



Deregulating the Nomination Threshold for Regional Head Elections and Local Oligarchy¹

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ABSTRACT

In the midst of political deadlock due to cartel and oligarchic practices, the Constitutional Court then made a breakthrough with the passing of Decision No. 60/PUU-XXII/2024 which changed the nomination threshold formula from a percentage of seats to a range of 6.5% to 10% adjusted to the number of Permanent Voter Lists in an electoral district. The breakthrough of the Constitutional Court made democracy in the regions return to *bagkit*, someone who used to have difficulty can now appear easily. The purpose of this article is to explain the regulative obstacles to the development of democratic elections and the implications of the Constitutional Court Decision No. 60 for efforts to build democratic elections. This research uses a normative approach. The results of the study found that the expansion of the meaning of elections by the Constitutional Court to include regional elections is something constitutional, because through Decision No. 55/PUU-XVII/2019 the Constitutional Court has laid an important foundation for the design of the model for organizing simultaneous elections. This has implications for the circulation of government in the regions, which previously could not be proposed by regional head candidates to be proposed. Previous provisions related to the nomination threshold are too heavy for minority political parties that do not have seats now allow regional head candidates to compete.

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1. Introduction

After the 1998 reform, one part of the reform of the constitutional system was to strengthen the democratic framework in the regions through direct, general, free and secret⁴ regional head elections. Through Law No. 32 of 2004, the method of filling the position of regional head (governor and deputy governor, regent and deputy regent, and mayor and deputy mayor).

In the development of approximately 20 years since direct regional head elections were practiced, many things about the mechanisms and procedures for their implementation have

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⁴ Kurman, A. S. D., Yohanes, S., & Udju, H. R. (2024). Pengaturan Pemungutan Suara Elektronik dalam Mewujudkan Pemilu yang Langsung, Umum, Bebas, Rahasia, Jujur dan Adil di Indonesia. *Doktrin: Jurnal Dunia Ilmu Hukum dan Politik*, 2(4), 64-84. <https://doi.org/10.59581/doktrin.v2i4.4030>

become the focus of debate, reviews from reviewers, researchers who are considered inadequate for the advancement of democracy in the regions. Direct regional head elections are considered to have not selectively filtered the birth of corrupt, manipulative regional head leaders, instead what happens is the growth of political dynasty practices in the regions, transactional political practices that in the long run fertilize the proliferation of oligarchies in the regions.

From a number of identifications of these problems, the dynamics of governance arrangements for regional head elections continue to undergo changes both through legislation and through court reviews. Since the enactment of Law Number 32 of 2004, the regulation of regional head elections has been replaced by several laws, namely Law Number 8 of 2005, Law Number 12 of 2008. Then in 2014 through Law Number 22 of 2014 the system for filling the position⁵ of regional head was changed to a representative system, namely the election was returned to the Regional People's Representative Council. However, this law did not last long because it was revoked and replaced by Law Number 1 of 2015 which has been amended several times, most recently by Law Number 10 of 2016. In the span of 2005 to 2010, a number of changes in Pilkada regulations occurred because they were encouraged by the decision of the Constitutional Court, such as the method of nomination through individual channels. Nomination formulas and thresholds.

The direct regional head election system is designed by giving the main role to the people to choose their own regional heads with the main idea of finding regional leaders who are more qualified, have integrity, and are professional according to the will of the people. However, Pilkada, which is idealized as an inclusive way to find regional leaders asymmetrically, has a number of rules and mechanisms that hamper the process of inclusive leadership rotation. In certain cases, elections are only controlled by a limited number of groups, dominant families. So far, one part of the mechanism, the rules of the game that has been disputed is the formula or method of nominating⁶ regional heads.

