CONCURRENT REGIONAL ELECTIONS PHENOMENON AS A POLITICAL RECRUITMENT IN INDONESIA

Dedi Mulyadi
Faculty of Law Universitas Suyakancana - Indonesia
E-mail: dedimulyadi53@gmail.com

Abstract

Concurrent regional election is a phenomenon in local democracy development in Indonesia. Many Efforts are performed to political recruitment. Yet, the implementation among expectations, aspirations and reality are frequently impaired proven by many problems in the implementation of the local democracy itself. The research applied normative juridical approach by identifying the problem in for complete background of the implementation of concurrent regional elections in Indonesia, its problems and solution. This research is expected to generate specific alternative insight through formulation of policy. It is expected to be a solution of any concurrent regional elections problems, a permanent rather than ad-hoc concept for the regional election, and a formulation of general regulation (lex generalis) on election which summarizes the present election regulation (lex specialist). These changes are internalized in continuing learning concept that can create academics, practitioners and technocrats on election.

Keywords: democracy, local democracy, political positions, regional election and political recruitment.

Abstrak

Pemilihan Kepala Daerah serentak merupakan fenomena perkembangan demokrasi lokal di Indonesia dalam upaya pengisian jabatan politik, implementasi antara ekspektasi, aspirasi dan kenyataan seringkali tidak sejalan. Hal ini dibuktikan dengan banyaknya permasalahan yang melingkupi pelaksanaan demokrasi lokal tersebut. Penelitian ini mempergunakan pendekatan yuridis normatif dengan identifikasi masalah untuk mengetahui latar belakang dilaksanakannya Pemilihan kepala daerah serentak di Indonesia, permasalahan dan upaya pelaksanaan pengisian jabatan politik melalui Pemilihan kepala daerah serentak. Penelitian ini diharapkan dapat menghasikan alternatif pemikiran khusus melalui formulasi kebijakan yang diharapkan dapat menjadi solusi atas berbagai permasalahan Pemilihan kepala daerah serentak, gagasan penyelenggara pemilihan umum yang tidak lagi bersifat ad-hoc tetapi bersifat permanen, dibuatnya regulasi yang bersifat umum (lex generalis) tentang pemilihan umum yang merangkum regulasi pemilihan umum yang ada (lex spesialis), berbagai perubahan tersebut diinternalisasi dalam sebuah konsep pembelajaran yang berkelanjutan agar dapat menciptakan akademisi, praktisi dan teknokrat pemilihan umum.

Kata kunci: *demokrasi, demokrasi lokal, jabatan politik, pemilihan umum kepala daerah dan pengisian jabatan.*

Introduction

Sovereignty (*sovereigniteit*) is a legal characteristic, sign, or attribution of a state. It has a long history of which concept is older than the state concept. Nomenclature of people sovereignty or democracy means a governance from people, by people, and for people or "people sovereignty".[1] Meanwhile, Indonesia as a democratic legal state is represented in Article 1 paragraph (2) of 1945 Constitution. Then, its implementation is strengthened by Article 18 paragraph (14) as an effort to political recruitment using democratic mechanism,

[1] Syarifuddin Hasyim, "Analisis Pelaksanaan Demokrasi dalam Pemilihan Gubernur Provinsi Nanggroe Aceh Darussalam", *Jurnal Media Hukum (JMH)*, Vol. 18 No. 1, June 2011, p. 95

which means that the process has to be the representation of democratic acts as people governance[2]. The phrase '...is elected democratically'[3] is in accordance with Article 18 paragraph (4). Then, it is interpreted in Law No. 10 Year 2016 of The Second Amendment of Law No. 1 Year 2015 on The Stipulation of Legislation in lieu of Law No. 1 Year 2014 on The Election of Governor, Regent, and Mayor becomes Law as the legal basis of the concurrent regional elections in Indonesia.

According to General Election Commission (KPU)'s data, the concurrent regional election I in 2015 consisted of 269 elections conducted in 9 provinces, 224 regencies, and 36 cities. Meanwhile, the concurrent regional selection stage II in 2017 was held in 102 regions which are 94 regencies/cities and 8 provinces. The second stage was held in February 2017.

Implementing the two-stage regional election was believed saving the election cost about Rp15 billion up to Rp20 billion within 5 years. It is deemed to be significant advantage for regional election cost which is previously imposed on Regional Revenue and Expenditure Budget (APBD). It happens due to simpler implementation in terms of officials salary that is predicted to spend 65% of the budget.

Regional election is a facility to fill in the political positions. According to public administration, the political positions are the public officers which are chosen through political process, Regional Election (Governor, Regent, and Mayor). Meanwhile, according to Law No. 43 Year 1999 as the amendment of Law No. 8 Year 1974 on the principles of Employment, Article 11 paragraph (1) states that Public Officers consist of Governor and Vice Governor and Regent/Mayor, and Vice Regent/Vice Mayor.

