of the Papuan community that have been practiced for generations.

Based on the four indicators, lawmakers must create a standard formula that can be used as a reference to calculate the score of each region. This is important for ensuring legal certainty in the implementation of asymmetric regional head elections. One example of a calculation that can be proposed by researchers is for East Java Province, with the following calculation:

Indicator	Value	Regional Head Elections Model
Regional Independence Index	Locally-generated revenue to Revenue Ratio is 65% = Medium	Direct Regional Head Elections
Human Development Index	75.35 = High	
Democracy Index	82.1 = High	
Other indexes	Heterogeneous	

Conclusion

Indonesian history records that the mechanism for electing regional heads in Indonesia has undergone various election models. These models include appointment or nomination by the central government, appointment due to compelling circumstances, election by the Regional House of Representatives with candidates determined by the President, election by the Regional House of Representatives without intervention from the central government, and direct election by the people. Among these various models, the election of regional heads by the Regional House of Representatives and the direct election by the people are considered more democratic. However, these two election models have distinct advantages and disadvantages. To address the various issues arising from these election models, it is necessary to construct an asymmetric regional head election model. This asymmetric model includes direct elections by the people, elections by the Regional House of Representatives, and elections through local mechanisms. To determine which type of regional head election model a region should adopt, it is essential to consider several indicators. These indicators include the regional independence index, the human development index, the democracy index, and other relevant indices such as societal heterogeneity and local customs.

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Reseña de autores

† PhD in Law, Associate Professor at the Faculty of Law Universitas 17 Agustus 1945 Surabaya, Indonesia.

‡ Master in Law, Lecturer in the field of Legal Studies from Universitas 17 Agustus 1945 Surabaya, Indonesia.

§ Master of Law Student at Universitas Airlangga, Indonesia.

¶ Graduate History Student at University of Hawai'i at Manoa, United States of America.