



Breaking the Indonesian Local Leaders' Problem: A Comparative Analysis of Direct and Indirect Local Leader's Elections in Indonesia and India

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Article Information

Received for publication January 24, 2024
Accepted after corrections January 10, 2025

Keywords: Comparative law; Local leaders; local leaders' election

DOI:10.20961/yustisia.v14i1.86374

Abstract

Strategic political and constitutional legal issues affect Indonesian local leaders' positions. With over 500 provinces, regencies, and cities, each region has unique capabilities impacted by several factors, making direct local leader election unfeasible for all places. The study uses comparative legal theory to compare direct regional head elections to Regional House of Representatives elections. This study uses comparative legislation to analyze the Regional House of Representatives direct election paradigm of local leaders. This study shows the need to link local leader electoral options with regional capacity characteristics. The study compared eleven variables with positive and negative features, either directly or through local leaders' Regional House of Representatives elections. Democracy is implemented according to regional capability indicators in both models. Comparing the electoral systems for local leaders in Indonesia and India shows that an asymmetric model that accounts for geographical, sociological, and cultural factors can uncover clustering in direct and indirect elections. Regional capacities and disparities prevent standardizing the regional election model. The local leader's electoral options should be revised according to geographical heterogeneity.

I. Introduction

The dynamics of fulfilment for the position of local leaders are strategic political and constitutional legal issues in Indonesia. Michael Buehler's data on 1600 local leader elections reveals that local politics in Indonesia is much more competitive.

The dynamics are related to the use of the regional head election model. In this case, there are two Pilkada models, namely direct and indirect or through the Regional House of Representatives ([Hutapea, 2015](#)). After the reformation, the model of fulfilling the local leaders' positions significantly shifted. Before reformation, local leaders were appointed by the central government or the higher officials. Otherwise, it was proposed by the respective Regional House of Representatives and decided by the central government. After reformation, the voice of the regional people becomes the determining factor; the owner of sovereignty determines who the governor and regent or mayor are. After reformation, there were two variants: the indirect local leaders election by the Regional House of Representatives and direct local leaders election by the people. However, the direct election model is commonly used because it is considered a form of active community participation in the realm of determining electoral positions ([Suyatno, 2016](#)).

No local leader's election model is completely perfect. Article 18, paragraph (4) of the 1945 Constitution of the Republic of Indonesia affirms that local leaders are elected democratically. The phrase "democratically elected" does not only mean direct election by the people. Considering the condition of Indonesia as a vast, diverse and multicultural archipelagic country, the local leader's elections using the direct election model by the people cannot be conducted uniform.

As long as the direct local leader elections have been held since June 2005, not all regions are ready to hold them. Several regions are facing problems with budget availability, a lack of human resources for local leaders, election organizers and supervisors, and the problem of low voter participation. The problems or defects in direct regional elections are exacerbated by the high rate of corruption by regional heads who the people directly elect, horizontal conflicts and fraud in the regional election process. Leonard Wantchekon also confirmed that political violence could occur to influence elections, or conflict could break out post-election ([Wantchekon, 1999](#)).

The study conducted by Farchan, Partono and Gumay, taking North Sumatra as its object, reveals that the implementation of the 2005-2007 local leaders elections in North Sumatra encountered several crucial obstacles, including voter registration, nominations, the existence of regional election desks, campaigning, the neutrality of regional election organizers, independence of supervisory committees, voter participation and behaviour, preparation time and local leaders election funds, and behaviour of political parties, as well as demonstrations and mass violence ([Farchan et al., 2016](#)).

From 2013-2015, the Former Chairman of the Indonesian Constitutional Court, Hamdan Zoelva, in his article, also narrated the complicated problems concerning resolving local leaders' election disputes by the Constitutional Court ([Zoelva, 2016](#)). As a constitutional judge with a five-year career adjudicating local leaders' election disputes, Zoelva noted that there are problems with the regulation, implementation, and enforcement of the law. In fact, as an institution whose role is to guard democracy, the Constitutional Court, which has been given the mandate to resolve regional election

disputes since November 1 2008, has been flooded with requests from local leaders for election results disputes.

An article examining the comparison between indirect local leaders elections by the Regional House of Representatives and direct local leaders elections by the people has also been written by Insiyah, who examines the advantages and disadvantages of each model with the results of the study confirming that the best model is direct election by the people ([Insiyah et al., 2019](#)). Jamaluddin also analyzed the same, articulating that direct local leader elections provide positive changes because several regions have developed since innovative and creative regional heads led them. It also provides equal opportunities and constitutional rights to local people to contest to be leadership candidates in their respective regions. Jamaluddin's findings provide two alternatives. First, governors and regents are elected indirectly through the Regional House of Representatives. The mayor is elected directly by the people, considering that the city's geographical area is not too large and the literacy level of the city's people is relatively high. Second, the election of governors is carried out indirectly, while the elections for regents and mayors are conducted directly because the people of districts and cities are closer to the people ([Jamaludin, 2019](#)).