Initially in Law 32 of 2004 political parties as the sole actor in the nomination of regional heads, then through the Constitutional Court Decision No. 5/PUU-V/2007 dated July 23, 2007 opened another path in the nomination of regional heads, namely through individual paths or often termed independent candidates. The opening of the nomination faucet through individual channels has widened the space for competition because the source of nomination does not only come from political parties but from individuals who advance through individuals.

The long discussion about nomination does not only revolve around the nomination path of political parties or individuals, the issue that has emerged is in the nomination through the intermediation of political parties, whether it is only aimed at political parties that own seats in the DPRD or includes non-seat political parties. Initially, in Law No. 32/2004, the right to nominate regional heads by political parties was not differentiated between seat-owning and non-seat-owning parties; all political parties that qualified as election participants could nominate regional heads.

However, in Law No. 1 of 2015, the role of non-seat-owning political parties in the nomination of regional heads was eliminated. Political parties that can nominate regional heads are only political parties that have seats. A follow-up problem whose discussion is no

⁵ Anwar, M. S., Sari, R., & Satrio, N. (2024). Sistem Penunjukan Penjabat Kepala Daerah dalam Perspektif Teori Pengisian Jabatan. *Jurnal Hukum In Concreto*, 3(1), 72-84. <https://doi.org/10.35960/inconcreto.v3i1.1362>

⁶ Mahendra, Y., & Bima, M. R. (2022). Implikasi Hukum Pencalonan Calon Perseorangan dalam Pemilihan Kepala Daerah. *Journal of Lex Generalis (JLG)*, 3(11), 1807-1826. <http://mail.pasca-umi.ac.id/index.php/jlg/article/view/1248>

less fierce is the nomination threshold formula, how much it is, which is increased from 15% in Law No. 32 of 2004 to 20% in Law No. 1 of 2015. The policy of lawmakers to set a threshold formula of 20% of the number of seats/valid votes is considered an incompetent policy because it makes it difficult for someone to appear as a candidate for regional head.

In addition, the 20% threshold in practice facilitates the emergence of cartel and oligarchic practices because who will appear as a head candidate is easily arranged through a coalition of large parties. A simple case can be observed in the Jakarta elections in 2024 how the Advanced Indonesia Coalition⁷ joined several majority parties such as Golkar, Gerindra, PKS, Nasdem, PAN, PKB and PPP. The coalition of a number of large parties makes it difficult for other candidates to move forward, other issues in Central Sulawesi how the coalition of Nasdem, Gerindra, Golkar, PKB, Perindo, PPP makes it difficult for other candidates to appear.

In the midst of political deadlock due to cartel and oligarchic⁸ practices, it was then broken through by the Constitutional Court Decision No. 60/PUU-PUU-XXII/2024 which changed the nomination threshold formula from the percentage of seats to the valid votes of political parties. The percentage of the nomination threshold is lowered in the range of 6.5% to 10% which is adjusted to the number of Permanent Voters List or DPT in an electoral district. The breakthrough of the Constitutional Court has made democracy in the region back on its feet, someone who used to have difficulty appearing is now easier.

A number of reviews that have been conducted above encourage this paper to simply portray the implications of the Constitutional Court Decision Number 60 on the dynamics of democracy in the regions. The decision is considered an explosive that knocks down the walls of the oligarchy. This paper seeks to capture and identify a number of problems that hinder democracy in the implementation of regional elections and legal breakthroughs in the Constitutional Court's decision: What are the regulatory obstacles that slow down the consolidation of democracy in the regions? And, what are the implications of the Constitutional Court Decision No. 60/PUU-XXII/2024 in encouraging legal reform and strengthening the democratic framework in the regions?

2. Method

The research method used is normative juridical with the approach⁹ of legislation and phenomena, theories, concepts and legal principles. a method that involves examining literature sources or obtaining secondary data that complements the research. The study used is a literature study and analyzed descriptively qualitative with the use of primary data in the form of primary, secondary and tertiary legal materials.

