

## THE REPRESENTATIVE DEMOCRACY AND DIRECT VOTE IN THE LOCAL HEAD ELECTION

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### ABSTRACT

The idea to convert the system of local head election from direct vote by the people into election by the local representative council aspired by President Prabowo Subianto at the event of the 60 years of Partai Golongan Karya on December 12, 2024, has drawn attentions from various groups. Then, the problem is why the stakeholders should reexamine the possibility of conversion the existing system of election and back to election by the local representative council (The Jakarta Post, December 14, 2014).

The democracy is the mean of people sovereignty to achieve the people peace and welfare which is conducted by the leaders elected by people or the representative council on behalf of the people. For this reason, the election of the local head system should be based on the most effective and efficient system for the sake of the people since the local head as political position accept the highest responsibility to rule the region under his/her control.

Local representative council should represent the people to choose the most suitable candidate of the local head of governments, namely Governors, Regents and Mayors.

**Keywords:** *Democracy, election system, local head, local representative council.*

## INTRODUCTION

The statement of President Prabowo Subianto on the possibility to convert the local heads election system from direct votes by the peoples in the general election into election by the local representative council (Dewan Perwakilan Rakyat Daerah, DPRD) has inspired a number of comments and opinions. The comments and opinions derived from different point of view of the politicians, political observers, academicians, and journalists.

The reason of the above statement is related to bad practice of the general election in Indonesia. There is often reported by the mass media regarding the practice of money politic, manipulations, lack of disclose, and so on those indicated the bad practice of the general election in Indonesia. The most simple reason stated by President Prabowo Subianto is that from money politic alone it could save money at amount of tens of trillions rupiah and this budget is better to spend to improve the school facilities and provide the nutritious meals for the pupils (The Jakarta Post, Dec. 14, 2024; Kompas, Dec. 16, 2024). On other hand, the theoretical point of view, such an election by the local representative council would damage the democracy.

The election system is closely related to democracy that believed by some groups of theorist and people as the realization of the people sovereignty by electing the rulers in a democratic society. Nevertheless, due to the diversity of value and culture of the society it might appears in different application of system of the election. This fact reflects the value and cultural relativity of the system of election that enables every society to choose the system of the election which is concluded by the law-maker (legislative council) as the enactment accepted by majority of the people. To some extence, it is always debatable concerning the system of enactmen produced by law-maker.

The above statement on the possibility to convert the local heads election system attracted the attention of some figures, mostly the stake holders who involving in the area related to political activities and arrangement. The statement also awakened the civil society

who work outside the practicing areas. The struggle for revision of system of the election in Indonesia happened along with people power that succeeded to put an end of the military regime under Soeharto's power which was well-known as Orde Baru regime. This regime ruled Indonesia from 1966 to 1998 and the ending of this power indicated starting point of national reform in Indonesia. In the era of the post-national reform taken placed in 1998, Indonesia has been in the transformation of political system, including the system of local election, to search the most suitable one in line with the demand for democratic government. As far as the local government regulations there were a number of acts promulgated to decentralize the authorities from the central government to the local government as well as to accomodate the growing aspirations of the people.

The circulation of the power amongst the elites and political parties constitutes the main factor that encourages the people to take part in the general election, particularly the politicians those have vested interests as a reason to play the roles through his activities in the political actions and competitions. He or she joins a political group and party as the medium where he or she gains the ticket to run in the election in order that acquire a position enables him to rule and manage the public resources.

The general election is a mechanism that allows all citizen to influence and probably determine who will govern the government (local and central) in a certain term. The system of election might vary from one to other states, its depends on the existing regulation of each country. Deliar Noer wrote that variety of this system arises from the different values and ideologies of the people (Deliar Noer, 1983: 84-85).

According to mass media news on the previous elections practices in Indonesia there were a number of manipulations, money politic, suppressions, corruptions, unfair treatments to the contestants and the pair of candidate of local head elections, the honest of the votes counting, etc. These were mostly done by ruling groups which might put their hand in every stage of election process.

That why some groups of people does not sure about the accountability of the implementation of the general election, particularly the election conducted by direct vote by the people. The political costs in term of dirty vote not only spent a lot of money in ilegal manners, but also might cause driven corruptive mentality of the people. Eventually, there is lact of legitimate of the elected candidates and the elected government as well. The government and the ruling class might have lower trust of the people to the ruling class. These phenomena also could relate to the procedural democracy practice compared with substantive one.

## CONCLUSION

Democracy issues are less atrack attention of the people, since the democracy is deemed as the elite groups matter, so it is better to avoid it as far as there is no direct impact to the daily life. The democracy is the business of the highmiddle class, while the majority of the people needs the econonic welfare and stability.