Based on this description, it is relevant to examine the comparison and reformulation of local leaders' election variants as an effort to see the dynamics and opportunities for the future: whether regional elections can be carried out in a varied and non-uniform way all over provinces, districts and cities in Indonesia. Besides, a comparative study of the system for the fulfilment of regional head positions in India, the United States of America, and Russia is going to be the main focus of this research to find a comparison of ideal values for the development of local democracy in Indonesia through several considerations, namely social, cultural and geographical factors. It cannot be denied that there are some fundamental similarities between Indonesia and India in terms of democratic development despite the historically different dynamics. Based on this background, there are three problem formulations: (1) What is the comparison between the direct local leader's election model and the indirect one by the Regional House of Representatives? (2) What is the comparison of the fulfilment of local leaders' positions in Indonesia, India, the United States of America, and Russia? (3) Why is the reformulation of local leaders' election variants needed in Indonesia?

This study is doctrinal law research using several approaches: statutory, conceptual, and comparative. The data used in this study is secondary data with primary and secondary legal materials analysed qualitatively ([Efendi & Ibrahim, 2016](#)). The theory of comparative law or comparative legal studies is used to compare the direct local leader's election model and the indirect one by the Regional House of Representatives. Rudolfo Sacco explained that comparative law, as a philosophical science, aims to understand legal data better. ([Sacco, 1991](#)). The main goal, as explained by Ratno Lukito, is to improve understanding of the law, to achieve better law (arriving at the better law) ([Lukito, 2022](#)).

This study is included in the category of comparative law with a more specific and practical-oriented approach, with an orientation towards finding similarities and differences in the model of direct local leader election as practised in the regimes of Law

Number 32 of 2004, Law Number 12 of 2008, and Law Number 1 of 2015 and Law Number 10 of 2016. This legal comparison was carried out for technical purposes, namely legal harmonization and legal reform, especially looking for legal aspects that are problems in the direct local leader elections model and offering better alternatives. Besides, we also found some problems from the legal aspect in the indirect one.

The comparability of this study was limited. It is limited to the law of *similia similibus*, namely that there are elements of similarity between several entities being compared ([Lukito, 2022](#)). More clearly, Merryman states: "comparison is possible only if the instances are comparable and the results are interpretable." ([Simitis et al., 1975](#)). This comparison may be used if the matter can be compared so that the results can be interpreted. There are ten variables compared in this study: (1) budget; (2) voter participation; (3) legitimacy; (4) potential conflict; (5) potential violations; (6) human resources as organizers and supervisors; (7) potential impeachment; (8) Political costs and potential for corruption; (9) the role of political parties; and (10) legal culture.

II. Comparison of Direct Local Leaders Election Models and Indirect One by Regional House of Representatives

The study of the implementation of regional head elections in Indonesia is a basic matter to examine how the ideal model for filling the position of regional head by taking into account the context faced in the contemporary era. As we all understand, both direct and indirect election models through the Regional House of Representatives have positive and negative sides, which need to be weighed proportionally and are more relevant to apply now.

First, budget variables are often problematic when organizing local leaders' elections. When indirect local leader election is regulated under the regime of Law Number 22 of 1999 concerning Regional Government, the budget for implementing the local leader's election is relatively more economical because the organizers come from within the own Regional House of Representatives and do not require a large number of officers' salaries. Compared with the budget for direct local leader elections, much funding wastes the budget charged to the Regional Revenue and Expenditure Budget, abbreviated. Visible components include the organizers' fees, starting from the Provincial General Elections Commission (hereinafter written to Komisi Pemilihan Umum Provinsi or KPU Provinsi), Regency or City General Elections Commission (Hereinafter written to Komisi Pemilihan Umum Kabupaten/Kota, Komisi Pemilihan Umum at the sub-district level [hereinafter written to Panitia Pemilihan Kecamatan or PPK], Komisi Pemilihan Umum at the village or sub-district level (hereinafter written to Panitia Pemungutan Suara or PPS), to KPU at the Polling Station [hereinafter written to Tempat Pemungutan Suara or TPS] level. In addition, there are the Election Supervisory Agency (hereinafter written to Badan Pengawas Pemilu or Bawaslu), Provincial Bawaslu, Election Supervisory Committee [hereinafter written to Panitia Pengawas Pemilu or Panwaslu] at Regency/City, Subdistrict Panwaslu, Panwaslu at sub-district level [Pengawas Pemilu Lapangan or PPL], up to supervisors at TPS.

Costs for printing ballot papers, campaign props and all TPS operations. Regions with low regional budgets will spend much of the direct local leader's election costs. In contrast, the budget for infrastructure development, education, and health care for the people is small. In terms of budget, the direct local elections have the weakness of being high cost compared to the budget required for the indirect one by the Regional House of Representatives. In the Explanation of Law Number 1 of 2015 concerning the Determination of Government Regulations instead of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors into Law, it is stated that the budget for holding local leaders elections comes from the National Revenue and Expenditure Budget [hereinafter written to *APBN*] and can be supported by the Regional Revenue and Expenditure Budget [hereinafter written to *APBD*]. It is changed again through Law Number 10 of 2016, which states that the budget for holding local leaders' elections is charged again to the *APBD* and can be supported by the *APBN*. This means the budget does not come from one door, so transparency and accountability are difficult.

