

Direct Regional Head Election in Pancasila Democracy Perspective

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Abstract

The purpose of this study is to find and analyze the suitability of filling in the position of Regional Head with a direct election system (direct local election) with the essence of Pancasila Democracy and finding and analyzing the concept of the system of filling in the ideal Regional Head position in the future. This research is a normative legal research, that is research that puts the law as a norm system, namely regarding the principles, norms of legislation, agreements and doctrines (teachings). The problem approach used in research uses several approaches, namely the approach of legislation (statute approach), problem approach (conceptual approach), historical approach and philosophical approach. The results of the study showed that the system of direct Regional Head Election hasn't been appropriate with the essence of Pancasila Democracy. The essence of Pancasila democracy is democracy that is based on the values or the joints of Pancasila, especially the 4th principle of Pancasila, which is formulated as "Democracy led by the wisdom of deliberations among representatives". In addition, the results of the study indicated that the application of solutions related to the election of Regional Heads at both the provincial and district levels so that at the provincial level elections could use the Regional People's Representative Council (DPRD) as representatives of regional head elections while at the district level could use elections directly through the people.

Keywords: DPRD, Election of Regional Head, Democracy

1. Introduction

The direct election system of Regional Heads has weaknesses, among others: first, the funds needed are very large. Direct Regional Head Election requires a very large fund or budget for operational, logistical and security needs. The amount of costs that must be prepared in the implementation of the Direct Regional Election is not only a burden that must be borne by the Regional Head candidates but also must be borne by the regional government. The amount of the costs in this Direct Regional Election will be even greater when the election of the Regional Head must be carried out in 2 (two) rounds.

Direct Regional Head Election in the era of political liberalization with the power of the dominant political parties, it is very possible that they who can compete there are they have strong economic capital and politic. Stakeholders who are close to political parties or wealthy incumbents are the most likely to get the opportunity to enter the candidacy market in the Regional Head Election. On the basis of the financial capacity and strength of this economic capital, those who can enter the regional leadership market are not competent figures who have good capabilities but only those who belong to the group of rich people or have strong financial abilities.

Second, opening up the possibility of conflict between the elite and the masses. Direct Regional Head Election opens up the potential for conflict, both elite conflict and masses conflict horizontally. This conflict is more likely to occur in paternalistic and primordial societies, where leaders can mobilize their supporters.

Third, people's activities are disrupted. Direct elections will be preoccupied with the activities of candidates and supporting political parties to campaign and spread political issues to the middle of community with the intention of influencing people's choices. Therefore, in the implementation of the Direct Regional Head Election has caused a disruption to the routine activities of the community and will also be preoccupied with activities related to the implementation of the Regional Head elections.

The intended general election is the general election of members of the House of Representatives (DPR), members of the Regional Representative Council (DPD), members of the Regional People's Representative Council (DPRD) and the general election of the President and Vice President as stipulated in Article 22 E of Indonesia Constitution in 1945. Authority of the Constitutional Court in deciding General Election Results Disputes (hereinafter referred to as PHPU) covers the three types of Election. However, the scope of understanding of the general election as referred to in Article 22 E has changed with the passing of the general election implementation law which in its development, the Election of Regional Head and Deputy Regional Heads was declared as part of the general election regime. The change in the Regional Head Election from the regional government regime to the General Election regime was then ratified in Law Number 12 in 2008 concerning the Second Amendment to Law Number 32 in 2004 concerning Regional Government. The concept

of democracy in several regions in Indonesia cannot be equated, given the heterogeneity of the Indonesian population. Javanese population can be categorized as homogeneous. Uniformity in the form of elections can be done. In the western region of Indonesia which consists of various ethnic groups, ranging from Tamil, Chinese, Batak, Malay, Acehnese, Arabic and others, of course the composition of the culture of the people is different.

