

The Constitutionality of Election Postponement Policies in the Perspective of Indonesian Constitutional Law

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ABSTRACT: The postponement of general elections has emerged as a contentious constitutional issue in Indonesia, particularly in times of political uncertainty and national crisis. As a democratic state grounded in constitutional supremacy, Indonesia mandates periodic elections as an essential manifestation of popular sovereignty. This study examines the constitutionality of election postponement policies from the perspective of Indonesian constitutional law, emphasizing their compatibility with the 1945 Constitution of the Republic of Indonesia (UUD 1945). This research adopts a qualitative legal research method with a literature-based approach, analyzing constitutional norms, statutory regulations, decisions of the Constitutional Court, and authoritative scholarly opinions. The study aims to assess whether election postponement policies can be constitutionally justified and under what legal conditions such postponement may be deemed legitimate. The findings indicate that general elections constitute a constitutional obligation rather than a discretionary political policy. The five-year electoral cycle stipulated in Article 22E of the Constitution reflects a binding constitutional command that ensures democratic continuity and limits the concentration of power. Any deviation from this schedule, including election postponement, must therefore be grounded in explicit constitutional mechanisms, such as constitutional amendments or formally declared states of emergency as regulated by law. Furthermore, the study reveals that postponing elections without clear constitutional authorization risks undermining fundamental democratic principles, including legal certainty, popular sovereignty, and the rule of law. The absence of explicit constitutional provisions allowing election delay reinforces the position that such policies are constitutionally problematic. Consequently, the Constitutional Court plays a crucial role as the guardian of constitutional democracy in reviewing and controlling any attempts to delay elections through ordinary political or legislative measures. This research concludes that election postponement policies in Indonesia are constitutionally impermissible unless carried out through legitimate constitutional procedures. Upholding electoral regularity is essential to maintaining democratic integrity and preventing the erosion of constitutionalism in Indonesia.

KEYWORDS: Constitutionality, Election Postponement, Constitutional Law

I. INTRODUCTION

General elections represent a fundamental pillar of democratic governance and constitutional order. In Indonesia, elections function not only as a procedural mechanism for leadership succession but also as a constitutional expression of popular sovereignty. The 1945 Constitution explicitly mandates that general elections be conducted periodically, directly, freely, confidentially, honestly, and fairly every five years (Article 22E of the UUD 1945). This provision underscores the centrality of elections in preserving democratic legitimacy and constitutional stability (Asshiddiqie, 2015).

In recent years, public discourse surrounding the postponement of general elections has intensified, particularly during periods of crisis such as the COVID-19 pandemic and political debates regarding governance continuity. Proposals to delay elections have been justified on various grounds, including national stability, economic recovery, and emergency governance. However, these arguments raise significant constitutional questions concerning the limits of state power and the protection of democratic principles (Mahfud MD, 2020).

From a constitutional law perspective, postponing elections cannot be viewed merely as a policy choice but must be examined within the framework of constitutional norms and principles. Indonesia adheres to the doctrine of constitutional supremacy, which requires all state actions to conform to the Constitution. As such, any policy that potentially alters the constitutional structure of governance, including the electoral timetable, demands rigorous constitutional scrutiny (Isra, 2018).

Moreover, elections serve as a mechanism of accountability that prevents the entrenchment of power and ensures periodic renewal of political authority. Delaying elections may disrupt this mechanism, thereby weakening democratic control over government institutions. In this context, constitutional scholars emphasize that electoral regularity is closely linked to the principles of legal certainty and the rule of law (Dicey, 2013).

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The Indonesian Constitutional Court (Mahkamah Konstitusi) has consistently affirmed the binding nature of constitutional provisions related to elections. Through its decisions, the Court has reinforced the idea that constitutional norms cannot be overridden by ordinary legislation or political consensus (Butt & Lindsey, 2018). This reinforces the necessity of examining election postponement policies through a constitutional lens rather than a purely political one.

This study seeks to analyze the constitutionality of election postponement policies in Indonesia by addressing the following key issues: the constitutional status of elections, the legal limits of postponement, and the role of constitutional institutions in safeguarding democratic processes. By doing so, this research contributes to ongoing debates on constitutionalism and democratic resilience in Indonesia.

II. FORMULATION OF THE PROBLEM

1. How is the constitutionality of election postponement policies assessed under the framework of Indonesian constitutional law?
2. What are the constitutional limits and legal implications of postponing general elections in Indonesia in relation to the principles of popular sovereignty, the rule of law, and constitutional supremacy?

