

THE LEGITIMACY OF DIRECT REGIONAL HEAD ELECTIONS AS THE EMBODIMENT OF THE IMPLEMENTATION OF DEMOCRACY IN THE ERA OF REGIONAL AUTONOMY

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Abstract

The direct election of regional heads is an important part of the implementation of democracy in the regions. The implementation of direct regional head elections is a guarantee for lasting and quality regional autonomy. However, the quality of democracy that occurs in the regional head election still depends on the political will and political commitment of all stakeholders involved in this matter. This study aims to determine the legitimacy of the election of the Regional Head, hereinafter referred to as the direct Pilkada as a manifestation of the implementation of democracy in the region. This study uses a qualitative approach with a descriptive method. The results of the study show that the constitutional legitimacy of direct regional head elections is by enacting Law no. 32 of 2004 amended by the promulgation of Law no. 12 of 2008 concerning the Second Amendment to Law Number 32 of 2004 concerning Regional Government, and the last time it was amended by Law no. 1 of 2015 concerning Election of Governor, Regent and Mayor. Direct election of regional heads has positive impacts, including direct public participation in choosing their leaders, opening up space for fair competition between candidates, giving strong legitimacy to regional heads, minimizing fraud, and finally knowing the competence of potential leaders. Besides the benefits, there are several things that must be criticized, especially regarding the nomination, implementation, supervision and determination of results.

Keywords: Legitimacy, Regional Head Election (Pilkada), Democracy, Regional Autonomy.

A. INTRODUCTION

One form of community involvement in the political process is the General Election (hereinafter abbreviated as General Election), including in this case the Regional Head General Election (hereinafter abbreviated as Pilkada) (Huda, 2017). Elections are a means for the community to participate in determining the figure and direction of state or regional leadership in a certain period (Harahap, 2016). Elections are held to accommodate democracy. Democracy can be seen as a political and legal system of government. So far, democracy is still not a final and controversial system (Budiana, 2009). Democracy itself is a reflection of the creation of justice in the life of a community. A strong community always accommodates the aspirations of the community as much as possible. This is the meaning of essential justice in the perspective of community life in question (Rawls, 1971).

Elections can be said to be aspiration and democratic if they fulfill several requirements. The conditions referred to are: 1) Elections must be competitive, in the sense that election participants must be free and autonomous; 2) Elections are held regularly, in the sense that elections must be held regularly with clear time intervals; 3) Elections must be inclusive,

meaning that all community groups must have equal opportunities to participate in elections. No single group was discriminated against in the electoral process; 4) Voters must be given the freedom to consider and discuss their alternatives in a free atmosphere, not under pressure, and with access to extensive information; and 5) An impartial and independent election organizer (Rauta, 2016).

The election of regional heads (Pilkada) is carried out directly by residents of the local administrative area who meet the requirements, which is a form of embodiment of community involvement in the political process in the region (Sarbaini, 2020). The election of regional heads is carried out in a package together with the deputy regional heads. The regional heads and deputy regional heads in question include: the governor and deputy governor for the province; Regents and deputy regents for districts; Mayor and deputy mayor for the city (Hutapea, 2015). Prior to 2005, regional heads and deputy regional heads were elected by the Regional People's Representative Council (DPRD). Since the enactment of Law Number 32 of 2004 concerning Regional Government, regional heads are directly elected by the people through the Election of Regional Heads and Deputy Regional Heads or abbreviated Pilkada. The first Pilkada was held in June 2005. Since the enactment of Law Number 22 of 2007 concerning General Election Organizers, the Pilkada has been included in the electoral regime, so that it is officially named the General Election of Regional Heads and Deputy Regional Heads or abbreviated Pilkada (Kontu, 2017).

Direct elections are often said to be a “democratic leap” (Isa, 2009). This term can be interpreted positively or negatively. In a positive sense, direct elections as a means of democracy provide opportunities for the people as political infrastructure to elect their regional heads directly through a voting mechanism (Zamili, 2017). This means will strike a balance with the political superstructure, because through direct elections the people can determine the course of government by choosing the desired leader freely and secretly. Even though the people are not directly involved in daily government decision-making, they can exercise control over the running of the government which has a direct mandate from the people (Syaputra & Sihombing, 2020).

