

The Implementation Of Regional Head Election Itself Directly In Local Governance System In Indonesia

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Abstract: The objective of this research is to analyze and explain and discover the nature of local elections in the local government system in Indonesia and to analyze and explain the mechanism of local elections in the local government system in Indonesia. As well as to analyze and explain and find the factors that influence the implementation of regional head elections in the local government system. This research is explorative, that is exploring values and legal principles related to the implementation of regional head election. The approach used in this study is the empirical legal approach, in addition to exploring the applicable legal values, also examines the level of effectiveness of the implementation of regional head elections based on applicable legislation. The result of the research shows that the essence of constitutional election is a manifestation of democracy implemented in two ways: direct election and representation, as a manifestation of democracy aimed at the implementation of the transition of leadership in a closed area to a more peaceful system of power.

Keyword: Election, Governance, System

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I. INTRODUCTION

Indonesia is a lawful country as expressly stated in Article 1 paragraph (3) of the 1945 Constitution of the State of the Republic of Indonesia, which means that everything connected with governance shall be based on law, not least on the conduct of regional head elections¹.

The provisions of Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia stipulates that the Governors, Regents and Mayors respectively as heads of provincial, district and municipal governments are elected democratically. With this provision, elections are held directly and elected by the people. Therefore, election is an important tradition, and it is deeply sacred in the various political systems of the world. This, as a consequence of the urgency of elections as a means that can be used to achieve and or maintain the status quo for the regime that wants to rule, or who continue to want power. If elections are held in this context, then the legitimacy and status of the qou are at stake, not about the abstract democracy and blurred criteria.

Elections are not a symbolic ritual to give legitimacy to powerhouses, as revealed by Coles, Kimberley, *...for greater acknowledgement of the social within the technical aspects of politics. Rather than viewing elections as a ritual symbolically reflecting or producing meaning....*² It has become a phenomenon that the election of heads of regions is seen by society as a manifestation of the wishes of certain groups or parties, regardless of what the real wish of the people as the holder of sovereignty. As a result when the head of the area has been lifted, then sometimes the policy is considered contrary to the values of democracy and sovereignty, because it does not side with the people, but more oriented to the interests of a handful of people or groups. This is what causes public restlessness and anxiety, so that becomes the motivation to reform.

¹ Rallings, Colin Thrasher, Michael Borisjuk, Galina, Forecasting the 2015 general election using aggregate local election data, *Journal, Electoral Studies*, 2014, Vol. 5. p.278-278, ocal government election results are used to estimate a national equivalent vote that provides the basis for a general election forecast. By-elections provide the means for calculating weighted quarterly averages of national support. These show trends similar to those obtained by national polls. By-election results in the three month period leading to the general election contribute towards the national vote share calculation and seat distributions are determined by uniform national swing. Additionally, results from the main council elections from 2

² Coles, Kimberley a., *Election Day: The Construction of Democracy through Technique*, *Journal, Cultural Anthropology*, 2004, Vol.19, p.551

Furthermore, in the course of history has recorded the implementation of two stages of election, namely the first election to elect the legislative members and the second to elect the president and vice president directly in a package. With the success of the direct presidential election, the process of democratization of political life in Indonesia began to translate down to the regional level, ie by the start of direct regional head elections (hereinafter referred to as direct elections).

Beginning with the establishment of Law Number 32 Year 2004 on Regional Government jo Law Number 12 Year 2008 About Amendment to Law Number 32 Year 2004 on Regional Government, in which also regulate the process of election of regional heads, both at the provincial and district / city level , As well as the Government Regulation Number 6 Year 2005 regarding the Election, Legalization, Appointment and Dismissal of Regional Head, is the same as some other regions in Indonesia, This is surely a concrete implementation of the real meaning of people's sovereignty, Country that has not been implemented properly and maximally.

II. RESEARCH METHODS

This research is explorative, that is exploring values and legal principles related to the implementation of regional head election. The approach used in this study is the empirical legal approach, in addition to exploring the applicable legal values, also examines the level of effectiveness of the implementation of regional head elections based on applicable legislation.