Law number 5 year 2014 on Civil State Apparatus also governs the status of state officials, in Article 112 affirms that state officials consist of, one of them, Governor and Vice Governor and Regent/Mayor and Vice Regent/Vice Mayor. The admission filling of the political position aims to fill the political officials with the professional ones.

As the explanation above, the law issue on concurrent regional election in Indonesia is interesting to discuss. Thus, the focus of this study are; the background of concurrent regional election, the problem and solution in filling in the political positions in Indonesia.

Discussion

Background of Concurrent Regional Election in Indonesia

General election is one of the democracy tools[4] as a the form people sovereignty-based state. There are at least three purposes; *first*, enable to examine the political rights of the people systematically. *Second,* functions as political recruitment process that is fair, opened, and competitive. *Third,* establish a peace authority shift. The general election is a developing democracy system in Indonesia.

Regional election in Indonesia has started since June 2005. Previously, Governor, Regent, and Mayor were chosen by the previous system through the legislative assembly. However it is perceived ignoring the democracy values by applying the bargaining system instead. It raises social distrust. As the result, since June 2005, a regional election started.[5]

One of the state administration developments after constitutional amendment is symbolized by the existence of regional autonomy and the law state enforcement.[6] It is shown by the realization of the first regional election in Indonesia according to the Law No. 23 Year 2014 on regional government. In 2015, the first phase of regional election was held and the

---

[2] Muhammad Fauzan et.al, 2013, *Pemilihan Umumkada (Rekonstruksi Demokrasi Lokal Dalam Sistem Ketatanegaraan RI)*, Yogyakarta: Kanwa Publisher, p. 106.

[3] Iza Rumesten RS, "Fenomena Calon Tunggal dalam Pesta Demokrasi", *Jurnal Konstitusi*, Vol. 13 No. 1, March 2016, p. 66.

[4] Wahyu Nugroho, "Politik Hukum Pasca Putusan Mahkamah Konstitusi atas Pelaksanaan Pemilihan umum dan Pemilihan umumkada di Indonesia", *Jurnal Konstitusi*, Vol. 13 No.3, September 2016, p. 482.

[5] Angga Suanggana, "Pemilihan kepala daerah dan Pengadilan Pemilihan kepala daerah", *Jurnal Konstitusi*, Vol. IV No. 1, June 2011, p. 25.

[6] Ria Casmi Arrsa, "Affective Fallacy terhadap Kedudukan Hukum Kepada Daerah sebagai Pemohon Pengujian UU terhadap UUD dari Sudut Pandang Asas-Asas Umum Pemerintahan Yang Baik*", Buletin Hukum Kebanksentralan,* Vol. 14 No. 1, January-June 2017, p. 111.

second phase was in 2017. Generally, the background in choosing the Regional Election system is the correction towards the previous system.

Specifically, there are five backgrounds of the direct regional election in local democracy perspective in Indonesia: *firstly*, the direct regional election as a response to aspiration, and expectation of society; *secondly*, The direct regional election is a development of local democracy which is constitutional; *thirdly*, the direct regional election as a medium of civic education; *fourth*, the direct regional election as a medium in strengthening region autonomy; and *fifth*, the direct regional election as a strategic means in the forming of cadres in the national leadership.

Problems and Efforts in the Implementation of Filling Political Position through Concurrent Regional Election

Several political theories and civic science states that the factors and constitutive requirements of a nation to build is that at least there are three elements namely society, region, and an independent government.[7] The direct regional election is a means of people sovereignty and implementation of local democracy as a means of political position recruitment that guarantee the sustainable government in a region. Afan Gaffar explained that political recruitment is a process of filling in political position in a nation to function political systems for providing social service and protection.

The implementation of local democracy in Indonesia through direct regional election triggers many problems, political implications, social effects, economics as well as advantages and disadvantages. Nevertheless, some positive opinions argue that it creates a responsive government with relatively effective process. The next problems in the implementation of regional elections according to Law No. 10 Year 2016, that are: *first*, money politics. By exposing low economic society, money politics already became the one of instant ways to gain voters. *Second*, intimidation. It might frequently happen to voters especially in the ex-conflict area like Aceh.

Third, black campaign. This is done due to the very limit access of information about the candidate, so it is used by a group of opponents to spread hoax. *Fourth*, party merging for single candidate's sake. The decision of Constitutional Court allows a single candidate along with large capital to buy up political parties which participate in general election. It means great loss for the other candidate, even it is hard to be an independent candidate.

Fifth, issues on ethnic, religion, race and societal groups (SARA). This phenomenon appears in regional election. For example, Governor Election of DKI Jakarta, the candidate number 2 (Ahok) was found guilty for blasphemy case which brings ongoing impacts. *Sixth*, the neutrality of civil officials. Like an iceberg phenomenon, it is hard to solve although the government has firmly stated and regulated (Law No.43 Year 1999 of Principal Subject of Employment and President Regulation No. 37 Year 2007 of Prohibition for civil servant to be a member of a political party.[8]

Ministry of Home Affairs' data in concurrent regional election has started since 2005. The ministry recorded 25 riots that killed 59 people, and harm 230 people. This riot destroyed 279 houses, 30 local government offices, and 10 Regional General Elections Commission offices.