3. Analysis of Discussion Results

3.1. Constitutional Design of Regional Head Elections

The main principle of the exercise of state power embedded in the 1945 Constitution is based on three aspects, namely popular sovereignty, constitutionalism and the rule of law. This paradigm of state power is elaborated that the source of state power comes from the people and is limited by the principles of the rule of law and the constitution. The source of state

⁷ Gunanto, D., Hijri, Y. S., & Nurhasanah, P. H. (2024). Dinamika Koalisi Partai Politik dalam Pencalonan Presiden dan Wakil Presiden pada PEMILU 2024. *Sawala: Jurnal Administrasi Negara*, 12(1), 57-67. <https://doi.org/10.30656/sawala.v12i1.8528>

⁸ Lestari, Y. S. (2017). Kartel politik dan korupsi politik di Indonesia. *Pandecta Research Law Journal*, 12(1), 67-75. <https://doi.org/10.15294/pandecta.v12i1.7820>

⁹ Purwanda, S., & Wulandari, A. S. R. (2023). Socio-Legal Studies: Methodical Implications of Legal Development in Indonesia. *Al-'Adl*, 16(2), 152-163. <http://dx.doi.org/10.31332/aladl.v16i2.6129>

power based on democracy requires a system of filling positions in the legislative and executive branches through elections.

Democracy as mentioned by Roberth A. Dahl that democracy provides opportunities for effective participation, equality in voting, gaining enlightened understanding, exercising final control over the agenda, inclusion of adults.¹⁰ Democracy provides opportunities for effective participation, equality in voting, gaining enlightened understanding, exercising final control over the agenda and inclusion of adults. Joseph Schumpeter emphasized democracy as an institutional procedure for reaching political decisions in which individuals acquire the power to make decisions through competitive struggle for the popular vote. For Schumpeter, democracy is simply a mechanism for electing and empowering governments.¹¹ The same approach is also offered by Philippe C. Schmitter puts forward the idea that democracy is where governments are held accountable for their actions in the public domain by citizens, who act indirectly through competition and cooperation with their elected representatives.¹²

The three scholars' formulations of democracy emphasize the procedural democracy approach, i.e. democracy as an instrument and procedure for decision-making based on struggle and competition. As a form of government¹³ that is competitive in nature, one of the important indicators of democracy is general elections because in general elections public positions are obtained through contests or competitions. Can local elections be called elections? The 1945 Constitution of the Republic of Indonesia does not explicitly mention the system of filling the position of regional head,¹⁴ whether through elections or representation. Article 18 only states that governors, regents, mayors are elected democratically.

This article does not mention the election system, but the election principle, which is democratically elected. The way of formulating the system of filling the position of regional head in the 1945 Constitution which is an open norm¹⁵, then in the regulatory practice designed by the legislators constructs 2 election models, namely the direct election system (which is adopted in Law Number 32 of 2004) and the representative system (which is adopted in Law 22 of 2014). Both regional head election systems (direct and representative) are constitutional as interpreted by the Constitutional Court. In the decision of the Constitutional Court No. 72-73/PUU-II/2004, in principle, it emphasizes that the choice of regional head election mechanism is a policy choice of the legislator (opened legal policy). The Constitutional Court's stance continues to be strengthened through Decision No. 60/PUU-XXII/2024 which in essence emphasizes that it is the policy choice of the legislator to regulate the procedures for regional head elections.

Within this framework, the design of the system for filling the position of regional head is at the discretion of the legislator (People's Representative Council together with the President) to formulate an appropriate system. Article 18 paragraph 4 of the 1945 Constitution of the Republic of Indonesia stipulates that "Governor, Regent and Mayor respectively as heads of provincial, district and city governments are elected democratically". From the phrase "democratically elected" it can be interpreted that regional head elections

¹⁰ Dahl, R. A. (1988). *On Democracy*, London: Yale University, p. 38.

¹¹ Varma, S. P. (1975). *Teori Politik Modern*, Jakarta: Raja Grafindo Persada, p. 211.