III. DISCUSSION

The election of regional heads in Indonesia is a manifestation of democracy in two ways: direct election and representation. The definition of elections according to Andrew Reynolds is a method in which the votes obtained in the election translate into seats won in parliament by parties and candidates³

Hierarchically, the implementation of democracy in both unitary state and federal state (fereral state) is implemented in stages, namely national and local or state level.⁴ In Indonesia at the present time, the people's

³ Elklit, Jørgen, Reynolds, Andrew, A framework for the systematic study of election quality, Journal, Democratization, Vol. 12, Issue. 2, 2015. P.147 ... *This article offers the beginnings of a methodology for assessing the quality of a national election, its freeness, fairness and administrative efficacy. The historical lack of a comprehensive framework of analysis has compelled election observers to make pronouncements on the basis of incomplete evidence, usually gathered on the day of the vote and count. It has allowed international observation missions to 'call' the results of elections on the basis of political expediency rather than the facts of the case. The intent in this article is not to offer a foolproof method for categorizing election quality but rather to lay out a framework which we believe is more comprehensive and meaningful than anything that has come before. To illustrate its workings the article scores six multi-party elections: two in established democracies – Australia and Denmark 2001– and four in fledgling democracies – South Africa 1994 and 2004, East Timor 2001 and Zimbabwe 2002. The framework outlined here will make it possible to identify patterns of success and failure in the fairness of elections. It should enable all kinds of observers from academics and election administrators to election observers to spotlight the weak areas of election administration, where a government might then choose to focus its efforts to improve the quality of subsequent elections.*

⁴ See, Bengtsson, Åsa Mattila, Mikko, *Direct Democracy and its Critics: Support for Direct Democracy and 'Stealth' Democracy in Finland*, Journal, West European Politics, 2009, Vol.23, Issue 5, p.1031-1032, ... *direct democracy and for stealth democracy in Finland is analysed. Stealth democracy represents a step towards a democracy in which there would be even less citizen involvement than in the representative form of today's democracy. The authors found that both options gained significant support among the Finnish electorate. Additionally, they found that it is mostly the same variables that contribute to the probability of citizens being supporters of either direct democracy or stealth democracy. It is the people with less education, who do not know much about politics and who feel that the current system does not respond to citizens' needs, that want change. The direction of change appears to be a matter of secondary interest. Political ideology affects which of the two options respondents favour. Right-wing citizens are more likely to favour stealth democracy. Citizens leaning to the left are more interested in direct democracy.* \n*In this article support for direct democracy and for stealth democracy in Finland is analysed. Stealth democracy represents a step towards a democracy in which there would be even less citizen involvement than in the representative form of today's democracy. The authors found that both options gained significant support among the Finnish electorate. Additionally, they found that it is mostly the same variables that contribute to the probability of citizens being supporters of either direct democracy or stealth democracy. It is the people with less education, who do not know much about politics and who feel that the current system does not respond to citizens' needs, that want change. The direction of change appears to be a matter of secondary interest. Political ideology affects which of the two options respondents*

disbelief in the political elite makes the process of elections of regional heads lead to democracy by direct election, the constitutional mandate as stipulated in Article 18 of the 1945 Constitution, that the election of provincial and district/city heads is carried out democratically.⁵

Direct election of regional heads is a new state administration phenomenon in Indonesia. This followed elections to the regions in 2015 that direct elections have been held for the first time in 224 local governments in Indonesia, so it is deemed necessary to analyze philosophically juridically within the framework of a democratic constitutional state and local democracy, the principle of decentralization and public policy processes and Political participation of the people of the region. It is also deemed necessary to analyze how far the implementation of provincial and district / municipal elections has been carried out in accordance with the principles of the rule of law and the implementation of election principles so that local democracy in the country of Indonesia has occurred local political reforms.

It can not be denied that the development of democracy in Indonesia has been influenced by the development of democracy in some advanced countries such as the United States and Europe. The results of research in countries classified as "champions" of democracy show problems. Problems that arise are "born" due to influence multidimensi: like social, economic, cultural, and political.

