

DIRECT ELECTION OF THE HEAD OF THE REGIONAL *Pemilihan Langsung Kepala Daerah*

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ABSTRACT

A variety of problem and the political turmoil in some regions election last time appears in the event of a State feedback control centre to the area. In the new order era regional chief election controversy cannot be released from the intervention Center. Usually the battle's political elite in Jakarta imposes to the area. When the issue blew up in the area, peyelesaian is the effort, he brought the case to Jakarta. in accordance with the implementation, the Hall of the Central Government has a dominant power in the determination of the head region. legislative involvement only in the process of being formalistic. It is seen clearly in article 15 and 16 regarding the appointment of the head region, where only the legislative vote and the results presented at least two names for approval and/or designation from President to Governor, and Minister of the Interior for Regent and Mayor. The aegis of the Centre to all and sundry, who has strong access to the Centre, he will be the winner, either for political affairs, economy, law even though. The most votes are not a legislative guarantee of choice became the head of the area. The Center has the absolute power to determine the opposite although sound support. Conflicts often occur, regional centre but ended with the defeat of the area

Keywords: Direct Elections, Head Area, Indonesian

ABSTRAK: *Berbagai masalah dan kekacauan politik di beberapa daerah pemilihan terakhir kali muncul dalam sebuah negara umpam balik kontrol pusat ke daerah. Dalam tatanan baru era kontroversi pemilihan kepala daerah tidak dapat dilepaskan dari intervensi pusat. Biasanya dalam pertempuran elit politik di Jakarta membebaskan ke daerah. Ketika masalah meledak di daerah, peyelesaian adalah upaya, ia membawa kasus ke Jakarta. sesuai dengan implementasi, aula pemerintah pusat memiliki kekuatan yang dominan dalam penentuan wilayah kepala. legislatif keterlibatan hanya dalam proses menjadi formalistik. Hal ini terlihat jelas dalam Pasal 15 dan 16 mengenai penunjukan daerah kepala, dimana hanya suara legislatif dan hasil disampaikan setidaknya dua nama untuk persetujuan dan/atau penunjukan dari Presiden kepada Gubernur, dan Menteri dalam negeri untuk Bupati dan walikota. Melalui pusat untuk semua dan bermacam-macam, yang memiliki kuat akses ke pusat, ia akan menjadi pemenang, baik untuk urusan politik, ekonomi, hukum meskipun. Suara terbanyak bukanlah jaminan legislatif pilihan menjadi kepala daerah. Pusat memiliki kekuasaan mutlak untuk menentukan lawan meskipun suara mendukung. Konflik sering terjadi, pusat regional tetapi berakhir dengan kekalahan daerah*

Kata Kunci: *Pemilu Langsung, kepala daerah, Indonesia*

I. INTRODUCTION

Its political turmoil and regional head election in some time last appeared in conditions when the power Center of backflow into the area. Earlier, in the era of the new order by Act No. 5 of the year 1974, the regional head election controversy could not be released from the intervention (involvement and interference). Usually a battle of political elite in Jakarta imposes to the area. When the issue exploded in the area, the business peyelesaian is the case was brought to Jakarta.

The strong position of the DPRD, utilized by some Council members to

obtain these momentary impression appeared, kepermukaan, head of the region are under pressure so it must accept the will of parliament. legislative salary increases outside the boundaries of reasonableness, the members of parliament, the streets abroad formatted into a course of appeal in some regions may explain the impression.

Looking at it, the experience of election districts based power Center and the election of the head of the area-based system with regional representation has paint a real example to us that the system that has been used failed to create a democratic life. That is, the system of

representative failed to prove to the US as a trustworthy system especially in choosing the head of the region. The location of faults, though it may still be debatable (debatable), system dikoptasi, youth representative and intervened by different political powers including the power of money

Direct elections promised by law No. 32 Year 2004 amended by Act No. 23 of the year 2014 is rated as an opportunity of manifesting the new Indonesia more democratic, because thus we have the opportunity of applying the theory of "Community Agreement", which restores the principle of "popular sovereignty" as formulated in article 1 paragraph (2) a change to the 1945 constitution III "Sovereignty is in the hands of the people and is exercised according to the constitution". The pendulum of power changed from "the supremacy of parliament" to "rule of law". Thus, the legal implications of the actions of the Government of (President) is no longer dipetanggung responsibility to the Assembly but is done according to the Constitution 45. With this principle, the presidential system of Government reaffirm embraced our Constitution.