Second, is the voter participation variable. In indirect local leader elections, the voters are only Regional House of Representatives members with a minimum quorum requirement of 2/3 of the entire members. So, there are no problems concerning the level of people's participation in elections. This differs from the direct local leader elections involving all the people who meet the requirements as voters, requiring socialization and awareness among the public to use their right to vote. In some areas, public awareness of exercising their right to vote is very low, so voter participation in the election is also low. Many factors influence the level of voter participation in local leaders' elections. For example, the issue of socialization is not optimal, awareness of voting rights is low, and even the trend of abstaining from voting [hereinafter written to as *Golput*] is increasing in regional elections because of boredom with unqualified candidates supported by political parties. The direct local leader elections also gave rise to dynastic politics, such as in Banten. Local leader's election with a single candidate also shows that the main role of political parties in political education and political cadre formation is considered to have failed. So, public trust in political parties decreases ([Rahman et al., 2022](#)). This circumstance means that the failure of political institutions directly causes low participation or high numbers of abstentions in regional elections, which are called political parties.

The low voter participation does not only become a trouble in Indonesia, but also poses a threat to developed country which is a champion of the world democracy, the US ([Hajnal & Lewis, 2003](#)). Hajnal and Lewis call the low voter participation in US a "crisis in American democracy" ([Hajnal & Lewis, 2003](#)). In fact, according to Neal Caren, the average participation rate is only 27 per cent for mayoral elections in 38 large cities in the United States. There are differences in the factors causing low participation in developed countries and the ongoing democratic transition, such as Indonesia. The low political participation due to high political awareness differs from minimal participation due to the lack of political awareness and knowledge. Due to different factors, there are also different treatments to encourage higher voter participation. In his 2011 State of the Union address, Mayor Lee Leffingwell of Austin, Texas, offered potential strategies to intensify voters in local elections. Leffingwell proposes to change the date of the local

election to coincide with the election for higher positions, which in Indonesia is equal to regent/mayor elections being able to be simultaneous with gubernatorial and presidential elections. The next strategy is related to raising campaign funds. The greater the campaign funds, the more positive the influence on voter participation levels ([Holbrook & Weinschenk, 2014](#)).

Third is the legitimacy variable. Power is not only influenced by material sources but also an important influence coming from legitimacy. Smit calls legitimacy an element that forms power; legitimacy also changes the character of power ([Reus-Smit, 2014](#)). But on the other hand, according to Brookes and Wohlforth, legitimacy can limit power, but power can generate legitimacy ([Reus-Smit, 2014](#)). Local leaders elected by the Regional House of Representatives do not have as strong a legitimacy of power as those elected directly by the people. Through direct local leader elections, the people directly hand over a mandate to local leaders to use their power to benefit local communities in their respective regions.

Fourth, potential conflict. Regional elections elected through the Regional House of Representatives have less potential for conflict. Conflicts between supporters also do not appear when the people directly elect the local leaders in elections. In the indirect local leader elections, disputes over the results of the calculation also do not arise because the local leader candidate getting the most votes is established to be the regional head, so there is no potential for disputes over the regional election results in court. It can be compared with the potential for conflict in direct local leader elections. The potential for conflict arises at several stages, such as the campaign stage with open meetings mobilizing large numbers of people, the conflict after the voting results are established, etc. Even though a judicial mechanism for the disputes of the local leader's election results has been regulated by the Constitutional Court, the opportunity for conflict ending in violence and anarchy cannot be avoided.

Fifth, potential violations. This circumstance does not mean that the indirect local leader's elections were not fraud-free. However, if looking at the history of holding direct regional elections, the potential for violations and fraud is greater because of the complexity of the stages. The potential for violations in the local leader elections through the Regional House of Representatives is very small. It is likely related to the formation of committees and the determination of prospective candidates to become candidates. There is no potential for violations and fraud related to voter registration, campaign violations, manipulation of voting results recapitulation, mobilization of civil servants for certain candidates, or buying and selling votes to voters.

Sixth, human resources as organizers. In this matter, the organizers are not limited to the regional KPU and supervisory agencies but also law enforcement officials, the press and the judiciary, all of which are important indicators in organizing local democratic events. In indirect local leader elections, the quantity and quality of human resources needed are unlike those needed by direct local leaders. Each Regional House of Representatives organizes the indirect local leader elections. Meanwhile, in the direct local leaders elections, a lot of human resources are needed to become commissioners for the Provincial KPU, Regency/City KPU, Sub-district level PPK, village and sub-district level PPS, up to KPPS at each Polling Station. Additionally, there are

supervisors, Provincial Bawaslu, Regency/City Panwaslu, Subdistrict Panwaslu, PPL at the village and sub-district levels and even supervisors at TPS.

The human resources required are large and must have competence, credibility and integrity. The organisers often conduct Fraud in regional elections in a structured, systematic and massive manner. The local leader's elections with democratic quality are determined by the organizers being educated, trained and not doing the fraud. This human resource problem is not evenly distributed in every region around Indonesia. Unequal levels of human resources are due to differences in access to education, literacy culture, and unfair development by the central government. So if the direct local leader elections are forcedly held in all regions, while the level of human resources is not equal or there is inequality, what will happen is a flawed democracy.