Meanwhile, from the real theoretical aspect, democracy itself is still a tentative solution in solving various constitutional and governmental problems. In the reality shows that the ability of people who implement democracy must have sufficient capability to avoid the tendency of misuse of democracy itself.⁶

The practice of the United States, has made democracy a necessary condition in ensuring the elite circulation process through the General Election. Indonesia has long experience in implementing democracy system.⁷ The results showed that the direct election of heads of regions held simultaneously had been well under way with the opinion of the people 81% stated good, 15% stated very well, and 4% said unfavorable, none stated bad, and also not There is no claim to know. From these data the researcher believes the prospect of democracy in the future will be better, it is also based on the understanding and understanding of respondents to the implementation of local election is very good. Based on the opinion of the respondents shows the information obtained by the public with regard to the implementation of election of regional head significant.

Although elections in the reform era have changed the electoral system and political system often cause many new problems. This also triggered an understanding among some intellectuals that the reforms at the end of 1998 were poorly designed so that they tend to experience chaos, but Indonesia's democratic execution has progressed.⁸

favour. Right-wing citizens are more likely to favour stealth democracy. Citizens leaning to the left are more interested in direct democracy.

⁵ Balaguer-Coll, Maria Teresa Brun-Martos, Maria Isabel Forte, Anabel Tortosa-Ausina, Emili, Local governments' re-election and its determinants: New evidence based on a Bayesian approach, *Journal, European Journal of Political Economy*, 2015, Vol. 39, p, 94 ... the effect of public spending on the probability of re-election of Spanish local governments during the 2000-2007 period using Bayesian techniques. Although the literature on political budget cycles is now fairly large, few contributions have explicitly analyzed the determinants of re-election. The use of Bayesian techniques in this context is particularly interesting because, unlike most previous studies, results are not presented as a summary effect such as the average. Rather, our findings show exactly how a given covariate affects the probability of being re-elected. We find that, in general, increases in local government spending positively impact on local governments' chances of re-election. Moreover, the capital expenditure over the whole term positively affects

⁶ La Ode Husen, *Negara Hukum, Demokrasi dan Pemisahan Kekuasaan*, UMI-Toha, Makassar, 2009, p. 31

⁷ *Studies, Political National, American Study, Election American National Election Study, 2004 : Pre- and Post-Election, Journal, Social Research, 2004, p. This study is part of a time-series collection of national surveys fielded continuously since 1952. The election studies are designed to present data on Americans' social backgrounds, enduring political predispositions, social and political values, perceptions and evaluations of groups and candidates, opinions on questions of public policy, and participation in political life. In addition to the standard or core content items, respondents were asked their positions on social issues such as altruism, abortion, the death penalty, prayer in the schools, the rights of homosexuals, sexual harassment, women's rights, and feminist consciousness. Other substantive themes included racial and ethnic*

⁸ Sebastian, Leonard C., *The Paradox of Indonesian Democracy*, *Journal, Contemporary Southeast Asia*, 2004, Vol.26, Issue,2, p.256, The results of the 5 April 2004 Indonesian general election for the House of Peoples Representatives have been indecisive. Golkar won the election with a total of 128 seats, but gained a lower number of seats than in 1999. The Indonesian Democratic Party of Struggle (PDI-P) came in second with 109 seats. Thus Golkar merely maintained its position with the other big parties, including the United Development Party (PPP) and the National Awakening Party (PKB). The 2004 election also witnessed the rise of new parties,

There has been progress in democracy on the basis of a heterogeneous national tradition, such as Indonesia, aimed at creating a transition of power from a closed system of power to a more open system of power which is done in a peaceful way without causing bloodshed as it does in the system- authoritarian. That is, the authoritarian power system controlled by the leader is closed in practice always act authoritarian as well although every act and policy always on behalf of the people and democracy. Many cases of power revolution causing casualties to bloodshed such as Napoleon, Stalin and Hitler are real facts that could be valuable lessons in developing democracy. Therefore, the political system and system of electoral administration have significance for the elite circulation of democratically elite. Whatever system is built even if it is a democracy if it does not prioritize the quality of electoral system with integrity then it is very easy to predict the quality of elected leaders through the electorate like what. Because through elections will be selected good leaders of the nation.

It seems that from the direct administration of the regional head elections, there has been shifting from major decentralization to major deconsentration or bringing about decentralization as the extreme side of decentralization.⁹

Based on previous discussions, local elections are in the corridor of local democracy within the scope of the decentralized government and based on the political rulings of the law. UU no. 23 of 2014 on Regional Government. Direct Local Head Election is a new phenomenon in the system of local government in Indonesia. Throughout the history of government, direct pilkada has been carried out, which during the beginning of 2005 was attended by 16 Provincial Governments and 118 District and Municipal Governments throughout Indonesia.