In its journey, Seemingly Direct Regional Head Election raises the dualism of power in the regions, one side, DPRD as representative institutions and Regional Heads as representatives and leaders. It has been described above if the Presidential system cannot be applied in regions, especially in the frame of a unitary state. Because there is enough central government that has a government system, the regions only carry out the principle of decentralization in the regions. Related to this, the General Director of Regional Autonomy (Otoda), Djohermasnyah, once revealed that the choice of Regional Head directly by the community caused many problems. According to him, the government became ineffective due to lack of coordination between the Governor, the Regent and the Mayor. Some other problems related to Direct Regional Head Election are less democratic and cannot even be categorized as the people's voters. Defamation of the sovereignty of the people occurred. This can be seen from the number of voters in the regional head election.

The concept of re-election of Regional Heads to DPRD is recognized as still experiencing weaknesses, but Direct Regional Head Election actually creates new problems and corruption as well as buying and selling votes. And of course increasing the intensity of the regional election dispute lawsuit at the Constitutional Court. The mechanism of regional head elections by DPRD can also reduce the number of abstentions because the election of Regional Heads is elected by DPRD members. Then it prevents money politics among the people, money practices and black campaigns occur. Even though the Direct Regional Head Election has been rolling out the money politics, the bigger the play starts from buying the support of the supporting parties until it is clearly nominated from the party. Financially, Regional Head Elections by DPRD can reduce the cost of a large campaign to minimize unclear funds including funds from third parties that often ensnare the Regional Head in case of violation of law.

Other considerations, namely in several regions in Indonesia based on Law Number 8 in 2015 concerning the Election of Governors, Regents and Mayors in article 109 paragraph 1 states that the candidates for the Governor and candidates for the Deputy Governor who get the most votes are determined as elected pairs of candidates for Governor and Deputy candidates governor. The provisions of Article 109 only apply to 4 (four) Provinces.

Regardless of the used electoral system in filling in the position of Regional Head, However it should be noted that the founders of the country have committed that the democracy adopted by Indonesia is the Pancasila Democracy. The Pancasila Democracy Issue as a constitutional concept that has various interpretations in order to find the most suitable articulation of the meaning with the Regional Head Election system would be a necessity that must be pursued.

2. The system of Direct Regional Head Election

The term/terminology "Pancasila Democracy" is felt to be no stranger to the Indonesian people. The term Pancasila Democracy was known after the struggle of the Indonesian people to achieve independence on August 17, 1945. The term of Pancasila Democracy can be given meaning as a democracy based on Pancasila. As is known that Pancasila is the basis of the Unitary State of the Republic of Indonesia. Pancasila democracy is a democracy based on the values contained in philosophy as the ideology of the Indonesian nation. In connection with that, the essence of Pancasila Democracy is a democracy based on the values of Pancasila inspired by the noble values of the Indonesian people as the noble cultural heritage of the Indonesian people.

Pancasila democracy is an idea adopted by the founders of the country as the foundation of the life of society, the nation and the Unitary State of the Republic of Indonesia. Pancasila Democracy is a concept of democracy whose essence is deliberation to reach consensus by promoting the principle of family / deliberation and representation as the main characteristic of Pancasila Democracy reflected in the 4th principle of Pancasila namely "Democracy led by the wisdom of deliberations among representatives". Pancasila democracy is actually an embodiment of the value of the 4th principle of Pancasila whose emphasis is on representation and deliberation.

The concept of Pancasila Democracy has the primacy of the characteristics that distinguish it from other concepts of democracy, namely kinship which is reflected in deliberations for consensus and representation. Referring to the essence of the 4th principle of Pancasila, it can be said that the democratic system of Pancasila which becomes the role model of the Indonesian nation is democracy of representative. This means that people's participation in voting as a form of participation in decision-making related to involvement in government does not have to be done directly, but can be channeled through its representatives who sit in parliament. Even in decision making in Pancasila Democracy as much as possible is based on deliberations to reach consensus.