The rolling out of ideas to carry out direct elections for regional heads (governors, regents and mayors) by the people is a sign that the constitutional paradigm has shifted from representative democracy to direct democracy (Aziz, 2016). This is at least driven by several factors: 1) The people's disappointment with the authoritarian and centralistic practices in the administration of regional government for decades in this republic; 2) An accumulation of disappointment by the majority of the people over the attitude of the political elite (political party elites) and DPRD members who are manipulative and collusive towards the aspirations of the people in the regional head election process which in fact is full of money politics (money politics); 3) It is a demand and a need for constitutional changes in the 1945 Constitution in the presidential and vice presidential election system, namely from a quasi-

presidential government system to a presidential system as regulated in Article 6 A of the 1945 Constitution which gives authority to the people to elect the President and Vice President. directly; 4) There is sufficient space for the people in the regions to play their roles and functions as owners of the sovereignty of this republic as well as one of the implementations of regional autonomy; 5) Historically in the practice of indigenous Indonesian government, direct election by the people of their leaders has been tested and proven to be experienced, especially, direct election of Village Heads and Heads of Clans or other terms found in various regions in Indonesia.

In a negative sense, direct Pilkada as a “democratic leap” reflects a one-sided interpretation of the benefits and process of the Pilkada. This process is often regarded as a “people's democracy party” where the people have the right to do anything, including acts of anarchy, either on their own initiative or those mobilized by the candidate and his supporters or because of the encouragement of a political party as the party proposing the candidate. This euphoria is also often responded to by the public as an opportunity to gain material benefits in the Pilkada (Suharyanto, 2014). At the empirical level, it seems that the local elites who represent the community on several occasions expect and desire that the Direct Regional Head Election can be carried out honestly and cleanly as an embodiment of people's sovereignty which in the end will obtain competent and capable leaders in advancing their region and prospering the community (Kurniawan, 2010). 2016).

This paper wants to discuss the legitimacy of direct local elections as a form of implementation of local democracy which is full of pictures of how direct public participation is a real benchmark of democracy. However, oftentimes the responsibilities of the elected regional leaders are not given enough attention that it seems as if after the election, the democratic process is considered over. In fact, the true democratic party does not stop at the point of selecting leaders, but rather substantively questions the real commitment of the elected regional leaders to fulfill the desire for the welfare of the people which is often carried out in their campaign promises. This is a form of responsiveness that often determines the dynamics of the next regional elections, namely incumbents who successfully carry out their programs can gain a landslide victory in the next regional elections.

B. METHOD

This study employs a descriptive technique with a qualitative approach as its methodology. The qualitative approach is a method for studying and comprehending social events and human issues. Researchers create intricate visuals, evaluate language, provide in-depth reports on respondents' opinions, and do fieldwork in real settings (Creswell et al., 2007). According to Bogdan and Taylor (Moloeng, 2007), qualitative procedures are research methodologies that generate descriptive data from individuals and observed behavior in

written and spoken language. In natural settings, qualitative research was conducted and discovered. In qualitative research, the primary instrument is the researcher. Therefore, researchers must be able to pose questions, evaluate the study, and build upon it in light of the enlarged theory and knowledge. This study is primarily concerned with relevance and worth. Qualitative research is utilized when the problem is ambiguous in terms of discovering hidden meanings, comprehending social interactions, generating ideas, ensuring the veracity of data, and examining developmental history. Typical qualitative research data collection methods include observation, interviews, and documentation procedures.

C. RESULT AND DISCUSSION

Aspects of Constitutional Legitimacy

As regulated in Article 1 paragraph (2) of the 1945 Constitution, the results of the third amendment have stated that "Sovereignty is in the hands of the people and is carried out according to the Constitution" and especially concerning Article 18 paragraph 4 of the amendments, it is stated that "governors, regents, and the respective mayors as heads of provincial, district and city regional governments are democratically elected", then in line with the Indonesian constitutional system, Law no. 32 of 2004 which regulates Regional Government.