Seeing so many local governments implementing the pilkada, it becomes important for all the components involved in implementing it to have the same perception. Since 2005 it has been a milestone for local democracy in Indonesia, although it was initially feared that the implementation of the 224 local governments will be in conflict or problems that will undermine and have a negative effect on the governance system in Indonesia.

Based on Law No. 24 years 2014, can be discussed the development of democracy close to its constituents is the community. In general this is a very significant progress for the relationship of local government with its people in terms of the use of political rights. However, in more depth there are still many things that need serious attention. One of the concerns is the emergence of judicial review efforts from the community component of the Constitutional Court on the matter that will reduce the level of democracy.

One of the pillars that determines the success and quality of elections and regional heads in Indonesia is the election organizer. Article 22E Paragraph (1) of the 1945 Constitution has stipulated that "Elections shall be conducted in a direct, public, free, secret, honest and fair manner every five years". In Article 22E paragraph 5 it is also stipulated that "Elections shall be held by a national, permanent, and independent electoral commission. Therefore, according to the 1945 Constitution, the organizer of the election must be a commission that is (i) national, (ii) fixed, and (iii) independent or independent. Why be independent? The answer is clear, because the organizer of the election must be neutral and should not take sides. The election commission shall not be controlled by a political party or state official reflecting the interests of a political party or a participant or candidate for the election.

The development of local democracy in direct regional head elections is an opportunity as well as a challenge that needs real proof. This direct format of direct election must necessarily be placed in a system of local government (decentralization) within the corridor of a unitary state system. The relationship between state and society in local government in the era of reformasi is a challenge in Indonesian government life. The holding of elections with democratic legal politics involves as many actors as possible directly or indirectly resulting in elections consistent with their objective of voluntary handover of sovereignty. It is hoped that a clear and supportive legal instrument, the absence of clashes between agencies, is one key to direct elections.

The demand for direct local election mechanisms is strongly reinforced as a reaction to the electoral process of regional heads in a number of areas laden with cases of money politics, central intervention, and the distortion of public aspirations. Direct regional elections are believed to be a solution to strengthening democracy at the local level while restoring public confidence in the ruling government. Substitution of power was not able to restore public confidence, so the 1999 election considered as a democratic election did not result in representatives of representatives of the people's representatives. Meanwhile, on a structural level, the extension of authority to legislative bodies that is not balanced by the quality of legislative members leads to private and party-oriented use of power practices that occur both at the national and regional levels.

namely, the Democratic Party (Partai Demokrat) which finished in fourth place and the reconstituted Prosperous Justice Party (PKS). In the absence of any dominant party, the Indonesian political.

⁹ Hadiz, Vedi R., Decentralization and democracy in Indonesia: A critique of neo-institutionalist perspectives, *Journal, Development and Change*, 2004, Vol. 34, Issue, 4, p. 697-698

The change of centralized governance pattern to be decentralized brought shift of locus of power from center to region, including the extension of political authority at the local level. However, the spirit of decentralization is in fact not matched by the growth of democratization at the local level. Delegation of authority from the central government only reached the lowest levels of government in the regions while the democratization marked by the expansion of public participation in public policy making did not experience significant progress. As a result, local governance is still dominated by local elites, both within the bureaucracy and political parties.

The mechanism of the regional head election *dumulai* on the regime of Law no. 22 of 1999 has obviously brought substantial change in the election process of regional heads. But this is only a first step because there are still further challenges: how to expand public space in the sense that local elections should be more competitive and there is space for the community to influence the process. Despite the fact that the representative mechanism applied in the election process of regional heads according to Law no. 22 of 1999 also has a weakness because it gives a very dominant space for the Regional House of Representatives in the election process of regional head. Article 18 paragraph (1) letter a states that the Regional People's Legislative Assembly has the duty and authority to elect the Governor / Vice Governor, Regent / Vice Regent, and Mayor / Deputy Mayor.