Seventh, potential impeachment. The most visible weakness in the indirect regional elections is that the chance of impeaching local leaders is wide open. The local leaders are responsible to the Regional House of Representatives and must report accountability to the body. If the accountability report is rejected, the Regional House of Representatives can propose the dismissal of the local leaders to the President. The potential for political impeachment or dismissal by the Regional House of Representatives could occur because the Regional House of Representatives is a political institution that makes decisions with more political considerations, including the dismissal of a regional head. This does not happen in the direct regional election model because there is no accountability relationship between regional heads or local leaders and the Regional House of Representatives. The local leader only provides the Regional House of Representatives with an accountability report.

Eighth, political costs and potential corruption. The indirect local leader elections very highly open up opportunities for money politics to buy the votes of Regional House of Representatives members as voters, and they even tend to be vulgar and transactional. The transactions also undergo at the nomination stage, when prospective candidates buy votes of factions to become their supporters. In several studies, it is called "rental fee" or "boat rental" to gain support from the factions. Political costs are directly proportional to the potential corruption of local leaders. The higher the nomination fee, the greater the potential for local leaders' corruption. There are only slight differences when compared to direct regional elections. However, in the direct regional elections, the potential for money politics is smaller than in the indirect ones. In indirect regional elections, most or all voters limited to the internal Regional House of Representatives accept bribes to vote for one of the candidates.

In contrast, in indirect regional elections, the political distribution of money to voters cannot target all of them. However, with the direct election model, the costs involved are very large: political costs for supporting political parties, campaign costs, supporter mass meetings, open mass mobilization meetings, advertisements in the media, and dispute settlement. So, the chance of regional head corruption is much higher than in the indirect local leader's election model.

Holbrook and Weinschenk's studies reveal that funds spent on mayoral campaigns in the United States are directly proportional to increased voter participation. It even states that campaign expenditure is the most influential variable on mayoral election

participation ([Holbrook & Weinschenk, 2014](#)). This means that this study can be read as a positive influence. During regional elections in Indonesia, the campaign costs of local leader candidates are often directly proportional to political money..

Ninth, the role of political parties. The indirect local leader elections do not put political parties as absolute power holders to determine candidate pairs. So, there is no opportunity for individual candidates who do not go via the political party route. This is the weakness of the indirect election model because it creates political party oligarchy. The direct regional elections regulated in Law Number 32 of 2004 initially did not explicitly open up opportunities for individual candidates. However, Constitutional Court Decision Number 5/PUU-V/2007 firmly restores the constitutional rights of citizens by allowing independent candidate pairs. The Constitutional Court guarantees that the requirements for individual candidates will not be the same as or more stringent than those for candidates from political parties.

In Russia, independent or non-political party candidates have long appeared and were successful in city council elections. A study conducted by Yana Ghorokovskaia with analysis results shows that local politics in Russia still maintains the source of individual contestation, not through political parties ([Gorokhovskaia, 2019](#)). Another study in Russia by Tatiana Tkacheva and Mikhail Turchenko, concluded that 1,101 independent candidates with no political party affiliation, with the support of personal resources, mostly won city council elections in the Russian capital during 2014-2018 ([Tkacheva & Turchenko, 2022](#)). The non-party electoral competition model, according to Stoner-Weiss, was practiced in Russian politics at all levels during the 1990s, where independent candidates from non-political parties sometimes outnumbered political party representatives in national, regional and local legislative bodies ([Stoner-Weiss, 2001](#)). Compared with the direct regional elections in Indonesia, the independent local leader candidates have not won many contests, unlike the candidates from political parties. Thus, the political party oligarchy in Indonesia is still very strong, thereby closing political opportunities for independent candidates who are not affiliated with political parties.

Tenth, legal culture. This variable will use the legal culture concept introduced by Lawrence M. Friedman, based on the basic assumption that there is a relationship between law and social change and cultural change ([Friedman, 1969](#)). Friedman calls them social forces influencing the operation of law in society. It takes the form of community values and attitudes related to legal institutions ([Syamsudin, 2007](#)). In the context of the direct local leader's elections, balanced legal culture factors are needed for a democratic political process to produce quality regional heads. This culture is relative to several things, such as literacy culture, political culture related to awareness of voting rights, level of education, trust in democratic institutions and law enforcement officials, and culture concerning conflict and violence. Some communities in particular areas still have a strong tradition of inter-ethnic conflict or war and demonstrations leading to anarchism, all of which can be categorized as a rebellious, turbulent society. If these factors in legal culture have not yet formed a positive trend, it is a part of the weakness of the direct local leader's election model. Do the indirect local leader elections not

require a positive legal culture? It is necessary, but not like the direct regional elections, which must be supported by legal culture and all its positive variables.

To understand easily the comparison of the advantages and disadvantages between the direct and indirect local leaders election models with ten variables, based on a study of several laws regulating the direct and indirect local leaders elections, it can be seen in Table 1 below.