Furthermore, Law no. 32 of 2004 which regulates the implementation of regional head elections was amended by the promulgation of Law no. 12 of 2008 concerning the Second Amendment to Law Number 32 of 2004 concerning Regional Government, and the last time it was amended by Law no. 1 of 2015 concerning the Election of Governors, Regents and Mayors, so that it is intended to realize democratic regional leadership that pays attention to the principles of equality and justice.

With the Pilkada, local community members as an inseparable part of the citizens of the Republic of Indonesia as a whole, are also entitled to sovereignty which is their human right, which has been guaranteed by our constitution, namely the 1945 Constitution of the Republic of Indonesia. In the regions, based on the sovereignty they have, must be given the opportunity to participate in determining the future of their respective regions. (ibid) The direct implementation of regional elections is in line with the objectives of territorial decentralization, namely to channel the spirit of freedom in a responsible manner, educate and train themselves to implement and determine local political activities are in line with domestic national politics (Susilowati & Suprapti, 2019).

It is implicit in it that the objective of territorial decentralization by establishing autonomous regions is to provide better services to the community as a reward for the public trust that has been delegated to their regional representatives, in an orderly, regular, periodic manner through general elections. Therefore, it is appropriate now that the Pilkada is held within the

framework of increasing the active participation of the people. This is correlated with increasing the capacity of local government in serving the public interest.

It is understood that Pilkada is not something that stands alone. It must be an integral part of efforts to realize a democratic local government. The old paradigm which assumes that all decisions are in the hands of the government and bureaucratic apparatus must be replaced with a new view that prioritizes services with the principles of participation, transparency and accountability to the public. No less important is to increase the capacity of civil society. The quality, outcome and process of direct regional head elections are largely determined by the strength of civil society in building relationships with political actors at the local level. For this reason, it is necessary to strive for the availability of public space that allows for involving the potentials of civil society, both in the context of encouraging creative ideas and reflecting on the performance of the Regional Government, the people in the region can play a role in determining leaders in their regions in accordance with the aspirations that develop in the community.

Legitimacy of Direct Regional Head Elections

June 2005 was a new history in the journey of democracy in Indonesia. For the first time the contestation of regional heads by direct elections by the people was implemented after more than half a century of this republic declaring its independence. It is also coherent with the holding of direct presidential/vice-presidential elections (Article 6 A of the 1945 Constitution). In the context of consolidation and strengthening of democracy, direct local elections can be a pillar that strengthens the building of democracy nationally. As Tip O'Neill stated, "all politics is local", which means that democracy will thrive and be strong at the national level if at a lower level (local) democratic values are firmly rooted. Pilkada directly embody this meaning (O'Neil & Hymel, 1994).

With such an understanding, holding direct local elections can have a positive impact on strengthening democracy in Indonesia. First, political participation. In direct local elections, the people are directly involved in determining who is worthy (having credibility and capability to fight for aspirations and fulfill the interests of the people) to be their "servants" (public officials). Through such a process, awareness can grow that they (the people) are the real holders of political sovereignty. Included in this awareness is caution in making choices, because wrong choices can bring bad consequences to their lives (Solihah, 2018).

Second, political competition. The direct Pilkada opens up space for fair and equitable competition between competing contestants. It is hoped that no contestant from a particular political party will continuously dominate the ongoing process and close the space for other groups to compete fairly. Third, political legitimacy. In contrast to the indirect election method as previously implemented, namely through the DPRD institution, the direct election will provide strong legitimacy to the elected regional leadership. In this direct election

mechanism, the manifested leadership will reflect the configuration of political power and the interests of the constituent voters (the people). So that it can be ensured that democratically elected candidates have the support of a large part of the voting community. The indirect election of regional heads by the DPRD is elitist in nature which often distorts the aspirations of the people (Legowo, 2005).

Fourth, the minimization of manipulation and fraud. One of the elements that encourage the implementation of direct regional head elections is the rise of various cases of money politics and other forms of fraud in the practice of regional head elections that have occurred so far. Government intervention can indeed be minimized in the elections for almost 4 years of regional autonomy. However, the pendulum of the problem has now swung to the body of regional representative institutions which are given the authority to elect regional heads. Money politics occurs almost evenly in all regions. Fifth, accountability. In direct elections by the people, the accountability of regional heads is very important. Because, if the people as voters judge that the elected regional head is unable to carry out his duties properly and responsibly, the people will impose sanctions in the next direct election by not re-electing him (Haboddin, 2016). But the problem is, does the direct election political arrangement really open up opportunities for the fulfillment of the positive impact for strengthening democracy? Closing opportunities like this can certainly have an impact on workers for the implementation of good governance after the direct elections. Based on the political arrangements as reflected in Law 32/2004, several aspects need to be criticized together.

