

## Maintaining Direct Regional Head Elections, Solutions or Challenges?

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**Abstract:** *The discourse of simultaneous local elections in 2024 is still being debated by by-election and democracy observers. Based on Article 201 paragraph (8) of Law Number 10/2016 concerning the Election of Governors, Regents, and Mayors, simultaneous national voting for regional elections in all regions of Indonesia will be held in November 2024. This event, known as Pilkada, is being discussed by the government with the DPR and is nearing its end. One of the prominent debates is whether the Pilkada will be changed from where the Governor and the Regent/Mayor are elected directly through elections to where the Provincial DPRD elects the Governor. The Regent/Mayor is still elected through elections. Does the question arise whether the direct or indirect Pilkada is a solution or a challenge? Direct Pilkada means that the filling of regional head positions is carried out through a general election (election) or is elected directly by the people-voters. Indirect elections seem to mean that regional heads are elected not directly by the people's voters but by the Regional People's Representative Council (DPRD) or appointed (appointed) by officials above them. Does this paper examine whether the Pilkada, conducted directly or indirectly, is a solution to democracy in Indonesia, or is it a challenge?*

**Keywords:** *Regional Head Election, Direct, Governor, Regent, Mayor.*

### Introduction

Elections are a democratic feast that serves as the nation's and state's political basis in constructing a brighter future (Chaniago, 2016). Elections are also a critical medium for the proper development of all political machineries that guide the country and state to democracy and civilisation (Putra, 2019). Furthermore, elections are a critical evaluative momentum for a power regime in attaining the goals of an autonomous state. The process of conducting general elections, the significance of democratic

principles that have always developed, especially the issue of freedom, autonomy, equality, representation, and majority rule citizenship, cannot be divorced from the practice of democracy (Ibrahim, 2008). Our democracy has yet to realize the principles listed above; our democratic experience has resulted in just procedural democracy, meaning the ritual of elections every five years to choose leaders, despite the fact that democracy is more than simply elections (Wahyudi, 2009).

In Indonesia, the regional head election (pilkada) is a direct mandate of

the 1998 reform movement. Given the requirement for robust community engagement in the choice of its leader, the regional head election is the most important democratic movement in the life of the Indonesian nation and state (Suyatno, 2016). Regional elections are intended not only to fulfill the desire to replace the old mechanism for selecting leaders and representatives of the people in an authoritarian style, but also to achieve a philosophically sustainable implementation of democratic values, namely developing participation and responsiveness, as well as overall accountability (Aziz, 2016).

The direct election of regional heads and deputy regional leaders (pilkada) is a critical and strategic tool in the development of a democratic regional administration. Direct elections enable people/voters to democratically elect regional leaders and deputy regional heads (governors and deputy governors, as well as regents and deputy regents/mayors and deputy mayors) (Respationo, 2013). Pilkada has been used as a method for the direct election of regional heads and deputy regional heads by the people in the regions since Regional Government Law Number 32 of 2004. (Junaidi, 2016).

Pilkada is part of the process of developing and expanding democracy, which ensures people's political rights (Nazriyah, 2016). The establishment of direct post-conflict municipal elections responds to the wishes of the people. Elections held directly increase political engagement. The return of the

gubernatorial election to the DPRD destroys political participation, but direct post-conflict local elections improve regional chiefs' credibility (Nugraha, 2017). The DPRD's election of regional leaders transforms democracy into an oligarchic system (a small group of elites substitutes people's voices). The DPRD elects regional leaders in favor of the party that wins the parliamentary election, making it harder for medium-sized parties to become regional chiefs (Hakim, 2018). The government should not modify the direct election system but instead consider ways to reduce election expenses by holding simultaneous elections. Money politics may be lessened if the government develops restrictions or severe norms, as well as punishments for those who break the law (Insiyah et al., 2019). Similarly, the severity of pilkada confrontations tends to decline from year to year. Direct elections must be preserved, and all flaws and deficiencies must be addressed; reverting regional head elections to the DPRD is a democratic loss (Legowo, 2005).

The main indicator of democracy is the holding of free and honest elections. Indonesia has held three national elections, namely in 1999 to elect members of the DPR (Ma'riyah, 2012). Second, the 2004 election held elections for DPR, Provincial DPRD, and Regency/City DPRD, and for the first time in Indonesian political history, elected the Regional Representatives Council (DPD) (Widianingsih, 2017).

Exper So far, Indonesian experience has shown five approaches for filling regional leadership roles. Regional

leaders are indirectly chosen in the first model, although they are merely appointed by authorities above them. This is common in non-autonomous administrative areas. The Governor of DKI Jakarta chose the mayor of Jakarta (see Article 19 of Law No. 29 of 2007 concerning the Provincial Government of the Special Capital Region of Jakarta) (Winarni, 2014).