Table 1. Comparison between Direct Local Leaders Elections and Indirect Ones

No	Variable	Indirect Local Leaders Election			Direct Local Leaders Election		
		Legal Basis	Advantages	Disadvantages	Legal Basis	Advantages	Disadvantages
1	Budget	Articles 34 and 35 of Law No. 22 Year 1999	✓		Article 112 of Law No. 32 of 2004 Chapter IV (Appendix to Law No. 1 Year 2015)		✓
2	Voter Participation	Articles 39 and 40 of Law No. 22 Year 1999	✓		Article 24 paragraph (5) of Law No. 32 of 2004 Articles 56 and 57 of Law No. 1 of 2015		✓
3	Legitimation	Articles 34 and 35 of Law No. 22 Year 1999 Article 18 paragraph (1), Article 34 paragraph		✓	Article 24 paragraph (5) and Article 56 of Law No. 32 Year 2004 Article 2 of Law No. 1 Year 2015	✓	

		(1) of Law No. 22 Year 1999			
4	Conflict Potential	Article 40 paragraph (3) of Law No. 22 Year 1999	✓	Article 76 paragraph (1) of Law No. 32 Year 2004 Article 65 of Law No. 1 Year 2015 Article 157 of Law No. 8 of 2015	✓
5	Violation Potential	Article 35 - 39 of Law No. 22 Year 1999	✓	Articles 74, 76, 79, 80, 83, 86, 96, 106, 107 of Law No. 32 of 2004 Articles 69, 70, 75 and 76, Chapters XIX and XX of Law No. 1 of 2015 Article 187A of Law No. 10 of 2016	✓
6	Human Resources (Organizer and Supervisor)	Articles 34 and 35 of Law No. 22 Year 1999	✓	Article 57 and Article 66 of Law No. 32 Year 2004 Chapter IV (Appendix to Law No. 1 of 2015)	✓

7	Impeachment Potential	Article 45, Article 46 of Law No. 22 Year 1999	✓	Article 27 paragraph (2), Article 29, Article 42 paragraph (1) letter h of Law No. 32 Year 2004	✓
8	<i>Political Cost</i> and Corruption Potential	Article 27 paragraph (2), Article 29, Article 42 paragraph (1) letter h of Law No. 32 Year 2004	✓	Articles 76, 77, 83 of Law No. 32 Year 2004 Article 74 of Law No. 1 Year 2015	✓
9	The Role of Political Parties	Articles 36 and 37 of Law No. 22 Year 1999	✓	Article 56 paragraph (2) and Article 59 paragraph (3) of Law No. 32 Year 2004 Article 56 paragraph (2) of Law No. 12 of 2008 Article 41 of Law No. 1 Year 2015	✓
10	Legal Culture	Articles 40 and 41 of Law No. 22 Year 1999	✓	Law No. 32 Year 2004 Law No. 1 Year 2014	✓

III. Main Comparison of Asymmetric and Non-Asymmetric Regional Head Election Systems

The comparative method concerning the regional election system in Indonesia and India is to look conceptually and practically at the ideal local leader's election implementation mechanism by taking into account several important aspects, including geographical location and sociological and cultural factors. India has the second largest population in the world after China, with a population of 1.4 billion, a federal state form, a parliamentary system of government, and a multi-party system. This is different from Indonesia making use of a unitary state with a presidential system of government, despite both having a political background in a multi-party system.

The differences in the form of state and system of government of the two countries certainly have implications for state administration mechanisms with different models, especially fulfilment of the position of local leaders, which, in this case, in India, the local leader is the head of a state. In contrast, he is a governor in a regional unit called a province in Indonesia. The mechanism for the fulfilment of regional head positions in India follows an asymmetric system, namely that the position for state heads, in this case at the governor level, is appointed by the central government, while specifically in city areas, the fulfilment for the position of mayor is carried out through general elections by the people ([Zulfajri et al., 2020](#)). Most states in India apply an asymmetric model with indirect local elections for the head of state often called the chief minister, of which the election process is carried out by the state legislature whose representatives are in turn elected directly by the people ([Mannan, 2023](#)). This is different in Indonesia where the fulfilment of positions at the provincial and district/city levels is carried out through direct elections by the people.

The election mechanism is ideally and practically still in dispute because, referring to the provisions of Article 18 paragraph (4), the 1945 Constitution of the Republic of Indonesia does not specify the process for filling the position of local leader. However, the option stated is that the local leader's election process must be carried out democratically, which means it contains the general phrase related to democracy either representatively or directly. Nevertheless, in terms of the dynamics of the regional election process, based on Constitutional Court Decision Number 97/PUU-IX/2013, it is clear that the democratic local leader's election mechanism can be interpreted as elections through the DPRD or directly ([Hsb, 2018](#)).

When compared with the regional election system in India making use of an asymmetric model, namely a mixture of direct and indirect local leader elections, the application of the asymmetric principle has been running through asymmetric decentralization in certain regions such as Aceh Province, DKI Jakarta, Special Region of Yogyakarta or DIY, and the Province Papua. However, the difference is that in the three provinces, apart from DIY, the asymmetric model of local leader elections is applied democratically through direct local leader elections. It differs from Yogyakarta because of the sultanate background; the Yogyakarta governor and deputy are elected based on hereditary appointment ([Johan, 2021](#)). An important point that needs to be considered regarding the use of the asymmetric model in Indonesia in regional elections is budget

efficiency because the area is so large and the population is quite massive; so, of course, it requires quite a lot of operations while the capabilities of each region are different. Apart from that, the readiness and mental maturity for democracy are certainly not the same in every region. ([Azzahro et al., 2023](#)).