First, with regard to nominations. These provisions seem less in favor of the principles of political participation and competition. On the other hand, the interests of political parties, especially the big parties, stand out. Paragraph 1 above, for example, emphasizes that it is only through political parties that pairs of candidates for regional head and deputy regional head can be nominated or nominate them for this direct election. Such provisions limit public participation, and instead give priority to political parties. Moreover, if it is related to the next provision in paragraph 2, only major parties can participate in this election process. Moreover, paragraph 3 does not guarantee that the selection mechanism for candidates for regional head and deputy regional head by political parties will be carried out in a democratic and transparent manner. This is because this provision is very loose, because it does not provide clear limits on the two mechanisms and strict sanctions if this obligation is not implemented. With such provisions, competition is limited and closed, the result of which could be an “underhand” political transaction. Candidates who are qualified, competent and capable, as well as clean in the direct election process may be difficult to obtain.

Second, about the direct election organizers. The problem that is feared from this fact is the vulnerability of the KPUD to intervention and pressure from the elite or the masses of local political parties, especially in the matter of tug-of-war for candidacy. In addition, the accountability of the KPUD to the DPRD contains some ambiguity. The law does not specify

the form and process of accountability and reporting of KPUD to DPRD. Including the consequences that arise if the DPRD turns out to take an attitude of rejecting the accountability submitted by the KPUD. In addition, the DPRD will also become a political target, starting from the beginning of the process, when dissatisfaction arises among certain constituents. Another problem of a more substantial nature is related to the implementation of direct local elections that depend on Government Regulations. This is a setback from the vision of holding fair elections that are free from government intervention, and thus a setback for democratization in Indonesia.

Third, related to the direct election supervisory committee. The Supervisory Committee consists of elements of the police, prosecutors, universities, the press, and community leaders. The Supervisory Committee is also responsible to the DPRD and is obliged to submit its report. The existence of provisions concerning elements of higher education and the press as members of the Supervisory Committee feels redundant. It is possible that later members of the Supervisory Committee at the district/city level will be dominated by people from the provincial capital, considering that most districts/cities do not have press and universities. The duplication of the implementation of national elections (legislative, DPD and president/vice president) into this local election seems to generalize the problem. Another issue that arises is related to the independence of the Supervisory Committee. This is because the DPRD is an "extension of political parties" who are involved and full of interest in the implementation of direct elections, along with the final results. It is certain that political parties will compete to put their "people" in the composition of the direct election supervisory committee.

Fourth, related to the determination of election results. Between articles 107 (1) and 107 (2) there is a contradiction regarding the number of valid votes for the determination of the elected candidate pair. Article 107 (1) states that the candidate who gets more than 50% of the valid votes is immediately declared as the elected pair. However, this provision is annulled by paragraph 2 which stipulates that the winner of the most votes above 25% is declared as the elected candidate pair. If this provision is enforced (a maximum of more than 25% is declared elected), the basic problems that arise will be related to the quality of legitimacy. Direct elections thus provide the possibility of forming a "minority" government with weak legitimacy. This kind of government may not be a government that solves problems; on the contrary, it can be a source of new problems in the regions.

Disadvantages of Direct Pilkada

Why do local elections have to be directly elected, first direct elections open the door for regional heads who are in accordance with the will of the majority of the people in the regions, the reason arises because sometimes losing will be different from the wishes of political parties and people's wishes, people no longer vote based on their party's choice

rather, looking at the figure of the candidate for regional head, the two direct elections will become a means of public control and evaluation of all regional head policies, when the regional head conveys a political campaign, vision and mission to the people and the people vote based on their political campaign it will

During the direct election, there were so many problems and conflicts that arose, even the direct election was considered to have injured the democratic process. the campaign process until after the determination of the winner of the regional head election, in which regional head candidates sometimes cannot accept defeat and their supporters also cannot accept defeat, especially if there are indications of fraud, not a few regional election organizers have become the goal of tantrums for supporters of regional head candidates, even several times the KPU office in damaged.