Benefits of Direct Regional Head election

One characteristic of a democratic country is the election which is held periodically, including the election of regional head. So in other words, no matter how good a government is designed, it can not be considered democratic unless the officials who govern the government are freely chosen by citizens in an open, honest and fair manner.

For the direct election of regional head election researchers, it has the following advantages:

1. The direct election of regional heads by the people indicates an inner connection between the electorate and the elected;
2. Governors and Regents / Mayors elected by the people will be held accountable to the people, because the people who have sovereignty. Free and fair elections are important in ensuring "governed agreement" as the foundation of democratic politics. They are instantly a good instrument for the surrender of power and legitimacy, because disingenuous elections can cast doubts about the victory of a person who occupies the post of government, that doubt will diminish his governing abilities;
3. The direct election of regional heads will encourage the maturation of political parties, especially in the recruitment of political party cadres who will be placed as candidates for regional heads. Candidates assigned by political parties are those who have been selected by the party and are expected to win the competition to seize the popular vote. Thus direct local elections are an ideal selection of local leadership to obtain a more qualified and responsible pair of governors, *bupatis* and mayors. A public official who gains broad and strong support from the people will carry out the functions of state power in the context of achieving state objectives at the local level. They will feel bound by the voice of the people and fight for the interests of the people.

The direct election of regional heads has been hinted at by the Third Amendment of the 1945 Constitution article 18, paragraph 4 which states that "Governors, Regents and Mayors respectively as provincial, district and municipal government heads are elected democratically". This article may be interpreted to mean that the election of regional heads can be directly conducted, so it can be interpreted that "Governors, Regents and Mayors can be diluted through the Regional People's Legislative Assembly, but the problem is the design of a direct regional head electoral system including its legal framework Which can minimize the potential for conflict and negative excesses in the region.

Based on Law Number 23 Year 2014 on Regional Government that the Head of Region and Deputy Head of Region, *Pilkada* Stage is directly divided into 2 (two) stages namely the preparation stage and implementation phase. The mechanism for the election of regional heads (Governors / Regents / Mayors) always refers to election mechanisms and procedures which are regulated according to the National Electoral Commission (NEC) Regulation established nationally. The national regulation of the NEC according to the researcher is very necessary, considering that Indonesia is a pluralistic unitary state, with NEC Regulation being the technical guidance for the Regional Election Commission and its staff in the implementation of local elections simultaneously.

Factors Affecting the Implementation of Regional Head Election

Analyzing the factors that influence the implementation of the Regional Head Election In South Sulawesi Province should be consistent with the legal state theory foundation, and the legal system is understood and developed as a unified system in which there is (a). Element of legal method (instrumental element); (b). Institutional elements (institutional elements); and (c). Cultural elements or behaviors of legal subjects with rights and duties or authorities prescribed by legal norms (subjective and cultural elements).

From the aspect of legal substance namely the legislation governing the conduct of Elections and Election of Regional Head is influenced by liberal doctrine and socialism. The doctrine of socialism is different from the doctrine of capitalism in providing understanding and application of democracy both in terms of substance and technical implementation. The capitalist doctrine requires the prioritization of legal certainty and gives more protection to rulers and investors.

From the results of the study showed that 70% are good, and 22% are very good while 4% say less good. Respondent's views on the legal substance governing the election and the election of regional heads according to the author's opinion is influenced by the role of the media that is very active in the demand for electoral challenges. This is also significant with the opinion of the respondents on the election of the election.

Understanding the legal structure is the understanding of the structural order in establishing a rule or rules of law underlying an organization whether institutions or institutions that provide authority in legally validating to provide assurances of legal certainty is recognized and adhered to.

IV. CONCLUSION

1. The nature of holding a constitutional election is a manifestation of democracy implemented in two ways: direct election and representation, as the realization of democracy aims for the implementation of the transition of leadership in a closed area to a more peaceful system of power.
2. Implementation of direct election of head of region in system of election of regional head conducted in accordance with mechanism of conducting of regional head election in two stages namely the preparation phase and implementation stage, although each frequent violation in structured, massive and systematic either by organizer or participant local election.
3. Factors influencing Pilkada organizers are legal substitution factors that often change due to requirements with political interests, election organizers that have no integrity, permissive cultural factors, and poor community legal awareness.

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