Several similarities between Indonesia and India can be seen from the large population and vast territory as well as cultural factors related to readiness for democracy, which are still in a transition phase, considering that both positions are still at a developing level. For example, in Indonesia, especially in the execution of local leader elections in Papua Province, there are still several serious problems related to the readiness of infrastructure, budgets, and the maturity of democracy, which has not yet been established. It ultimately generated ineffective regional government administration and was prone to the emergence of conflict ([Fatoni, 2020](#)). The context is different from the local leader's election model in the Special Region of Yogyakarta using an appointment system based on lineage, which still has democratic value for the positions of Governor and Deputy due to the mandate of the Special Law and consideration of historical-sociological factors. In contrast, for Regency/City areas, the direct election system remains ([Martitah & Sumarto, 2018](#)).

Apart from India, asymmetrical elections also exist in Canada. Asymmetric elections in Canada are seen in the autonomy given to provinces and territories to organise their local elections. Each province and territory has the power to set different rules and procedures for local elections, reflecting each region's unique needs and conditions. For example, elections in Quebec may differ from those in British Columbia or Nunavut regarding the timing, nomination requirements, and electoral system used. This flexibility allows each region to address local issues more effectively and be responsive to the needs of local citizens. However, it also poses challenges regarding coordination and equity between regions ([Krueger, 2024](#)).

Thus, the consideration for implementing an asymmetric regional election model in Indonesia by referring to the system in India can be strengthened through the argument that the quality of democracy must be built gradually and cannot be implemented simultaneously with the same model, especially at the regional level which has quite a lot of differences. According to Jimly Asshiddiqie, the prerequisites for achieving good democracy require two basic indicators, namely: 1) institutions, as a forum or means, and 2) tradition, that success or failure in building democracy is determined by mental maturity and readiness to become institutions as a system. So, it is needed in synergy with an institutional, cultural and legal reformation ([Asshiddiqie, 2005](#)).

Table 2 explains a conceptual idea that can be drawn about the mechanism for implementing the local leader's elections in Indonesia by referring to the system prevailing in India as a consideration for finding the ideal formulation. What needs to be understood here is that each system has advantages and disadvantages. Still, if we notice the asymmetric model, an integral point can be adopted for the sake of the development of local democracy in Indonesia.

Table 2. Local Leaders Election System Comparation in Indonesia and India

Country Name	Indonesia	India
Form of State	Unitary State	Federal State
Government System	Presidensil	Parlementer
Regional Division	Province	State
Comparation		
Local Leaders Election Model	Direct	Asymetric
Local Leaders Election Model Implication	<i>Positive Effect</i>	<i>Positive Effect</i>
	(1) Representation of people aspiration is achieved	(1) Operational budget efficiency.
	(2) Legitimacy is strong	(2) Minimal conflict of authority.
	(3) Democracy Education Equipment	(3) Flexible to adjust to regional needs.
	<i>Negative Effect</i>	<i>Negative Effect</i>
	(1) Prone to conflicts of interest related to the authority of local leaders.	(1) Representation of people aspiration is not fully achieved.
	(2) High operational costs.	(2) Prone to generate candidates who not fulfill people's expectations.
	(3) Capability among regions is not same.	

Asymmetric regional elections in Indonesia and India have unique advantages and disadvantages. In Indonesia, this system allows for customization based on regional characteristics, such as DKI Jakarta and Aceh, which have special rules to be more responsive to local needs and maintain unity in diversity ([Johan, 2021](#)). However, it also creates disparities between regions with special rules and those without, as well as potential conflicts of interest and inequalities in implementing regional autonomy. In India, asymmetrical local elections are implemented with due regard to the ethnic, cultural, and historical differences of each state. The advantages of this system are flexibility and recognition of local diversity, which can strengthen democracy and social inclusion. However, the challenge is the complex coordination between the central and state governments and potential inequalities in public services and development between regions ([Dash et al., 2019](#)). Both countries certainly face challenges in balancing regional autonomy with national integration, albeit with different approaches and contexts.

Asymmetric regional elections in Indonesia can be an ideal solution, but they have advantages and disadvantages. The advantage is that it allows the customization of electoral policies and mechanisms according to each region's specific needs and characteristics, such as DKI Jakarta and Aceh, making it more responsive and respectful of ethnic, cultural, and historical diversity. It also can increase voter participation due to the system's relevance to local life. However, asymmetric local elections also have drawbacks, such as the potential for regional disparities, conflicts of interest between national and local policies, and high administrative complexity. The success of this system depends largely on the government's ability to manage and balance the needs of local autonomy with national integration and equality.

Analyzing asymmetrical local elections through comparative law theory involves studying how different countries implement different local election systems according to the needs and characteristics of each region. By comparing the implementation of asymmetrical local elections in countries such as Indonesia, India, and Canada, we can understand how flexibility in electoral rules can improve responsiveness to local needs and respect for cultural diversity. The theory of comparative law helps evaluate the advantages and disadvantages of each system, such as the ability to increase local political participation and the potential for regional disparities. This analysis identifies common principles and best practices that can be applied to improve the effectiveness and fairness of asymmetrical elections in different national contexts.

IV. Local Leaders Election Variants Reformulation

After seeing the results of the comparison between direct and indirect local leader elections in the first part, this section attempts to explain the arguments for why reformulation or redesign of the local leader's election model is needed in Indonesia. The results of the comparison above, noticing the positive and negative sides, are the main reasons why the regional election model cannot be uniform in all regions. Of the ten variables compared, it shows that there are differences or gaps among regions in at least four indicators: (1) unequal APBD capacity among regions, which is burdened with covering the costs of holding regional elections; (2) unequal human resources among the regions being the organizers, which is the key to the success of the local leaders elections; (3) security stability and potential conflict vulnerabilities varying between regions; (4) literacy culture and awareness of people's political rights, which are influenced by unequal educational and economic levels among regions..