Second, the practice of money politics or money politics which has always been a scourge for Pilkada organizers, to win the regional head elections, not a few candidates for regional heads buy people's votes with money so that people's voices are pawned even in some cases only fifty thousand rupiahs can affect the people's voices. It is true that during the regional head elections before the reform there was the practice of money politics, but it is secretly different from now, money politics happened openly, not even a few people chose regional heads based on who gave them the money.

Third, through the direct election process, many regional heads are entangled in corruption cases, it does not mean that when regional heads are elected by the DPRD they will not commit corruption, the reason is that to become a regional head candidate must require large costs ranging from political dowries to campaign costs, so that The candidate for regional head tries to find campaign costs by borrowing etc., then when elected he will try to return the costs that came out by means of corruption.

Fourth, political contracts between regional head candidates and funders, some candidates do not have funds for the nomination process so that there is a political contract with funders to assist in the election process with certain conditions or political contracts, for example when the regional head candidate is elected there will be dividing the project between the funders, so that when there is a conflict between the interests of the people and the interests of the funders, it will give the regional head an opportunity not to take sides with the people.

Fifth, the wastage of costs caused by the operational costs of holding direct elections, although now to minimize the election budget it is carried out simultaneously throughout Indonesia, the costs incurred are still so large, not a few budgets are spent either on organizers such as KPU, Bawaslu and for the TNI-POLRI in the context of securing elections.

The issuance of Law of the Republic of Indonesia Number 10 of 2016 concerning the Second Amendment to Law Number 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors to become Laws. Pilkada is held simultaneously with the aim of stopping the democratic rituals that are incessant every year, so that simultaneous regional elections are carried out and will result in great time and cost efficiency, considering that there are so many problems caused by regional head elections.

Simultaneous elections are also not an answer to the problems of democratic parties in the regions but a stepping stone towards quality and efficient local elections, so it is necessary to rearrange the mechanism, fix the regulations, and build the integrity and conduct of the Pilkada, political parties and candidate pairs so that the Pilkada can be carried out. held not only from a procedural aspect, but much deeper than that is to build elections that are more substantive, with integrity, safety, smoothness, fairness, and elected regional heads and deputy regional heads who are able to prosper the people and advance the region. In this regard, the steps to improve the simultaneous regional elections in the future are also inseparable from improvements in the electoral system and electoral process.

In addition, it is also necessary to organize an independent or independent organizing institution as well as to increase the awareness of Pilkada participants and citizens so that they are not trapped in games and pragmatism of power that harm the interests of the nation and state. The nature of this independence or independence is very necessary because in essence the implementation of simultaneous regional elections is attached to both the institutions and the functions that are carried out. In addition, the independence of Pilkada organizers must also be reflected in the implementation of their duties and responsibilities.

D. CONCLUSION

Direct Pilkada is a very important pillar of democracy in the regions. Although we have succeeded in carrying out the direct presidential election properly and safely, this success will only be complete if the direct local election is also successful. The success of the direct presidential election will be questioned if the direct election does not go as expected, especially if it fails, then something is wrong in the implementation of the democratic system in Indonesia. If this direct election can go well, then the process of establishing democracy in Indonesia will be even stronger and difficult to shake again. Direct local elections have taken place since the enactment of Law no. 32 of 2004 until now, from the direct election, so many problems and conflicts have arisen, the simultaneous Pilkada is also not an answer to the problems of democratic parties in the regions but a stepping stone towards quality and efficient local elections, so it is necessary to rearrange the mechanism, fix regulations, and build the integrity and conduct of the Pilkada. Direct local elections have a positive impact,

including direct public participation in choosing their leaders, opening up space for fair competition between candidates, giving strong legitimacy to regional heads, minimizing fraud, and finally knowing the competence of potential leaders. Besides that, the Pilkada also has negative impacts, including the emergence of horizontal conflicts, the practice of money politics, many regional heads resulting from direct elections who are entangled in corruption, the emergence of political contracts and finally the wastage of costs due to the operational costs of the Pilkada.

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