



**ORIGINAL RESEARCH PAPER**

Law

**REGIONAL ELECTION POLICY: REFLECTION TOWARD CONDITIONS OF LEGAL POLICY IN INDONESIA**

**KEY WORDS:**

Regional Elections, Reflection, Politics, Law.

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**ABSTRACT**

The Direct election of the head region is the result of a legal political process since Indonesia's independence, local elections begins after the introduction of Law No. 32/2004 on Regional Government, which voted by the people, where the word "democratic" in Article 18 paragraph (4) Constitution of 1945, interpreted as a direct election. Law No. 23/2014 determined Regional Government select through the DPRD (Regional Representatives Council). However, Before enacted this law was getting rejections in the community. hence, President issued a decree (Government Regulation in Law) No. 1/2014 on the Election of Governors, Regents, and Mayors. So the local elections in Indonesia implemented directly by the people. Such conditions are a reflection of the politics of law in Indonesia related to the elections. This study uses a normative approach, namely the existence of Government Regulation No. 1/2014, also related to the sociological study of the pros and cons of direct local elections in the House of Representatives and the exclusion of the community towards the adoption of Act No. 23/2014 on regional governments.

**INTRODUCTION**

After the reform government from New Order to Reform Order, governance in Indonesia has developed so rapidly, from authoritarian to a democratic, including in local governance from centralization to decentralization where the area should be given an expanded role in regulating their own region, which also includes the local elections. Local elections in Indonesia adapted to socio-political masala is happening in Indonesia, from the days of the Old Order, New Order and Reform Order which every age or order of government are not the same in conducting the local elections depend on the political law in the ruling government.

During old order period, the local elections held in accordance with the conditions at that time were based on the provisions of legislation made at the time in which the political and social conditions Indonesia is still unstable. The local elections conducted through the appointment and proposals made ole Regional Representatives Council. Such things can be seen in the legislation in force at the Old Order concerning local government, namely Law No. 1/1945, Law No. 22/1948, Law No. 1/1957 and Law No. 18/1965.

In the period before the Reform Order, the local elections conducted through representation in Parliament, where the arrangements set forth in Law No. 22/2004 on Regional Government, this legislation is very large role of local government, including the role of Parliament determining the local elections. Parliament has greater authority than the head area including the regional head office to dismiss, this sort of thing that makes the head area is not the focus of thinking about the welfare of the people because it is haunted by the power of Parliament was so great that at times can drop the head region.

**RESEARCH METHODOLOGY**

The method of this research method is based on normative analysis of juridical Law No. 23/2014 on Regional Government and the decree No. 1/2014 on the Direct Regional Election. The writer wanted to know in depth study of the normative and sociological studies about the background to pass the regulation was issued and whether there is a connection with the rejection of the public or other political interests behind the release of the decree.

**RESULTS AND DISCUSSION**

**A. Law Enforcement of Regional Elections in Indonesia**

Regional Direct elections basically appears a process more than a strong desire to improve the quality of democracy in the areas that are being started. Local elections expected to give credible leaders whose supported by the people. Direct local elections are also expected to become an instrument of change of political leadership, where people can perform the best in the area.

The views are patterned functionally departs from the assumption that when there is an improvement in the quality of democracy at the national level. According to Mawhood (1983) and Chandler (1993), local governments have the potential to realize democratization because of the decentralization process requires the level of responsiveness, representation and greater accountability. In relation to the elections at the local level, the realization of democratic regional government represents the ideals of all nations, including Indonesia. But these efforts have not come across a question of details about a universal yardstick to judge whether a local government can be categorized as a democratic government or not. The existence of local government as a consequence espoused the concept of democracy so that the government formed a government that sovereignty of the people.

**B. Evaluation of Direct election After Applicable in 2004**

After going for approximately 14 years, the local elections are directly questioned by many people even from the side of democracy, direct elections better reflect the aspirations of the people of the representative democracy. According Djohermansyah (<http://www.ditjen-otoda.depdagri.go.id/>) direct elections of regional heads are actually intended to deepen democracy in Indonesia. But the experience has been precisely a lot of negative impact in democratic life. In practice, the direct election has fostered practices of money politics, of the form of dowry for parties directly, copying expenses to support individual candidates, the cost of organizing the election and the costs of caring for the constituents, to the politicization of the bureaucracy.

The result of the election was not very satisfactory. For 753 pairs from the regional head who was elected from 2005 until the end of 2011, there are 18.2% involved in legal problems, either as a witness, the accused or convicted. Seeing the way the election is increasingly erratic, in order that the morals of society are not getting damaged, it is urgent to fix it. If we're late, it is feared Indonesia will be awarded as the country with the head/deputy head of the regional and local public officials most caught in legal problems in the world.