¹² Nakamura, R. T., & Smallwood, F. (1980). *The Politics of Policy Implementation*, New York: St. Martin's Press, p. 67.

¹³ Kasim, A., & Heridah, A. (2020). The Region Governance Review of Barru Regency to Actualize Good and Clean Governments. *Amsir Law Journal*, 1(2), 61-69. <https://doi.org/10.36746/alj.v1i2.25>

¹⁴ Kasim, A., & Heridah, A. (2022). Bentuk Pelibatan Masyarakat Dalam Melakukan Pengawasan Terhadap Pelaksanaan Pemilihan Bupati dan Wakil Bupati. *Jurnal Litigasi Amsir*, 9(3), 237-244. <http://jurnalstih.amsir.ac.id/index.php/julia/article/view/105>

¹⁵ Noors, A. I. A. (2019). Pengarusutamaan Manajemen Talenta Dalam Tata Kelola Msdm Birokrasi Indonesia. *Jurnal Ilmu Pemerintahan Suara Khatulistiwa*, 4(2), 38-49. <http://ejournal.ipdn.ac.id/khatulistiwa/article/view/721>

can be carried out directly or indirectly (through the Regional People's Representative Council). This means that Article 18 paragraph 4 of the 1945 Constitution of the Republic of Indonesia is flexible and interpretive regarding the regional head election model, but is firm in determining the conditions for the election, namely that it must be carried out in a "democratic" manner.¹⁶ However, it needs to be reconfirmed that the choice of direct or representative system both have the same constitutional value as long as it is done democratically.

In the course of approximately five post-reform regional head elections, the design of the regional head position filling system formulated by the legislator uses a direct election system.¹⁷ The practice of direct elections first began in 2005 until the current election in 2024. Another interesting discussion is whether direct elections are included in the election regime or not. In the 1945 Constitution, the limitation of elections regulated in Article 22E only includes the election of the president and vice president, the election of members of the House of Representatives, the election of members of the Regional Representatives Council, and the election of members of the Regional Representatives Council, it does not mention regional head elections. Therefore, the theoretical debate has always been polarized regarding the constitutionality of regional elections, whether direct or indirect, the Constitutional Court itself initially in Decision No. 072-073/PUU-II/2004 indirectly directly incorporated regional elections into the electoral regime, the implication of the Constitutional Court's decision was then elaborated by the legislators who all incorporated regional elections into the electoral regime.

Article 1 point 4 of Law No. 22 of 2007 states that "Elections of Regional Heads and Deputy Regional Heads are elections to elect regional heads and deputy regional heads directly in the unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia." This provision explicitly mentions regional elections as part of the electoral regime to elect governors, regents and mayors, so that the term regional elections has changed to *pemilukada*. In later developments, the Constitutional Court interpreted that the elections were not part of the electoral regime, the Court's stance can be seen in Decision No. 97/PUU-XI/2013. In the consideration of the decision, it is stated that the election is only interpreted limitatively in accordance with the original intent¹⁸ according to Article 22E of the 1945 Constitution of the Republic of Indonesia, namely elections held to elect members of the People's Representative Council, Regional Representative Council, President and Vice President and Regional People's Representative Council every five years.

Therefore, according to the Constitutional Court, the expansion of the meaning of elections to include regional elections is unconstitutional. In its journey, the Constitutional Court through Decision No. 55/PUU-XVII/2019 laid an important foundation for the design of the model for organizing simultaneous elections. In its consideration, the Court emphasized that after retracing the original intent regarding simultaneous general elections; the relationship between simultaneous general elections in the context of strengthening the presidential system of government; and tracing the meaning of simultaneous general elections in Constitutional Court Decision No. 14/PUU-XI/2013, there are a number of