From the above explanation it is could be infered that there is a problem of local head system of election to be applied which is the most fruitul for the best interest of the people.

The questions are:

1. What is the real problem of the direct vote in the perspective of the procedural democracy concepts?
2. What is the current debate on the representative democracy related to local head system of election in Indonesia?

## RESEARCH METHOD

The data of this research was gathered through the library research by collecting and reviewing the relevant literatures and the existing regulations as the legal basis of the election process. The regulations consist of: a. constitution, b. acts, c. government regulations, d. regulations of the Commission of the General Election (Komisi Pemilihan Umum (KPU)), e. books, f. journals, g. newspapers, and h. digital resources.

The nature of the data is normative by application of the statute approach. The analysis of the data was conducted by interpreting those documents to seek the relevant context and connections with the current debate in the public discourse on the possibility to convert the election system from direct vote into election by the local representative council. The conclusion and recommendation would be able to contribute to reformulating the particular democracy of Indonesia and as to provide the specific Indonesia's national thought for a new bill on election of local head of governments in relation to pass the new act on the basis of the living values of political and social realities.

## THE RESULT OF THE RESEARCH

### 1. The Problem of the Procedural Democracy

The fundamental value and philosophy of life of the people of the Republic of Indonesia resides in Pancasila and the Constitution of 1945. Both instruments functions as the resource of enlightments for legislations and public authorities that should apply persistently apart from any theory or conceptions.

In a number of literatures those written by the scholars of Indonesian there are clear difference between Indonesia's value that put the social interests as the primary interest, but Western value put the individual interests as the primary interest. This value implies in the concept of democracy and sovereignty.

Koesnoe explained that:

"Kedaulatan rakyat yang dianut di dalam Pembukaan Undang-undang Dasar 1945 tersebut, dari rumusannya tidak mengikuti pikiran Volkssouvereiniteit tersebut. Hal ini dapat dibaca di dalam kata-kata yang dipergunakan oleh Pembukaan tersebut, yaitu yang berbunyi: "Kerakyatan yang dipimpin oleh hikmat kebijaksanaan dalam permusyawaratan/perwakilan." (Koesnoe, 1997: 49).

This explanation reminds us about the interpretation of the essence of the people sovereignty formulated in the Preamble of the Constitution of 1945 which is quite different from Western concept. Indonesia's concept derived from the religious resource in the form of consultative to come into consenses. The consultative is conducted by the representative council and it is impossible conducted by the people as a whole.

Meanwhile, Magnis Suseno explained as follow:

"Kedaulatan rakyat tidak berarti bahwa segala keputusan harus diambil langsung oleh rakyat. Demokrasi langsung bukan hanya tidak dapat direalisasikan, melainkan juga secara etis tidak perlu." This strong arguments from Magnis Suseno on not necessary all decisions directly made by the people, since the direct democracy is unfeasible and ethically is not unnecessary.

Then, he also argued as follow:

"Yang harus dituntut ialah agar pemerintahan negara harus tetap di bawah kontrol masyarakat. Kita dapat bicara tentang suatu realisme demokrasi yang secara etis pun memadai: yang perlu bukan suatu demokrasi total, melainkan kontrol demokratis yang efektif." (Magnis Suseno, 2001: 290). He emphasised that the demand is the government might under effective control of the society, need not the total democracy. This arguments in

line with the interpretation of Pancasila's democracy which apply the representative democracy conducted by the representative councils.

In the contemporary literatures those explains the theories and concepts on the democracy indicate the liberal democracy teaching has a very strong influence to the transformation of political ideas, values, and systems all over the world. The noted core concept of democratic government introduced by Abraham Lincoln in 1863 namely "the government of the people, by the people and for the people". This is a short statement, but it has very vast impact on development of the democracy and states' forms all over the world.

An English political scientist, Andrew Heywood, has rather similar interpretation of the democratic government, where he wrote as follow:

"Government for the people, implies that the essence of democracy is rule in the public interest. This notion is typically associated with the need for representatives to act on behalf of the people, with their right to rule deriving from success in a competitive struggle for the popular vote. This model of democracy is usually called representative democracy and its most common form is liberal democracy." (Heywood, 2021: 43). For being the representatives those elected by the people, they act on behalf of the people who has chosen them in the general election. This is the genuine meaning of the representative democracy, but the best of the representative democracy should be the small assembly consists of the enlightened figures with the high standard of moral and knowledge. This small assembly in Islamic political system called 'syura' (consultative assembly).