The uniformity of local leader election models with unequal regional conditions threatens local democracy and the spirit of decentralization. Although the trend of the younger generation seems to be compatible with the direct local leader's election model, which is considered more democratic, there must be clusterization by looking at each region's readiness level. Since the beginning of the reformation, there have been debates and suggestions calling for the local leader elections not to be implemented uniformly in all regions, despite no format design yet being offered and examined by the public for receiving responses, criticism and recommendations from the wider community.

An evaluation for the direct local leader elections having many weak points finally gave rise to proposals for two schemes ([Jamaludin, 2019](#)). First, the local leader's elections are not directly voted by the Regional House of Representatives for all provinces and all districts. In Indonesia, 38 provinces, of which 37 are participating in indirect regional elections, one province of the Yogyakarta Special Region has been determined by appointing the governor and his deputy from the reigning king, as regulated in the special law. The number of districts throughout Indonesia is 416 districts, and only 1 district has a regent appointed by the governor, namely the Seribu Islands Administrative Regency; the regent is appointed by the Governor of DKI Jakarta with the discretion of the Regional House of Representatives of DKI Jakarta, absolutely from civil servant elements. This means that the indirect local leader's elections are to elect regents and their deputies, totalling 415 districts. Meanwhile, direct local leader elections are proposed for the mayor's and his deputy's election. The number of cities throughout Indonesia is 98, and four cities in DKI Jakarta already use the appointment model by their governor. So, 94 direct local leader elections are at the city level around Indonesia. This first scheme starts from the assumption that administratively, the provinces and districts are very large, while cities have relatively fewer residents and a higher level of cultural literacy. Second, the indirect local leader's election scheme is applied to provinces, whereas the direct local leader's elections are used to elect regents and mayors. The basic assumption is that district and city communities have closer relations with their local leaders than provincial areas.

This proposal is simpler, but it has fundamental weaknesses. The weakness is that it still forces uniform local leader elections in all provinces by conducting indirect and direct elections in all districts and cities. There seem to be model variations, but they are also trapped in a homogenizing clusterization. The clustering is illustrated by considering the high and low levels of four indicators (Table 3).

These four indicators have to be measured cumulatively, not alternatively. Suppose a region does not have high APBD capacity, the middle and upper class of human resources for administrators, the high vulnerability of conflict and violence, and its low legal culture. In that case, it cannot hold local leader elections using a direct model by people. If one of the four indicators is not in the high category, the direct local leader's election model cannot be applied. This scheme is also a part of local democratic and political education, which requires processes and education for local communities. It doesn't just make it uniform; it doesn't just follow the practice of holding the direct elections in democratic events without noticing the potential and conditions in the region.

A study conducted by the Association for Elections and Democracy (Perludem) shows that the direct local leaders election budget which is charged to the APBD creates uncertainty in the election stages because of the number of regions do not have an adequate budget. How much budget each region needs is also difficult to measure objectively ([Sadikin, 2016](#)). In the end, the simultaneous regional elections, designed to make budget issues more efficient, have been distorted. The more complicated problem is the budget proposed by the Provincial/Regency/City KPU must be approved by the local leader, and becomes his discretionary authority, whereas the local leaders will run

for again to be a candidate. As a result, the potential for abuse of power is greatly wide open. Therefore, Perludem's proposal that the budget for simultaneous regional elections be borne by the central government (APBN) is an ideal solution. Political chaos occurred when Law Number 8 of 2015 stipulated that the KPU had to carry out the direct local leader's election voting in 269 regions in December 2015. Still, many regions were not ready to have their budgets charged to the Regional House of Representatives. Of the 269 regions, 66 regions had not signed the Regional Grant Agreement Document until May 2015. The direct election budget problem is difficult for regions with low budget readiness.

Table 3. Regional Clustering with Direct and Indirect Local Leaders Election Options

Indicator	High			Low		
Local Government Budget capabilities	Direct Election	Local Leaders		Indirect Election	Local Leaders	
Human Resources [Organizer]	Direct Election	Local Leaders		Indirect Election	Local Leaders	
Potential Conflict	Direct Election	Local Leaders		Indirect Election	Local Leaders	
Literacy and Politics Culture	Direct Election	Local Leaders		Indirect Election	Local Leaders	

To measure high or low levels of capability, indicators and variables have to be determined through academic studies and have been examined by the public. For example, based on research by the Indonesian Forum for Budget Transparency, the cost of local leaders' elections for districts/cities is 25 billion, and for provincial elections, it is 100 billion. If the provincial, district and city regional budgets are not increased twofold, the category is low, so it is not appropriate to pick out the direct local leaders election model.