II. DISCUSSION

1. The election of the head of the Region on the basis of Act No. 5 of the year 1974

Various problems and political turmoil of the election of the head of the region in some time last appeared in conditions when the power Center of backflow into the area. Earlier, in the era of the new order by Act No. 5 of the year 1974, the regional head election controversy could not be released from the intervention (involvement and interference). Usually a battle of political

elite in Jakarta imposes to the area. When the issue exploded in the area, the business peyelesaian is the case was brought to Jakarta.

In accordance with implementation of national character, the Central Government has a dominant power in the determination of the head area. The involvement of parliament in only a formalistic nature process. This can be seen clearly in article 15 and 16 regarding the appointment of the head of the regional parliament, where only select and the results submitted at least two names for approval and/or assignment from President to Governor, and Minister of the Interior for the Regents and Mayors. Blessing of the Centre into all things, who has strong access to the Center, he will be the winner, either for political affairs, economy, law even though. Most votes no guarantee of legislative options becomes head of the region. The Center has the absolute power to determine otherwise sound though its support is low. The conflict often happens, but ended with the defeat of the region. It is indeed distressing fate of the area when it.

2. The election of the head of the Region on the basis of Act No. 22 of year 1999

But when the power in the selection process moved to the area (via the DPRD) under law No. 22 of the year 1999, it appears another escalation issue is much broader than occurred in the new order era, because in almost every election of the head of the regional berbuntut bad, flavorful money politics and protests.

Difficult to argue with, changes contained in Act No. 22 of year 1999 thus produces a wide range of issues in the election of the head of the region. Almost

all of the election process they would head the regional occurrence of practice money, though difficult proved, there are indications can be felt like a wind that blow with the scent smells delicious, but not known who lie. Even in different regions, regional head election abuses have fueled conflict between supporters of each candidate, as allegations of political money. Such practices are almost the same with the judicial mafia, from PN, PT, until MA, like the wind that feels the blow but invisible, in a sense very difficult proved.

The widespread practice of political money is a logical consequence of the model of indirect election by parliament. A. Alfian Malaranggeng exemplifies, with the number of members of the DPRD district/municipality between 20 s/d 45 persons or members of a Provincial 45-100 person, then it is not too difficult to engage in the practice of political money. By buying between 11-23 member of parliament district/city or between members of the Provincial 23-51 person can certainly win the election of the head of the region. Then the relationship with intimate in the prolonged honeymoon between the head region with legislators, like young couple's husband wife who are being hit by romance. In joked, Saldy Israr, says this moment is often said to be a member of local harvest indicating the cash game. Recently Ryan in three harvests, namely:

1. Mast, occur once in five years, the head of the election process is conducted in an area with abundant money results;
2. The annual harvest, carried out at a time when the process of assessment of the annual report of the head of the

region. Many criteria tilted around this annual report, for example happen bargaining behind the scenes to smooth the annual report of the Chief of the region; and

3. Harvesting the sidelines, i.e. the chance of doing that can occur at a time when talks some agendas in the region. There's a lot more going on in the preparation of several Local regulation conveniently located, for example, organization and arrangement of local regulation working procedure, etc., and giant projects that requires the involvement of legislative politics pean.

The development happens when it, revealing the return election prosses interventions in the head area. If at the time of the new order's intervention came from Sandalwood, then under law No. 22 of year 1999, intervenes comes from the DPP Party. The selection of the head region of Lampung, Jakarta, East Java, Central Java and Bali, is an example of the strengthening of the political party of the oligarchs rise indicator above.