Pancasila democracy has basic principles that consist of a constitutional system, namely existence of protection of human rights, decision making on the basis of deliberation, an independent judiciary, existence of

political parties that channel people's aspirations, existence of general elections, sovereignty in the hands of the people, balance of rights and obligations as well as the implementation of freedom that is responsible for God Almighty, individuals and society. Pancasila democracy is expected to be able to function as a guarantor of the participation of the people in the life of the state, guaranteeing the upholding of the Republic of Indonesia, guaranteeing a constitutional system, guaranteeing laws originating from Pancasila, ensuring relations in harmony, compatible and balance among state institutions as well as ensuring responsible government.

The direct implementation of Regional Head Elections is one manifestation of the instrument of democracy in order to create a more democratic government. Based on this system, then it causes various impacts on the community in the system of government. It is believed that it cannot be realized as a whole, considering that the democratic system is a direct order mandated by the 1945 Constitution of the Republic of Indonesia, but there are other legal approaches that can be attributed to Regulations Number 32 in 2004 concerning Regional Government, Regulations Number 8 of 2015 concerning Election of Regional Heads, Election of Governors, Regents and Mayors and Government Regulation Number 6 in 2005 concerning Elections, Ratification of Appointment and Dismissal of Regional Heads and Deputy Regional Heads.

The concept of re-election of Regional Heads to DPRD is recognized as still experiencing weakness, but Direct Regional Head Election actually creates new problems and corruption as well as buying and selling votes. And of course increasing the intensity of the regional election dispute in the Constitutional Court. The mechanism of Regional Head Election by DPRD can also reduce the number of abstentions, because the election of Regional Heads is elected by DPRD members. Then it prevents money politics in the community, since the Direct Regional Head Election has rolled out, it has occurred a lot of money practices and black campaigns. Even though the Direct Regional Head Election has been rolling out but money politics become so big to play the role, from buying the support of supporting parties to being clearly nominated from the party. Regional Head election by DPRD can reduce costs of large campaign so as to minimize unclear funds, including funds from third parties which often ensnare Regional Heads in cases of violation of law.

The overall pattern of the various explanations and analysis above that returns to the meaning of consultations, in this case shows that the system of election or implementation of democracy, especially in the election of Regional Heads can be discussed directly by the people or through representatives, the basis of this meaning is that deliberations seek a unanimous decision, and after that joint action is taken, consensus results, it means that the decision is taken by mutual agreement. The determinant of democracy based on Pancasila is consensus as a result of wisdom, obtaining the best results in community life, therefore the result of policy is a value that is placed first, the process of taking word of consensus can be represented or followed directly by the concerned community elements. The meaning of representation is giving authority to individuals who are believed to be able to convey the opinions of the represented parties in the deliberation process. This is related to the implementation of the Regional Head Election, the role of the DPRD is considered sufficient in representing the people, especially the regional people. Implementation solution related to the Regional Head Elections both of the provincial and district levels, then at the provincial level elections can use the DPRD as representatives of regional head elections while at the district level can use elections directly through the people because the roles of governors and regents are different, namely the governor is as interests conveyor of the center government while the Bupati has a role to increase local roles in their respective regions after the direction from the Governor.

3. Conclusion

The system of Direct Regional Head Election is not suitable with the essence of Pancasila Democracy. Because the essence of Pancasila democracy is a democracy based on the values or the joints of the Pancasila, specifically the 4th principle of Pancasila, which is formulated "Democracy led by the wisdom of deliberations among representatives". If referring to the formulation of the 4th principle of Pancasila, so the Direct Regional Head Election system does not have the same suitability with Pancasila Democracy. The meaning of the word deliberation means conference, then the election of the Regional Head must be based on deliberation to reach a consensus by the DPRD as people's representatives.

Implementation solution related to regional head elections at the provincial and district levels, then at the provincial level elections can use the DPRD as representatives of regional head elections while at the district level can use elections directly through the people because the roles of governors and regents are different, namely the Governor is as conveyor interests of center government while the Regent has a role to increase local roles in every respective regions after the direction of the Governor.

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