The other sort of the interpretation is normative perspective which generally assumes that democracy is the best form of government (Diamond, 1999: 2). As we have observed that the democracy and government themselves have many meanings and there are no consenses on what democracy is and what the best government is. This variety rises from the plurality of social, political, economic, belief, and cultural background. This notion is

very natural and in line with the common sense. These permanent handicaps have never been able to avoid and most of them constitutes de facto in stead of de jure.

Meanwhile, Larry Diamond writes that : "... how many democracies there are in the world, so they differ on how to classify the specific regimes, the conditions for making and consolidating democracy, and the consequence of democracy for peace and development (Diamond, 1999: 7). These consequences of the democracy concepts are rarely taken into account by the pragmatisme of political groups.

The current reality shows that most of developing countries is still in the era of consolidation and transition toward the democratic government. This process involving the ideological contestations among political groups and the interest groups behind them also affecting the real politic in many cases. Some interest groups those aware of their political rights and wish to perform their political rights, including to take part in political parties, beside to have vote in the election.

The conservative political groups do sure on the unequal capacity of all persons to make use of the equal rights in a general election. For this reason this group is in fovour of the representative democracy where the citizens only vote for representatives councils (Heywood, 2019)

## 2. The Substantive Democracy

The substantive democracy in Indonesia has desgined in the philosophy of the Republic of Indonesia with title Pancasila (The Five Pillars). One of the basic values of Pancasila is the system of democracy which constitutes the particular system of representative from the people to the representative councils (DPR and DPRD).

Some of the acts mentioned above area the Act No. 22 of 1999 on the Local Government that stipulated the election of head of region conducted by local representative council



(DPRD) by voting. DPRD, in casu, acts on behalf of the people those have chosen the members of DPRD and means the election carried out by the representative council. The arrangement is in line with Pancasila that states the democracy is guarded by the wisdom through consensus (the fourth pillar of Pancasila).

Nevertheless, the Act No. 32 of 2004 on the Local Government stipulated the change of the election system of head of region from DPRD to direct vote by the people in the general election. The successor Act No. 23 of 2014 on the Local Government refers to the Act No. 10 of 2016 (Second Amendment of the Act No. 1 of 2015 on the Passing the Government Regulation Substitutes the Act No. 1 of 2014 on the Election of the Governors, Regents and Mayors).

According to Act No 1 of 2015 the candidacy of the head of region might be proposed by the political party or the group of political parties and might be individuals candidate (independent contestant). The condition for proposal of the candidacy above mentioned those proposed by political party or group of political parties should meet the local parliamentary threshold of 20 percents of the seats or 25 percents of the total votes in respective regions. Meanwhile the condition for individual candidates should meet the support of the people in respective region that range between 6,5 percents to three percents of the population.

The existing regulations on the election of the head of region as legal basis of the election process are as follow.

#### 1. The Constitution of the Republic of Indonesia of 1945 (UUD 1945)

UUD 1945 does not stipulate the detail and practical enactment on how the head of regional government election conducted.

UUD 1945 put out only the principle of democratic process of election and it is subject to interpretation, particularly by the law-maker (legislative council) that determine the suitable system to apply in the election as far as it contains the principle of democratic process. Such an enactment enables the legislative council to determine the best system of election that accepted by the majority of the people, not by a group of politicians and political observers.

Article (4) of UUD 1945 stipulated that:

"Gubernur, Bupati dan Walikota masing-masing sebagai kepala pemerintahan provinsi, kabupaten dan kota dipilih secara demokratis." (Governor, Regent, and Mayor respectively as head of the government of provinsi, regence and cita is elected democratically).

The implementation of this constitutional principle of law is regulated further in the Act No. 32 of 2004 that Changed by Act No. 12 of 2008 on the Regional Government and introduced the system of direct election by the people and ALLOWED independent contestants to run in a election. This regulation LATER excluded from this act and then legislative council (DPR) promulgated a spesific act on the election of local head of the governments.

## 2. Act No 12 of 2008

Article 56 Act No. 12 of 2008 stipulated two new principles, namely direct vote by the people and independent contestants of the head of regional government.

The first verse stipulated: "The local head and the vice head of governments are elected as one pair of candidate democratically on the basis of the principles of direct, general, free, confidential, honest, and just."

The second verse stipulated: "The pair of candidate mentioned above is proposed by a political party, group of political parties, or individuals that supported by a number of people as determined hereinafter in this act."

The prerequisite of this support to the individuals candidate must fulfill the standard in the Article 59 (2a) which stipulated that the support from the people to the individuals candidate of local head of the government ranges between three percents to 6,5 percents of the total population in respective region.