The organizer's Human Resources [HR] variable may be easier to achieve and the all regions almost evenly have readiness. Considering the number of graduates in all districts and cities, the higher education is no longer an expensive item. But perhaps in some of the outermost, frontier and underdeveloped (3T) districts, the education index is still low, making it difficult to provide competent election organizing human resources, or in the terminology of the International Institute for Democracy and Electoral Assistance (IDEA) ([Catt et al., 2014](#)), there are 10 characteristics for election organizing institutions to realize honest and fair elections, one of which is that the competence of its members must be strictly selected. The success or failure of a democratic event at the local level is determined by the quality of the organizers' human resources.

Regarding the potential for conflict, several data have shown that the experience of the 2015 the simultaneous local leaders elections recorded 1,323 violent conflicts with 53

people killed, 1,172 injured, 829 buildings damaged, and 648 low-scale conflicts ([Andriyani et al., 2021](#)). The election for Governor of DKI Jakarta in 2017 raised the issue of SARA, thus showing a low Election Vulnerability Index. The study carried out by Humaedi et al. provides an overview of the 2010-2015 elections for local leaders. These areas have a low Election Vulnerability Index (IKP) and high conflict: Makassar City, South Aceh Regency, Luwu Regency and Bangkalan Regency. Districts with medium IKP include Pidie Jaya Regency, East Lombok Regency, Subulussalam Regency, Maluku Regency, and Kerinci Regency. Relatively safe areas with high IKP: Mimika Regency and Puncak Regency in Papua ([Humaedi et al., 2018](#)). In 2017, from 101 regional elections, there were 53 dispute applications submitted to the Constitutional Court, including from 40 districts, 9 cities and 4 provinces which were holding the local leaders elections ([Bawaslu RI, 2017](#)). In 2017 there were seven provinces that held regional elections, three of which had a vulnerability index with a high potential for conflict, respectively: West Papua, Aceh and Banten. Four areas with a medium vulnerability index; West Sulawesi, Jakarta, Bangka Belitung, and Gorontalo ([Bawaslu RI, 2018](#))

Based on these records, regions with a high index of vulnerability and conflict in several local elections and general elections cannot hold the direct local leader's election model. On the other hand, relatively safe areas with a moderate or low index of vulnerability and conflict potential are included in the direct local leader's election cluster. The democratic process should not be tainted by conflict and anarchism, which is contrary to the values of democracy itself.

Democracy in Indonesia in Jimly Ashhidiqie's view shows that the implementation of democracy requires supporting conditions, namely institutions, while on the other hand it requires tradition as a support system. This relates to democratic actors in order to foster a straight spirit of democracy, in this case the community plays an important role through political awareness and participation ([Asshiddiqie, 2005](#)). Electing local leaders in regional elections is not just about going to the Polling Station and taking a picture. However, it must be based on knowledge and awareness of political rights, so that a person does not vote because he/she get bribes and money from the regent candidate, or does not vote because he/she is intimidated. So it cannot be separated from the educational grade and fair access to information.

Data from the Central Statistics Agency (BPS) for 2022 recorded that Papua Province had the lowest high school/equivalent graduation rate, followed by East Nusa Tenggara and Gorontalo. On the contrary, the highest high school/equivalent graduation rates are in the Special Region of Yogyakarta and DKI Jakarta ([BPS, 2023](#)). This means that the central government and regional government have to solve the problem of unequal education causing disparities, so that human resources can be equal. Before thinking about holding a direct democratic event, it is better to use regional budget for education. The degree of education greatly influences political culture and political awareness, including political participation in regional elections. Uniformizing the direct regional elections in regions between regions with advanced levels of education like Yogyakarta and regions with very low degree of education like NTT actually undermines democracy.

So, there are at least two arguments for why reformulation of local leaders' election variants is needed or not to make regional elections uniform. Instead, it was created by the indicators and variables above. First, constitutionally, the phrase "democratically elected" in Article 18 paragraph (4) does not merely mean the direct election but also does not refer to an election by the Regional House of Representatives. Being directly elected by the people or elected by the Regional House of Representatives has democratic meaning as long as no uniformity and coercion are unique, which is unfair. Second, with the inequality and differences in capabilities among regions, the regional election model should not be uniform and forced but should be based on the high and low levels of several of the indicators above.

V. Conclusion

The local leader's election using either the direct or the indirect models has negative and positive sides. After conducting a study based on legal materials from several laws regulating the local leader's elections, both the direct elections by people and the directed ones by the Regional House of Representatives, it is found that ten variables could be compared: budget, voter participation, legitimacy, potential conflict, potential violations, human resources as organizers and supervisors, potential impeachment, political costs and potential corruption, the role of political parties, and legal culture. With the comparative law approach, the best model for regional elections was found, namely not uniformizing the direct or the indirect forms in all regions, including provinces, districts and cities.

The legal comparison in this study also brings about regional clusterization offers: the regional clusters with the direct local leader's election and regional ones with the indirect local leader's election, measured by the high and low levels of four indicators or variables, namely Local Government Budget capacity, the organizing human resources; potential conflict, and a culture of literacy and political awareness. The long journey of holding regional elections provides a valuable lesson: the uniformity of the regional election model threatens democracy because of the inequality among regions and the different readiness levels of each region. Democratic local leaders' election does not only mean direct elections but must consider the diversity of regional potential, conditions and readiness without forcing a uniform model.

ACKNOWLEDGMENTS:

The authors would like to express their sincere gratitude to Universitas Islam Indonesia for their invaluable support and contributions to this study.

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