**C. Parliamentary Process on the Regional Direct Election**

Enforcement of Election by the people who had been in effect for 12 years to a test in the political arena of Parliament, in place of intense debate is going on between the pros and cons of direct Election ole people. The members of Parliament from various factions there is a debate on the draft law on local government, where the legislation contains legal provisions concerning the elections.

Actual pros and cons of direct local elections a natural thing in a country which embraces democracy where dissent is one of the elements of democracy, the problem is not a direct election or representative but the problem of the usefulness to the country of

Indonesia. Direct elections or representatives are also equally reflecting democracy and also justified by the constitution. According to the author, the more democratic direct elections, since the direct election of the people included in determining the leader, this affects people take responsibility for the outcome of governance by an elected leader. If the governance of a leader elected by the people cannot take a prosperous community that the head area is not fully included to blame, people also guilty of choosing the leader of the people.

The end of the debate the pros and cons in the House of Representatives ended with the passing of Law No. 22/2014 on the Election of governors, regents/mayors. Through this legislation governors, regents/mayors are elected through parliament, and also law No. 23/2014 on Regional Government which is authorized election by parliament. Not long occurred some controversy in the community towards local elections representative and any further action on their public rejection of the then President SBY issued Government Regulation in Law (decree) No. 1/2014 on the Election of governors, regents/mayors directly, Which was followed by the enactment of Law No. 2/2015 concerning decree on Law No. 23/2014 on Regional Government. Thus the local elections in Indonesia returned directly by the people in accordance with the spirit of democracy in Indonesia where the people directly participate in selecting leaders at regional and national scale Indonesia.

#### **D. Regional Direct Election Is a Reflection of Indonesian Political Law.**

Regional Direct elections in Indonesia passes long process in accordance with the political dynamics that occur in the community, since the Old Order, New Order, and the Reformation. The local election is one of the leaders of political activities to choose the local level that is expected to bring changes to the local people's welfare better direction. Therefore the local elections play an important role in choosing a leader who coveted the community that is expected to bring a change in conditions better welfare, in addition to the local election is an opportunity to strengthen democratic local level which in a democratic society must be transparent in determining its leaders so open society can assess potential leaders are given the confidence to lead the region the next five years.

Political law local elections in Indonesia, according to the political conditions in the country, it is reflected in various forms of legislation concerning local government began to Indonesia's independence until today, this is one proof that the local elections cannot be separated from political conditions domestic. Before 2005 the local elections are always done through the appointment by the central government although the process through election by the parliament, but decisive and lifting is the central government, which is in line with the political conditions at the time where there is a central government authority to regulate the operation of state centralization that unity and national unity can be maintained.

After a journey of reform and changes to the Constitution of 1945, political law regarding the local elections following the conditions and the current situation in which the beginning of the reform is still through representation by the parliament, where the role of Parliament is very strong and dominant that result occurs oligarchic political members of Parliament, so that the head the area forced to follow parliament which theoretically less good governance in the administration of the government because there is no balance of power.

Mahfud (2014), states that the issuance of Government Regulation No. 1/2014 by the president has raised the pros and cons are pretty loud. For those who support the election to pass the regulation is regarded as the right to make room for the aspirations of the people who are generally "considered" willed into the direct election. But for those who refuse to pass the regulation of direct elections is considered unilateral actions which do not reflect the aspirations of the people for the people's

aspirations had been accommodated in the House and has been set forth in the Bill, which later became Act No. 22/2014 through the procedures for drafting legislation.

#### **CONCLUSION**

Local elections directly in Indonesia is a reflection or a picture of the political situation the law on local elections in Indonesia, which before the reform of the local elections is always carried out using a system of representation or appointment, but after the elections directly runs 12 years since 2004, efforts to restore again to the representation election by parliament by Law No. 22/2014 regarding the Election of governors, regents and mayors being rejected by the public so issued decree No. 1/2014 regarding the Election of governors, regents, and mayors directly.

#### **REFERENCES**

1. Philip Mawhood, *Decentralization; the Concept and the Practice*, Local Government in the Third World, Chicester: John Willey & Sons, 1983, p.3
2. J.A. Chandler, *Local Government in Liberal Democracies: An Introductory Survey*, London and New York: Routledge, 1993, p.78
3. Djohermansyah Djohan, "rearranging the Regional Head General Election", at the address: <http://www.ditjen-otoda.depdagri.go.id/> accessed on October 11, 2016
4. Irvan Mawardi, "Implementation of the State Law Principles of Democracy In the General Election of Regional Head" : <http://www.ptun-makassar.go.id/> accessed on October 10, 2016
5. Moh. Mafud MD, Dynamics constitutional Post-Election 2014, National Seminar Papers and Final Reflection 2014 constitutional Dynamics In Post Indonesia National Leadership Succession 2014, organized by Association of HTN Teachers in cooperation with Faculty of Law Surabaya University. December 16-17, 2014.