In addition, the selection of the representative system, often produce the head area that is not popular and did not know the special characteristics typical of the region. Because the ability to lobby political power in parliament, many candidates that are not widely known in the community was chosen as head of the region. As a result, appeared widespread rejection against the head of the selected areas, even in certain areas, the community's disapproval boils down to vertical and horizontal violence.

The strong position of the DPRD, it

turns out that owned exploited by some Council members to obtain these momentary impressions appeared, kepermukaan, head of the region are under pressure so it must accept the will of parliament. legislative salary increases outside the boundaries of reasonableness, the members of parliament, the streets abroad formatted into a course of appeal in some regions may explain the impression.

Looking at it, the experience of election districts based power Center and the election of the head of the area-based system with regional representation has paint a real example to us that the system that has been used failed to create a democratic life. That is, the system of representative failed to prove to the US as a trustworthy system especially in choosing the head of the region. The location of faults, though it may still be debatable (debatable), system dikoptasi, youth representative and intervened by different political powers including the power of money (money politics).

3. The election of the head of the Region based on law No. 32 Year 2004

Bercerminkan the reason above, law No. 32 Year 2004 amended by Act No. 23 of the year 2014 in lieu of law No. 22 of year 1999 brings fresh wind direct elections as an option that is more democratic.

By many circles, direct elections promised by law No. 32 Year 2004 amended by Act No. 23 of the year 2014 is judged as a new opportunity of realizing Indonesia more democratic, because thus we have the opportunity of applying the theory of "Community Agreement", which restores the principle of "popular sovereignty" as formulated in article 1 paragraph (2) a change to the 1945 constitution III "Sovereignty is in the

hands of the people and is exercised according to the constitution". The pendulum of power changed from "the supremacy of parliament" to "rule of law". Thus, the legal implications of the actions of the Government of (President) is no longer responsibility to the assembly but is done according to the constitution 45. With this principle, the presidential system of Government reaffirms embraced our Constitution.

As the embodiment of the principle of the sovereignty of the people and the system presidential, then the President is no longer elected by the MPR but directly elected through elections (article 6A of the constitution ' 1945), consequently, the head of the region have democratically elected (article 18 paragraph (4) of the Constitution of 1945), then by law No. 32 Year 2004 amended by Act No. 23 of the year 2014 is selected with the use Overflowing (Art. 56 para 1).

In theory, the concept of direct elections will bear a model of Government that is representative, characterized by multiple traits:

1. have strong legitimacy, since it supported riel by society;
2. The policy favors the interests of the society as repressive and not responsive
3. have a clean government accountability and authority;
4. the Government is controlled by holding on to the principle of openness.
5. Government stability is assured in one period and can be sustained in the period of the next.

Democracy is rooted in the system of governance that is representative of this kind, according to Danial Saparringga, not

a democracy "piracy elites" as it is practiced in the new order Government with Act No. 5 of the year 1974, or the beginning of the reign of the reform era with law No. 22 of year 1999, namely a process but there are no results, there are activities but does not contain, like zombies, human skull, there are bodies but no lives, there is a body but does not work. That is democracy Zombies = elites hijack democracy. Democracy embraced in the reign of representative is "participatory democracy", which is characterized by the active role of the community in the decision-making process and in the implementation of the Government. In the Netherlands, an active role in this community is manifested in the form of "mewetten" (join the know), "medenken" (join thinking), "mespreken" (military duty), meebeslissen (join decided), and medebeslissingsrecht (keep an eye on in the implementation).

In 60-80s democracy was introduced by patriate Coral Patement and start the track in almost all modern countries up to now. This principle will give birth to a Government that is clean because it is supported by the principle of the openness of the Government (scrutiny procedures of the register, as well as openness & substantive).

This participatory democracy turns out later to have been adopted in 1945 Constitution change in several articles, which are then elaborated further in various legislation. Therefore, it follows the paradigm of democracy in Indonesia had changed both in the selection of the head of the region, as well as in each of the processes and implementation of governance, i.e. from "indirect democracy" (indirect democracy), changed to "direct democracy" (direct democracy), and is

now a "participatory democracy" (participative democracy).