¹⁶ Imran, I. (2012). Pengisian Jabatan Gubernur Di Indonesia (Solusi Alternatif). *Fiat Justisia: Jurnal Ilmu Hukum*, 6(1). <https://doi.org/10.25041/fiatjustisia.v6no1.348>

¹⁷ Setiawan, A. H. (2023). Politik Hukum Presidential Threshold 20% Dalam Undang-Undang Nomor 7 Tahun 2017. *Japhtn-Han*, 2(1), 169-186. <https://doi.org/10.55292/japhtnhan.v2i1.64>

¹⁸ Rajab, A. (2020). Apakah Pasca Putusan MK Nomor 55/PUU-XVII/2019 Pilkada Rezim Pemilu. *Jurnal RechtsVinding Online*, Mei. https://rechtsvinding.bphn.go.id/jurnal_online/MENJAWAB%20PERSOALAN%20REZIM%20PILKADA.pdf

options for simultaneous election models¹⁹ that can still be considered constitutional under the 1945 Constitution, namely:

- 1) Simultaneous elections to elect members of the People's Representative Council, Regional Representative Council, President/Vice President, and Regional People's Representative Council members;
- 2) Simultaneous general elections to elect members of the People's Representative Council, Regional Representative Council, President/Vice President, Governor, and Regent/Mayor;
- 3) Simultaneous general elections to elect members of the People's Representative Council, Regional Representative Council, President/Vice President, members of the Regional People's Representative Council, Governors, and Regents/Mayors;
- 4) National simultaneous general elections to elect members of the People's Representative Council, Regional Representative Council, President/Vice President; and some time after that, local simultaneous general elections to elect members of the Provincial Regional People's Representative Council, members of the Regency/City Regional People's Representative Council, the election of Governors, and Regents/Mayors;
- 5) Simultaneous national elections to elect members of the People's Representative Council, Regional Representative Council, President/Vice President; and some time after that, simultaneous provincial elections to elect members of the Provincial Regional People's Representative Council and elect governors; and then some time after that, simultaneous district/city elections to elect members of the District/City Regional People's Representative Council and elect Regents and Mayors; and
- 6) Other options as long as they maintain the simultaneous nature of the general elections to elect members of the People's Representative Council, Regional Representative Council, and President/Vice President.

In the consideration of the Court's decision above, it shows that there is no further separation of regional elections and elections because the concept of simultaneous elections also includes the election of governors, regents and mayors. In this perspective, it describes the Court's acceptance that puts the regional elections as part of the electoral regime.

3.2. Election Procedural Barriers and Constitutional Court Breakthroughs

This section will look at a number of key issues in the electoral arrangements that hinder inclusive elections and foster the proliferation of local oligarchies. Actually, there are two methods of nominating regional heads, namely political parties and individuals. However, if we specifically examine the nomination mechanism through political parties, then Law Number 10 of 2016 contains a combination of 2 formulas that have the potential to limit competition in regional head election.

First, the centralization of the endorsement of regional head candidates in the central leadership council of political parties. The model of centralized endorsement of regional head candidates is regulated in 42 paragraph 6 of Law Number 10 of 2016, which confirms that the registration of pairs of candidates for Governor and Deputy Governor, pairs of candidates for Regent and Deputy Regent, and pairs of candidates for Mayor and Deputy Mayor by a combination of political parties is signed by the heads of political parties and the

¹⁹ Raihan, M., & Nasution, A. I. (2022). Beban Mahkamah Konstitusi Dalam Memutus Perselisihan Tentang Hasil Pemilihan Umum Serentak 2024. *DIVERSI: Jurnal Hukum*, 8(2), 304-332. <https://doi.org/10.32503/diversi.v8i2.3024>

secretaries of political parties at the provincial level or the heads of political parties and the secretaries of political parties at the regency/city level accompanied by a Decree of each central-level political party management regarding approval of candidates proposed by the provincial level political party management and/or regency/city level political party management.