III. RESEARCH METHOD

This study employs a qualitative research method using a normative legal research design. The primary approach adopted is a literature-based study, focusing on the analysis of legal norms, constitutional texts, judicial decisions, and scholarly writings relevant to election postponement and constitutional law in Indonesia. Qualitative legal research is particularly suitable for examining normative questions related to constitutional interpretation and legal legitimacy (Creswell, 2014). The primary legal materials analyzed in this research include the 1945 Constitution of the Republic of Indonesia, relevant statutory regulations governing elections, and decisions of the Constitutional Court concerning electoral matters. These sources provide authoritative guidance on the constitutional framework governing elections and the permissible scope of state action (Asshiddiqie, 2015). Secondary legal materials consist of academic books, peer-reviewed journal articles, and expert commentaries on constitutional law, democracy, and electoral governance. These materials are used to contextualize constitutional provisions within broader theoretical and comparative perspectives (Butt & Lindsey, 2018). Data collection is conducted through systematic documentation and classification of relevant legal texts and scholarly sources. The analysis technique applied is qualitative descriptive-analytical analysis, which involves interpreting legal norms, identifying constitutional principles, and assessing their implications for election postponement policies. Through this method, the research seeks to construct coherent legal arguments grounded in established constitutional doctrines.

IV. DISCUSSIONS

A. Assessment of the Constitutionality of Election Postponement Policies under the Framework of Indonesian Constitutional Law

The assessment of the constitutionality of election postponement policies in Indonesia must begin with an examination of the hierarchical position of the Constitution within the national legal system. Indonesia adheres to the principle of constitutional supremacy, which places the 1945 Constitution (UUD 1945) as the highest legal norm governing all state actions and public policies. Under this doctrine, any governmental decision, including policies concerning elections, must derive legitimacy from and conform strictly to constitutional provisions (Asshiddiqie, 2015). General elections in Indonesia are not merely administrative or political instruments but are explicitly regulated as constitutional mandates. Article 22E paragraph (1) of the UUD 1945 stipulates that general elections shall be conducted directly, publicly, freely, confidentially, honestly, and fairly every five years. This provision establishes both the normative character and the temporal certainty of elections, leaving little room for discretionary interpretation by political actors (Isra, 2018). Consequently, the postponement of elections raises a fundamental constitutional issue, as it directly affects a provision that is explicitly time-bound and substantively protected. From a constitutional law perspective, the assessment of election postponement policies involves determining whether such policies possess a valid constitutional basis. In Indonesian constitutional practice, state policies that alter or suspend constitutional norms may only be justified through constitutionally recognized mechanisms, such as constitutional amendments under Article 37 or the formal declaration of a state of emergency under Article 12. Outside these mechanisms, policies that deviate from constitutional mandates risk being classified as unconstitutional acts (Mahfud MD, 2020).

The absence of explicit constitutional authorization for postponing general elections is a critical factor in evaluating their constitutionality. Unlike some constitutions that expressly regulate electoral delays during emergencies, the UUD 1945 does not contain provisions that allow for the suspension or extension of electoral timelines. Article 12, which governs states of danger, grants the President authority to declare an emergency but does not extend this authority to modifying constitutional election schedules. Therefore, interpreting emergency powers as a basis for election postponement would constitute an expansive and constitutionally questionable interpretation (Butt & Lindsey, 2018). Judicial interpretation plays a central role in assessing constitutionality within the Indonesian system. The Constitutional Court (Mahkamah Konstitusi) functions as the guardian of the Constitution and possesses the authority to review the constitutionality of laws and state actions. In its jurisprudence, the Court has

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consistently emphasized that constitutional provisions are binding and cannot be overridden by ordinary legislation or political agreements. This principle reinforces the notion that election postponement policies must undergo strict constitutional scrutiny (Isra, 2018).

Moreover, constitutional interpretation in Indonesia is guided by the principle of original intent and systematic interpretation. Article 22E was formulated during the post-reformasi constitutional amendments to prevent authoritarian practices and ensure regular leadership turnover. Delaying elections would contradict the historical intent of the constitutional framers, who sought to entrench democratic accountability through fixed electoral cycles (Asshiddiqie, 2015). In normative constitutional analysis, elections are categorized as non-derogable democratic guarantees. They function as instruments of legitimacy, representation, and accountability. Any policy that interferes with electoral regularity must therefore meet an exceptionally high constitutional threshold. In the Indonesian context, such a threshold has not been clearly articulated within the Constitution, further weakening the legal basis for election postponement policies (Przeworski, 2019).

Comparative constitutional scholarship supports this restrictive approach. Studies on constitutional democracies demonstrate that election postponement is often associated with democratic regression when not strictly regulated by constitutional norms. Ginsburg and Huq (2018) argue that manipulating electoral timelines is a common strategy used by incumbents to consolidate power, particularly in emerging democracies. This comparative insight underscores the importance of maintaining rigid constitutional controls over election scheduling in Indonesia. Thus, the assessment of the constitutionality of election postponement policies under Indonesian constitutional law leads to the conclusion that such policies lack constitutional legitimacy unless explicitly authorized through constitutional mechanisms. Any attempt to justify postponement through political necessity or administrative convenience fails to satisfy the standards of constitutional supremacy and democratic accountability.