This participatory democracy has formally guaranteed in the two stages of the implementation of the election, as provided for in the provisions of law No. 32 Year 2004 amended by Act No. 23 Of 2014 local governance. Two-stage implementation of the election is known, namely the preparation and implementation stage. time of preparation, participatory democracy-related, namely the establishment of a Committee of Trustees, PPS, PPK and KPPS. Its formation involves public participation (article 65 paragraph (1) of law No. 12 Year 2003). While the stages of implementation, all of which directly relate to the participation of the community, namely: the determination of the voters ' list, registration and determination of candidate KDH, campaigns, voting, and the determination of the regional head of candidate/Deputy Head of the area chosen, ratification, and the inauguration (article 65 paragraph (2) of ACT No. 12 Year 2003).

Other formal indicators that illustrate the adoption of democratic principles of participation have been mentioned is:

1. Recruitment of election organizers. both the selection Committee as well as the nomination of members of the organizers, involving elements of the community. The formation of the selection Committee requiring the involvement of elements of academic, professional, and community (article 12 paragraph (3) of law No. 22 of the year

2007). Even the selection team in carrying out its work, was ordered to be open and engaging public participation (article 13 of ACT No. 22 of year 2007).

2. Likewise, with *bawaslu* and *panwaslu*, membership recruitment, derived from the elements of a professional who comes from the citizens of the community. Even recruitment team member selection, also was required to involve public participation (article 88 paragraph (1) of law No. 22 of year 2007).
3. The Nomination of The Head of The Region. Although Article 59 paragraph (1), (2) and paragraph (3) of law No. 32 Year 2004 amended by law No. 23-year 2014 has been cancelled by the Constitutional Court, but this article is still valid until revision, then the political party or the combined political parties required the existence of opportunity open for individual prospective candidates and process them through Democracy and transparent mechanism (article paragraph (1) and paragraph (2) of ACT No. 32 of the year 2004). and
4. other provisions relating to the setting of public participation.

Indicators of participatory democracy this if it can be realized in the implementation stages of the election by the organizers of the election (Election

Commission, Election Commission District of the province, district/Kota, PPS, PPK & KPPS), Indonesia was able to prove himself as a democratic State of law guaranteeing the quality of the election properly, and to avoid a variety of resistance, political turmoil and other anarchist acts as a result of the holding of elections which deviate from the principle of direct, secret, public, free honest and fair (Overflowing and *jurdil*).

III. CONCLUSION

Regional head election controversy could not be released from the intervention Center. Usually a battle of political elite in Jakarta imposes to the area. When the issue exploded in the area, the business *peyelesaian* is the case was brought to Jakarta. in accordance with implementation of national character, the Central Government has a dominant power in the determination of the head area. The involvement of parliament in only a formalistic nature process. This can be seen clearly in article 15 and 16 regarding the appointment of the head of the regional parliament, where only select and the results submitted at least two names for approval and/or assignment from President to Governor, and Minister of the Interior for the Regents and Mayors. Blessing of the Centre into all things, who has strong access to the Center, he will be the winner, either for political affairs, economy, law even though. Most votes no guarantee of legislative options becomes head of the region. The Center has the absolute power to determine otherwise sound though its support is low. The conflict often happen, but ended with the defeat of the area in the new order era with Act No. 5 of the year 1974, the regional head election controversy could not be released from the intervention

(involvement and interference). Usually a battle of political elite in Jakarta imposes to the area. When the issue exploded in the area, the business penyelesaian is the case was brought to Jakarta.

A strong parliament utilized by some Council members to obtain these momentary impression appeared, kepermukaan, head of the region are under pressure so it must accept the will of parliament. legislative salary increases outside the boundaries of reasonableness, the members of parliament, the streets abroad formatted into a course of appeal in some regions may explain the impression.

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