The provision above that has the potential to limit a person's involvement in the nomination is that the candidate for regional head must be approved in advance by the central leadership of the political party. Such a mechanism benefits candidates who have financial advantages and are close to the authorities. In addition, it makes it easier for the central leadership of political parties (especially if the candidate is supported by a large coalition of political parties) to regulate the amount of competition (whether two, or one pair of candidates only), regulate who candidates are plotted to be competitors (weak or strong) in such a format that is easy to engineer.

The second factor is the nomination threshold formula. In the nomination through political parties regulated in Law Number 10 of 2016, there are restrictions, namely that political parties that can propose candidates for regional heads are only political parties that have seats in the Regional House of Representatives. Thus, non-seat political parties do not have the right to propose candidates. In addition, the threshold requirements that must be met by political parties in order to qualify for nomination are 20 percent of the number of seats or 25% of the number of valid votes. This shows that the scheme of requirements regarding the nomination threshold refers to two formulas, namely the percentage of the number of seats or the percentage of valid votes. This means that the candidate proposed to calculate the fulfilment of the nomination threshold requirement can be calculated from the number of seats of the political party that proposes it or the valid vote acquisition of the political party concerned.

The combination of the above two factors (centralization of nominations and the threshold for nominations by political parties that own Regional People's Representative Council seats) has facilitated the practice of oligarchy in local elections. Practically speaking, a case that can be observed from the oligarchic spirit in local elections is the formation of the Advanced Indonesia Coalition. This coalition consists of several election-winning parties, namely Gerindra, Golkar, Demokrat, PKB, Nasdem, PKS. Reading a number of media reports, Advanced Indonesia Coalition will plot a number of regional head candidates, especially in the areas of Jakarta, Banten, West Java, East Java, North Sumatra and Central Java (Tempo.co). From the acquisition of seats, the results of the coalition are indeed very effective in controlling regional elections in the regions, determining who will be plotted as candidates for regional heads. In the Jakarta elections, for example, there was a sharp polarization between the ranks of the PDIP, which at that time was busy plotting Anies Baswedan as a candidate for governor, and the ranks of the Advanced Indonesia Coalition, which was the result of a combination of several political parties, namely Golkar, Gerindra, Demokrat, Nasdem, PKS, PAN, PKB, PPP, PSI and Perindo. The Advanced Indonesia Coalition successfully won 91 seats out of 106 seats in the Jakarta Provincial Regional People's Representative Council and the remaining 15 seats belong to PDIP. From the number of seats owned by PDIP, it is certain that it does not meet the requirements to propose a candidate pair for governor and deputy governor, because the number of seats required to pass the minimum threshold is 22 seats.

In the midst of very sharp political polarization and manoeuvres for the regions, the Constitutional Court Decision No. 60/PUU-XXII/2024 suddenly appeared. This decision affects the design of the nomination, because it changes the nomination threshold formula

which initially refers to the number of seats or the acquisition of valid votes of political parties that own Regional People's Representative Council seats, now refers to the vote acquisition of political parties both seat and non-seat owners. In the ruling of the Constitutional Court No. 60/PUU-XII-2024, it reformulates the rules regarding the mechanism and threshold for regional head candidacy, namely that a political party or a coalition of political parties participating in the election can register a candidate pair if it has met the following requirements:

- 1) To propose candidates for governor and deputy governor:
 - a) in provinces with a population included in the permanent voters list of up to 2,000,000 (two million) people, a political party or a coalition of political parties participating in the election must obtain at least 10% (ten percent) of the valid votes in the province;
 - b) provinces with a population contained in the permanent voters list of more than 2,000,000 (two million) people up to 6,000,000 (six million) people, a political party or a combination of political parties participating in the election must obtain a valid vote of at least 8.5% (eight and a half percent) in the province;
 - c) provinces with a population contained in the permanent voters list of more than 6,000,000 (six million) people up to 12,000,000 (twelve million) people, a political party or a coalition of political parties participating in the election must obtain a valid vote of at least 7.5% (seven and a half percent) in the province; and
 - d) provinces with a population contained in the permanent voters list of more than 12,000,000 (twelve million) people, a political party or coalition of political parties participating in the election must obtain at least 6.5% (six and a half percent) of the valid votes in the province.
- 2) To be able to propose candidates for regent and deputy regent, mayor and deputy mayor:
 - a) regencies/cities with a population included in the permanent voter list of up to 250,000 (two hundred and fifty thousand) people, a political party or a coalition of political parties participating in the election must obtain a valid vote of at least 10% (ten percent) in the regency/city;
 - b) regencies/cities with a population included in the permanent voters list of more than 250,000 (two hundred fifty thousand) up to 500,000 (five hundred thousand) people, a political party or a coalition of political parties participating in the election must obtain a valid vote of at least 8.5% (eight and a half percent) in the regency/city;
 - c) regencies/municipalities with a population contained in the permanent voters list of more than 500,000 (five hundred thousand) up to 1,000,000 (one million) people, a political party or a coalition of political parties participating in the election must obtain a valid vote of at least 7.5% (seven and a half percent) in the regency/municipality; and
 - d) regencies/cities with a population included in the permanent voters list of more than 1,000,000 (one million) people, a political party or coalition of political parties participating in the election must obtain a valid vote of at least 6.5% (six and a half percent) in the regency/city.

Technically, if the court's decision above is elaborated, it can be understood that first, political parties that can propose candidates for regional heads are all political parties participating in the 2024 elections, whether they get seats or do not get seats in the Regional People's Representative Council. Second, the reference for the amount of the nomination threshold is the percentage of valid votes of political parties. This arrangement is different from the previous formula stipulated in Law Number 10 of 2016. First, political parties that can propose candidates for regional heads are only political parties that have seats in the DPRD. Second, the reference for the amount of the nomination threshold is based on the percentage of the number of seats or valid votes of political parties.

Constitutional Court Decision No. 60/PUU-XII/2024 has implications for the circulation of government in the regions. Political parties that previously could not nominate candidates for regional heads, with this court decision, there is room to nominate. Previous provisions related to the nomination threshold were too heavy for minority political parties and did not have seats. Only political parties with Regional People's Representative Council seats could nominate, and the threshold applied was very high, namely obtaining 20% of the total number of Regional People's Representative Council seats or obtaining 25% of the total valid votes in the 2024 elections. With the court's decision, all political parties can nominate and the nomination threshold is small, allowing regional head candidates to compete. The threshold determined is in the range of 6.5% to 10%, depending on the number of Permanent Voters List in the area concerned. The greater the number in the region, the greater the number of Permanent Voters List, the smaller the threshold percentage.)

With a relatively flexible nomination mechanism as regulated in the court's decision, the political faucet is also wide open, political competition in the region, especially in the regional elections, is increasingly open and participatory. Political parties without Regional People's Representative Council seats that were previously closed to nominating candidates for regional heads are now open. Similarly, political parties have Regional People's Representative Council seats but because their seats do not meet the threshold percentage. This situation was faced by PDIP in the Jakarta and Sulawesi regional elections. As a result of the thunderous coalition built by Gerindra and its ranks through the Advanced Indonesia Coalition, PDIP could not alone nominate the governor and deputy governor. PDIP, which only obtained 15 seats, did not meet the minimum threshold of 22 seats. However, with the nomination mechanism set out in the court's decision above, it is rare for the PDIP to propose candidates for governor and deputy governor.