B. Constitutional Limits and Legal Implications of Postponing General Elections in Indonesia in Relation to Popular Sovereignty, the Rule of Law, and Constitutional Supremacy

The postponement of general elections in Indonesia carries profound constitutional implications, particularly in relation to the principles of popular sovereignty, the rule of law, and constitutional supremacy. These principles constitute the foundational pillars of Indonesia's constitutional democracy and serve as benchmarks for evaluating the legality and legitimacy of state actions (Asshiddiqie, 2015). Popular sovereignty is explicitly enshrined in Article 1 paragraph (2) of the UUD 1945, which states that sovereignty rests with the people and is exercised according to the Constitution. Elections serve as the primary mechanism through which the people exercise their sovereign will. By participating in periodic elections, citizens renew the legitimacy of governing institutions and reaffirm their role as the ultimate source of political authority (Dicey, 2013).

Postponing elections directly interferes with the exercise of popular sovereignty by delaying the people's constitutional right to choose their representatives and leaders. Such a delay effectively extends the tenure of incumbent officials beyond the period originally sanctioned by the electorate. From a constitutional standpoint, this extension constitutes a deviation from the principle that governmental authority must be continuously derived from the consent of the governed (Levitsky & Ziblatt, 2018). The rule of law further constrains the permissibility of election postponement. As a constitutional state (*rechtsstaat*), Indonesia requires that all exercises of power be based on law, adhere to legal certainty, and be subject to judicial control. The principle of legal certainty demands predictability and clarity in the application of legal norms, including those governing electoral schedules (Asshiddiqie, 2015).

Election postponement undermines legal certainty by introducing ambiguity into the constitutional timeline of governance. When constitutional deadlines are treated as flexible or negotiable, the stability of the legal system is compromised. Citizens and political actors lose confidence in the binding nature of constitutional rules, which may lead to broader disregard for the rule of law (Sunstein, 2001). Furthermore, the rule of law requires that extraordinary measures, such as suspending democratic processes, be subject to strict limitations. Constitutional theory emphasizes that emergency powers must be narrowly tailored, temporary, and proportionate to the threat faced by the state (Elster, 1995). In Indonesia, the lack of explicit constitutional provisions regulating election postponement during emergencies makes it difficult to justify such measures within the rule-of-law framework.

Constitutional supremacy serves as the ultimate safeguard against arbitrary governance. This principle dictates that the Constitution binds all branches of government and prevails over political interests or expedient policies. Allowing election postponement without constitutional amendment would effectively subordinate the Constitution to political discretion, thereby eroding its normative authority (Butt & Lindsey, 2018). The legal implications of violating constitutional supremacy are far-reaching. First, unconstitutional election postponement may trigger institutional conflicts between branches of government, particularly if the Constitutional Court intervenes to annul such policies. Second, it may generate a legitimacy crisis, as governing institutions operating beyond their constitutionally defined terms risk losing public trust (Ginsburg & Huq, 2018).

Additionally, postponing elections may set a dangerous constitutional precedent. Once electoral timelines are altered for one perceived necessity, future governments may invoke similar justifications for less compelling reasons. This slippery slope threatens the integrity of constitutional democracy and increases the risk of authoritarian practices (Tushnet, 2004). From a human rights

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perspective, election postponement also implicates political rights protected under international law, such as the right to participate in government and the right to vote. Indonesia's constitutional commitment to democracy must be interpreted in harmony with these international standards, further reinforcing the obligation to conduct elections regularly (Przeworski, 2019).

In this context, the Constitutional Court assumes a critical role as the interpreter and enforcer of constitutional limits. Through judicial review, the Court ensures that deviations from constitutional principles are corrected and that democratic processes remain intact. A failure to exercise this role robustly could weaken constitutional checks and balances (Isra, 2018). In sum, the constitutional limits on election postponement in Indonesia are stringent and deeply rooted in the principles of popular sovereignty, the rule of law, and constitutional supremacy. The legal implications of violating these limits extend beyond procedural irregularities and threaten the very foundations of Indonesia's constitutional democracy. Therefore, maintaining the regularity of elections is not merely a legal obligation but a constitutional imperative essential to preserving democratic governance.

V. CONCLUSION

This study concludes that election postponement policies in Indonesia are constitutionally problematic when assessed under the framework of the 1945 Constitution. Elections constitute a mandatory constitutional mechanism for exercising popular sovereignty and ensuring democratic accountability. The absence of explicit constitutional provisions permitting election postponement reinforces the binding nature of the five-year electoral cycle. Any attempt to delay elections without constitutional amendment or formal emergency mechanisms risks violating core constitutional principles, including legal certainty, democratic legitimacy, and the rule of law. The Constitutional Court plays a crucial role in preventing such constitutional deviations by ensuring strict adherence to constitutional norms.

It is recommended that policymakers refrain from proposing election postponement policies without clear constitutional authorization. Future legal reforms should prioritize constitutional clarity by explicitly regulating electoral contingencies under emergency conditions. Additionally, strengthening constitutional literacy among political actors and the public is essential to safeguarding democratic values. The Constitutional Court should continue to exercise robust judicial review to prevent unconstitutional alterations of the electoral system. Lastly, further academic research is encouraged to explore comparative constitutional approaches to election management during crises.

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