### 3. Act No 10 or 2016

The first specific regulation on the election of the regional head is Act No. 10 of 2016 on the Second Amendment of Act No. 1 of 2015 on the Enactment of Government Regulation Substitutes Act No. 1 of 2014 on the Election of Governor, Regent and Mayor Become Act. This act only supplemented the two acts mentioned here, but the primary act is Act No 1 of 2015 which is more complete than other.

## DISCUSSION

Some scholars has shared their personal ideas, opinions or thoughts related to some aspects of the political affairs, including the system of election as a part of democracy as a whole. The basic of this discussion is the values of any theory or concepts and response of the people who affected by the democracy and election system those practiced in respective country.

As a prominent political scientist, Deliar Noer has explained that not only regulation drawing attention, but also psychology and the willing of a person involving in the politic and the problem of values (Deliar Noer, 1983: 87). The meaning of this relationship between regulation, psychology and value is there are three elements to be considered by any

politician when he or she decides to run in a competition to win a political seat. His or her decision will be the starting point of the political process which does not guarantee the fair play in a free competition.

The regulation functions as the roadmap and the basis of legitimate practice of any political action, meanwhile the value of political affair is related to the belief of the people, either personally or collectively to choose the best for his or her interest to all of them. The interest usually contains the realistic hope and the practical way to reach it.

Another political scientist, Andrew Heywood, explains in his book *Political Ideologies* that: "Ideologies are the principal source of meaning and idealism in politics; they touch those aspects of politics that other political forms cannot reach. A post-ideological age would therefore be an age without hope, without vision." (Heywood, 2021: 268).

Some contemporary political scientist in the position of disagree with the relationship between ideologies and politics and tends to separate politics from any ideology as the basis of the value that guards the political process. In addition, the reality shows that there are usually many disparities between theories and concepts in one hand and the legal norms in other hand. Not all good concepts and systems results in good practice and meet the aspirations of the people.

The reality of the living values and concepts in Indonesia might be referred to the way of life of Indonesia's people that enshrines in Pancasila (Five Pillars of the Republic of Indonesia).

Konsep demokrasi yang dikenal dalam masyarakat Barat bersifat liberal dan demokrasi dalam masyarakat komunis bersifat sosial. Sementara itu, demokrasi dalam masyarakat Indonesia bersifat musyawarah (konsensual) dengan landasan filosofisnya adalah way of life bangsa Indonesia, yaitu

Pancasila. Dalam khazanah hukum tata negara Indonesia telah ditetapkan sistem demokrasi Indonesia secara khusus dalam Pancasila, yaitu sila keempat yang berbunyi:

"Kerakyatan yang dipimpin oleh hikmat kebijaksanaan dalam permusyawaratan/perwakilan."

Yang dimaksud dengan "kerakyatan" adalah kedaulatan rakyat (demokrasi) yang dipimpin oleh hikmat (ilmu) yang bersifat kebijaksanaan (kearifan). Ilmu dan kearifan itu tidak dimiliki oleh semua warga negara, tetapi oleh sebagian kecil warga. Golongan minoritas ini yang patut mengemban tugas dan tanggung jawab untuk melaksanakan kedaulatan rakyat dan mereka ini dipilih menurut sistem yang tepat.

With referring to Article 18 (4) of UUD 1945, Yusnani et al concluded that in the legal perspective, the election of head of region, either by DPRD or directly by the people is actually similar democratic (Yusnani, et al., 2019: 162).

A political observer, Soegeng Sarjadi, critised the practice of democracy in Indonesia while connecting with general election that take place regularly, every five years. He stated that the implementation of democracy until present time still procedural, limited to the freedom of speech and union, but lack of collective awareness, let alone solidarity. Shortly, the practice of democracy not more than a merely national carnival (Kompas, August 16, 2024).

## CONCLUSION

From the above discussion it is could come to conclusion to answer the questions of these challanging issues.

1. There are always pro-con amongst the people on the issues of the procedural democracy and substantive democracy. The scientific analysis of the concept of democracy belong to everyone since the freedom of thought is used to do so. The procedural democracy would always subject to debate without ending. That why, the scholars perspective cuold always colour the the atmoshpheer of democracy, eventhough there are many contradictories.
2. The representative democracy is welcome nonliberal democratic coubtries. The turbulances of representative democracy usually would shortly disappeared after general election competition and the people would let the representative council to work as usual.

## RECOMMENDATIONS

1. Procedural Democracy and direct vote not accepted by majority of scholars.
2. Representative Democracy is suitable with the philosophy of the life of the people of Republic of Indonesia who has the the philosophy of the life enshrines in Pancasila.

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