Regional leaders are chosen indirectly in phases under the second approach (see Article 15 of Law No. 5 of 1974 concerning Regional Government). The DPRD picks numerous candidates for regional leaders using this strategy. They are then given to government authorities higher up for election as regional chiefs (the Minister of Home Affairs elects the Regent/Mayor, and the President elects the Governor) (Hasibuan, 2020).

Regional leaders are chosen indirectly under the third model (see Article 34 of Law No. 22 of 1999 concerning Regional Government). The regional leader is chosen by the DPRD under this approach. The DPRD determines the regional head in the fourth model. The Pilkada of the Governor of the Special Region of Yogyakarta (DIY) in this model is carried out through "determination" by the DPRD and ratification by the president (see Article 17 paragraph (2) letter a and Article 24 paragraphs (3, 4, 5) of Law No. 13 of 2012 concerning the Privileges of the Special Region of Yogyakarta) (Rifayani et al., 2013).

Regional heads are directly elected by the people-voters through elections in

the fifth model (see Article 24 paragraph (5) and Article 56 of Law No. 32 of 2004 concerning Regional Government in conjunction with Law No. 12 of 2008 concerning Amendments to Law No. 32 of 2004 in conjunction with Article 1 point 4 of Law No. 15 of 2011 concerning Election Organizers). In this approach, a political party or coalition of political parties that meets the qualifications proposes pairs of regional head and deputy head candidates, as well as individual candidates. Furthermore, pairs of candidates who satisfy the conditions to compete in elections will be chosen directly by the voters (Chaniago, 2016).

### **Method**

The findings of scientific studies are documented using qualitative techniques, namely data and information gathered by inspection and analysis of data and secondary data, either in the form of papers, associated laws and regulations, reports, and so on. The study findings were described in detail. The qualitative research methodology is a set of research and interpretation techniques that focus on examining psychological variables and human issues. The researcher builds a dynamic vision, examines terminology, delivers a full report on the respondents' perspectives, and performs a study on a realistic circumstance in this analysis. Natural circumstances and natural exploration were studied qualitatively (Somantri, 2005). The primary instrument of qualitative analysis is the analyst. To make the item under study more transparent, researchers must also have

broad theoretical and informational provisions to ask questions, investigate, and develop it. This study focuses mostly on the importance and relevance of value (Gunawan, 2013).

Qualitative descriptive research is often used to examine events, occurrences, or social situations. One kind of study is descriptive analysis, which seeks to present a full picture of the social environment or to examine and clarify social occurrences or realities (Arikunto, 2010). This is accomplished by specifying several variables pertaining to the issue and the unit under investigation between the assessed occurrences. Descriptive research seeks to create an accurate image of a group, describe a process or structure of a connection, provide a full picture in both verbal and numerical form, provide particular facts about a relationship, establish a set of categories, and identify individuals as research subjects. (Nazir, 1988).

## **Result And Discussion**

### **The Decline of Democracy in Indonesia**

Exciting information coming from the government. When enacting Law No. 32 of 2004 concerning Regional Government and since then the drumming, direct elections since June 2005, in the context of strengthening the legitimacy of the people, are the embodiment of popular sovereignty. This means that the direct election of the government started, and the government also wanted to end the direct election when there was a discourse on returning the governor election to the Provincial DPRD. Our government is still

confused about implementing the most appropriate electoral system for a democracy with a large population like Indonesia.

The direct Pilkada indicates that it has not yet produced an ideal Regional Head result; in this case, it is suspected that several Regional Heads have stumbled upon a corruption law case. This can happen because the democratic process in the Pilkada begins with various interests between the regional head candidate and his political party on the one hand and between the regional head candidate and his voters on the other. This condition implies that direct pilkada costs are quite expensive. With a fairly large number of political parties and the lack of awareness of voters making choices based on conscience, it is unavoidable that the regional head elections always bring up money politics or tool trading in politics, which will lead to leaders who think aji while they are. Such conditions always occur in direct regional head elections (Insiyah et al., 2019).

In reality, the DPRD's election of regional leaders seems to be exploited for money politics. At the time, the DPRD's procedure of appointing regional leaders was employed for purchasing and selling posts in the DPRD. Because the community no longer trusts official institutions to reflect the people's views, the group suggests holding direct elections for regional heads. This is one of the motivations for Regional Government Law Number 32 of 2004, which mandates that regional head elections be held directly by

the community (Sulardi & Sulistyarningsih, 2017).

However, a clause in Article 56, paragraph (2) requires that a regional head candidate be recommended by a political party or a coalition of political parties. This condition, according to the community, does not completely support the choice of a truly independent regional head free of political concerns. As a result, Law No. 12 of 2008 about Amendments to Law No. 32 of 2004 Concerning Regional Government was enacted. Regional leaders who vie for nomination under this rule are not required to join or join a political party initially. Individual candidates are permitted to register but only if they acquire a specific quantity of support (Isa, 2009).