In the perspective of structuring democracy in the regions, the Constitutional Court Decision No. 60/PUU-XXII/2024 has an important meaning: first, the space for competition in the regional elections is more open and inclusive, because of the opening of access to non-seat political parties and the lowering of the threshold so that the nomination path is more open to be followed by all groups. Second, it prevents the practice of oligarchy where the elections are only controlled by a handful of people who control political parties. With this new format, it opens up opportunities for other actors who have integrity to be involved in changing the government in the region. Third, it is useful for the interests of political party development because non-seat political parties will continue to improve themselves. So far, the careers of non-seat political parties have ended after the election, and some have even died. By being given a role in the regional elections, it encourages non-seat political parties to continue to take care of themselves, rebuilding their parties that lose in the elections so that they can exist again in the next elections/elections.

Although it has a number of positive impacts on the development of local democracy, the Court's decision has an unfavourable impact on the development of political stability in

the long term. The design of democratic development is not only seen during the election process, but also in the context of post-election relations between the executive and legislative branches. If the candidate for regional head elected in the election is based on a minority party or does not have seats in the Regional People's Representative Council, it will have implications for the relationship between the regional head and the local Regional People's Representative Council.

The Regional People's Representative Council relationship with regional heads is normatively as equal partners, which means they are institutionally balanced with each other. However, at the practical level, the relationship between the regional head and the Regional People's Representative Council often does not work ideally, especially since the elected regional head is supported by a political party or a combination of political parties with a minority of seats in the Regional People's Representative Council, and the existence of a discontinuous and incongruent coalition pattern will have an impact on the effectiveness of public policy formulation in Regional People's Representative Council. Theoretically, there are two potential consequences: first, a prolonged conflict between the regional head and the Regional People's Representative Council which leads to a deadlock in decision making and public policy. Second, there is political corruption involving regional heads and Regional People's Representative Council in the form of a cartelized party system.²⁰ Although deadlocks in the formulation of public policy between regional heads and Regional People's Representative Council are almost rare, transactional-based public policies which can lead to corrupt practices involving regional heads and Regional People's Representative Council members can occur, especially policy bribery (or in political science known as influence) was carried out to facilitate discussion of public policy in the midst of Regional People's Representative Council disagreements. This bribe can be used as a basic instrument for elected regional heads to smooth out regional regulations or Regional Budget proposed by the regional government and require Regional People's Representative Council approval, so that the basis of this transaction becomes a lubricant as well as the reason behind why public policies proposed by the regional government can still be approved by the Regional People's Representative Council in the middle. the minority is supported by a coalition of political parties carrying regional heads in the Regional People's Representative Council.²¹

4. Closing

According to the Constitutional Court, the expansion of the meaning of elections to include regional elections is constitutional, because through Decision No. 55/PUU-XVII/2019 the Constitutional Court has laid an important foundation for the design of the model for holding simultaneous elections by reaffirming the original intent regarding simultaneous general elections; the relationship between simultaneous general elections in the context of strengthening the presidential system of government; and exploring the meaning of simultaneous general elections in Constitutional Court Decision No. 14/PUU-XI/2013.

The Constitutional Court Decision No. 60/PUU-XII/2024 has implications for the circulation of government in the regions, which previously could not propose candidates for regional heads. Previous provisions related to the nomination threshold were too heavy for minority political parties that did not have seats. With the court's decision, all political parties can nominate and the nomination threshold is small, allowing regional head candidates to

²⁰ Perludem. (2016). *Siaran Pers: Prospek Pemerintahan Hasil Pilkada Serentak 2015* *Siaran Pers: Prospek Pemerintahan Hasil Pilkada Serentak 2015*. Available online from: <https://perludem.org/2016/02/29/siaran-pers-prospek-pemerintahan-hasil-pilkada-serentak-2015>. [Accessed on October 26, 2024].

²¹ *Ibid.*

compete. But this can also have an impact on the design of democratic development after the election procession. In the context of post-election executive and legislative relations, if the regional head candidates elected in the elections are based on minority parties or do not have seats in the Regional People's Representative Council, it will have implications for the relationship between the regional head and the local Regional People's Representative Council.

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Conflict of Interest Statement:

The author declares that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

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