The election of governors as regional heads by the people (direct elections) shifts the discourse of returning to regional head elections (governors) to be elected by the Provincial DPRD, which is a form of the dark history of the journey of democracy in Indonesia. This means that the return of the gubernatorial election to the Provincial DPRD, which was previously directly elected by the people, is often called "democratic decline." The gubernatorial election proposed by the Ministry of Home Affairs was changed from a direct election to an election by the DPRD. According to the Director General of Regional Autonomy at the Ministry of Home Affairs, Djohermansyah Djohan, this change in mechanism is due to the high cost of elections, even though the Governor's authority is limited. Who

supported him with the argument that the DPRD should choose the Governor?

First is the high cost of administration that burdens the APBD. Second, the abuse of authority by the incumbent candidate led to a legal case. The third is the dual role of the Governor, because the Governor has two roles: a representative of the central government and a regional head. Fourth, not achieving the process and objectives of good political education for the community. Fifth, the direct election has damaged the morals and morals of the community. Sixth, the honeymoon between governors and deputy governors who are directly elected will only last for a moment; each will take steps to participate in the next pilkada. Another argument is that the Governor must return to the Provincial DPRD because the nomination mechanism is less transparent, undemocratic, and sometimes becomes a monopoly tool for political parties. In addition to the lack of community control in the election process, the community is sometimes only used as a mobilizing force. Direct local elections are expected to minimize money politics (Pardede, 2018).

However, the reality is that the direct pilkada expands and fosters this dirty practice in all areas where the organizers of the direct pilkada were previously silent about it. The return of the gubernatorial election to the Provincial DPRD indicates an inconsistency—which is not sticking to the established principles and system. If this attitude is continued, it will not be good for the development of democracy and our political system in the

future. Whether we realize it or not, the return of the gubernatorial election to the DPRD, which in this case is supported by the Minister of Home Affairs, Gamawan Fauzi, is a form of setback for democracy in this country.

### **History of the Establishment of the Constitution**

Following the modifications to the Constitution, elections for members of representative institutions and government leaders, dispute settlement on election results, and election management institutions were established. The regulation, however, introduces new issues in the realm of state administration, particularly the procedures for choosing members of the DPR, DPD, President and Vice President, and DPRD who are chosen via elections (Article 22E paragraph 2), as well as Governors, Regents, and Mayors (Regional Heads). democratically chosen (Article 18, paragraph 4).

Why are the words "elected via elections" and "democratically elected" used interchangeably? Is the Regional Head Election (Pilkada) part of the general election in a democratic sense? Pilkada is a material election activity under Legislation No. 32 of 2004 concerning Regional Government since the processes and procedures for adopting elections are as stipulated in the election law (at that time, Law No. 12 of 2003 concerning General Elections and Law No. 23 of 2003 concerning Presidential Elections). Nonetheless, according to Law No. 32 of 2004, the Pilkada is not an election as

defined in the 1945 Constitution's institutionalization of elections because it incorporates the Regional Head Election into government activities by delegating its implementation to the Regional General Election Commission (KPUD) without the involvement or participation of the KPU. At the same time, KPUD is a vertical line of KPU. With this arrangement, Pilkada is not included in the category of a general election because it is not held by the KPU, which has a national character as referred to in the 1945 Constitution. However, the procedures and mechanisms for the legislative and presidential elections remain unchanged. As a result of overlapping arrangements like this, the Pilkada regulation in Law No. 32 of 2004 did not have a national election standard. Subsequently, it failed to institutionalize the electoral system as referred to in the 1945 Constitution. This complication was resolved by the Constitutional Court's decision, which no longer placed the KPUD responsible to the DPRD, and Law No. 22 of 2007 concerning Election Organizers (now changed to Law No. 15 of 2011 concerning Election Organizers), which places the Pilkada as part of the General Election.

The Regional Head General Election is now beset by numerous forms of inefficiency, financial waste, and conflict. The conversation discourse evolved as governors were re-elected by the DPRD but regents/mayors continued to be chosen. The phrase "democratically elected" may be interpreted in a variety of ways. There is what is known as legal interpretation in the study of legislation

and constitutional law; if the language of regulation gives birth to different interpretations, then legal interpretation, including grammatical, systemic, and historical interpretations, may be carried out (Aminullah, 2018).

From a linguistic standpoint, the phrase "democracy" confounds what mechanism is used. Democracy is just a procedure, but who picks it is a problem—systemic interpretation with construction logic, such as its principles and conformity with other arrangements. Why is it written in the same article and revisions in the same year that DPRDs are chosen through elections but regional leaders are elected democratically? Meanwhile, in the next amendment, the president is chosen directly. Election consistency should be ensured in the electoral institutionalization system. As a result, regional leaders should be elected directly from the ground up. It was not immediately formed to be elected by direct elections at the time since it was unknown if the president would be directly chosen. It also provided flexibility since regional chiefs were not chosen in accordance with the unique legislation, namely Yogyakarta. From a historical standpoint, namely the history of the formulation or creation of the provisions, the ministerial minutes reveal the goal of democratic formation. The historical view of democratic elections shows that the election is nothing more than a directly elected official. The election is to elect the President, DPR, DPD, and DPRD, according to the third amendment that formulates Article 22E. Article 18 (4) provisions,

which constitute democratically elected, are left until the conclusion of the fourth amendment.

### **Money Politics in Direct Pilkada**

Most of our pessimism about the future of democracy rests on this: democracy has become flawed, and its future is bleak. Systems, structures, mechanisms, and procedures may have undergone much progress once we have continued to improve the system. If we look closely, Indonesia has experienced significant democratic progress compared to the Suharto regime, and it is said that our democracy has surpassed the United States.

According to Azhari (2012), the implementation of direct local elections in 2004 in practice still leaves many problems, including the rise of seat buying by regional head candidates because of access to the regional head candidate recruitment mechanism, which political parties still dominate. Candidates who will advance through the doors of political parties tend to become money-making tool, where the party will ask the candidate to prepare funds that will be used in the nomination process until the campaign. <sup>24</sup> However, we did not agree because of the high cost of the pilkada and then thought about returning to and even abolishing the direct pilkada. Not to mention the weak commitment and capacity of election management institutions such as the KPU and Panwaslu, the absence of this commitment causes the implementation of the regional head election to be vulnerable to temptations

from both regional head candidates and political parties, which will eventually eliminate the neutrality of election organizers. The purchase of votes (vote buying) by candidates for regional heads arises because of "weak supervision and law enforcement," plus the weak rules governing the incumbent in the regional head elections will also make it easier for vote buying. Examples of cases such as the rampant misuse of the APBD, especially in the social assistance budget post. Money politics occurred because of the weak implementation of Election Law No. 32 of 2004 and Government Regulation No. 6 of 2005; some gaps and opportunities were given, so money politics became more flexible in direct elections to win in direct elections. The weakness of regional election regulations so far is in monitoring campaign funds, which are vulnerable to money politics.

### **Criticism and Evaluation**

When the gubernatorial election is returned to the Provincial DPRD, complications in the electoral system and other problems will arise. First, it is feared that the governor will only come from the party that wins the legislative election; as a result, it is difficult for the middle party to become governor. The return of the gubernatorial election to the provincial DPRD could shift the democratic system to an oligarchic system, which reduces the instrument of democratic values because people's voices are replaced by a handful of elites (oligarchy).

According to David Held, if the election for Governor by the DPRD is

carried out, the representative democratic system will place more power to determine political recruitment in the hands of a few people in the DPRD (oligarchs). At the same time, the direct election of regional heads breaks the oligarchic chain, democratizing politics in the DPRD. Apart from the various advantages and disadvantages (positive and negative implications) of the direct election process, there are fundamental changes and several technical problems that, over time, if they continue to be improved continuously, will lead to the increasing quality of the direct election process as a whole, not thinking short, short and instantaneously returning the governor election to the Provincial DPRD as if the pilkada problem was over.

The reasons for direct local elections are; (1) The implementation of direct pilkada is an answer to the demands of the people's aspirations; (2) Direct Pilkada provides a great opportunity for regular exchange of local elites; (3) Direct Pilkada as a means of political education; (4) direct elections to strengthen regional autonomy; (5) Direct Pilkada strengthens political participation; (6) Pilkada directly brings regional heads closer to their people; (7) Pilkada directly strengthens the legitimacy of regional heads. The reasons for returning regional head elections to DPRD are; (1) The high cost of direct elections; (2) Direct Pilkada tends to be abused by incumbent candidates; (3) The good time between the Governor and deputy Governor who are directly elected will only last for a moment; (4) Pilkada directly fosters the practice of money



politics; (5) Pilkada maps the community into certain social groups that lead to social conflicts and conflicts of interest (interest conflicts).

### Conclusion

Democracy and the political establishment require a process, whatever the weaknesses contained in direct elections, which need to be our joint note that democracy is not an instant process like when we eat fast food. Direct regional head elections have clear rules of the game; with direct governor elections, governors elected from the people's vote will certainly be more responsive and sensitive to people's aspirations. The direct election of governors will strengthen the legitimacy of the elected governor. The return of the Governor to the Provincial DPRD will indirectly reduce the legitimacy of the Governor. The chance of impeachment in the middle of the road against the incumbent Governor has great potential.

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