Furthermore, the General Elections Commission in the Hearing Meeting with Commission II of the House of Representatives of Republic of Indonesia stated in the regional election in 2015 found 12 (twelve) issues including: *first*, false document findings in 8 regions; *second*, the management dualism in 18 regions; *third*, party support requirements occur in 16 regions; *fourth*, the problem of candidate re-

[7] Moh. Mahfud MD, "Aspek Hukum Negara dan Administrasi Negara Kelembagaan Pengadilan Pajak (The Law of the State Aspect and Institutional Administrative Tax Court)", *Jurnal Hukum dan Peradilan*, Vol. 04, No. 3, November 2015, p. 351

[8] Bagus Sarnawa, "Putusan Mahkamah Konstitusi Nomor 209-210/PHPU.D-VIII/2010 dalam Kaitannya dengan pelaksanaan Atas Netralitas Pegawai Negeri Sipil oleh Bupati/Walikota", *Jurnal Konstitusional*, Vol. IV No. 1, June 2011, p. 153.

gistration; *fifth*, fulfillment of documents from other agencies; *sixth*, requirements for exinmates who run for the Regional Head Elections; *seventh*, problems in the status of defenses that re-run in the regional election; *eighth*, support issues for individual candidates; *ninth*, health requirement issues; *tenth*, nomination document change; *eleventh*, status of suspect from candidate; *twelfth*, reimbursement of candidates outside the provisions.

Various efforts of democratic institutions policy,[9] one of which is the implementation of General Election, emerge various problems that all parties are required to do the reformulation of various efforts for the settlement (through Alternative Disputes resolution).[10] The dispute resolution policy of election result is not the ideal format yet, at the same time, the authority of election dispute settlement shared to many institutions also demands simplification.[11] General offered solutions are divided into 3 (three) categories including issues that can be resolved through continuous publication of regulations, infrastructure and continuing electoral education. These three factors are expected to be a continuing alternative solution.

The required regulation is a regulation capable in unifying various regulations of general elections from Presidential Election, Legislative Election and Regional Election as a special regulation (*lex specialis*). Then it is integrated in a general regulation through the Law of Elections (*lex generalis*) in accordance with the Hierarchy of Law according to Hans Kelsen's[12] theory, so that the General Election Law using *lex generalis* becomes the answer to the required regulation to solve the various problems of the continuing General Election. [13]

The problem of the current General Election (Legislative Election, Presidential Election and Regional Election) is an *ad-hoc* infrastructure such as Police, Attorney, Lawyer and Judge to solve the problems above. Then, the author suggests that the future general election infrastructure must be permanent.

The infrastructure must be filled by eligible human resources such as General Election Commission, Election Supervisory Committee, Police, Attorney, Lawyer and Electoral Court.[14] Thereby, it is expected that they could arrange various policy (legislation, application, judicatory and evaluation) on a continuing basis to conduct the general election which is *Luber* (direct, general, free, confidential), *Jurdil* (honest and fair), professional, proportional and accountable.

To fulfill the position, specifically in general election institutions, it requires human resources who can perform various tasks and functions related to general election. The occupation means a job that contains similar tasks or interrelate and when the corporate asked proficiency, knowledge, skill and same capability to fulfill those various seats in general election institutions exclusively which is suitable to Law No. 15 Year 2011 on General Election Commission. It stated that general election commission is an institution which holds general election consisting of General Election Commission and Election Supervisory Agency as one function of general election organizing to vote House of Representative, Leadership of Political Party at Provincial, Assembly at Provincial, President and Vice President directly by Indonesian people, also to vote the governor, regent and mayor democratically.

Next, Law No. 1 Year 2015 on Enactment of Government Regulation in Lieu of Law No. 1 Year 2014 on Regional Election becomes a regulation. Problem management of general elec-

---

[9] Noer Indriati, dll, "Model of Sister city cooperation in order to improve regional development in Banyumas Regency", *Jurnal Dinamika Hukum*, Vol. 16, No. 2, May 2016, p. 156

[10] Fadia Fitriyanti, "Penyelesaian Hukum atas Proses/Tahapan Perselisihan pemilihan umum Melalui Alternatif Penyelesaian Sengketa (APS) dan Arbitrase", *Jurnal Konstitusi*, Vol. IV, No. 1, June 2011, p. 15

[11] Refly Harun, "Rekonstruksi Kewenangan Penyelesaian Perselisihan Hasil Pemilihan Umum", *Jurnal Konstitusi*, Vo. 13 No. 1, Mach 2016, p. 1

[12] Iskandar Muda & Muhammad Kadafi, "Penerapan Konsep Hukum Pembangunan Ekonomi dalam upaya pencegahan eksploitasi pekerja alih daya, Kajian Putusan Mahkamah Konstitusi Nomor 27/PPU-IX/2011", *Jurnal Yudisial*, Vol. 6 No. 1 April 2013, p. 18

[13] Subiharta, "Moralitas Hukum Dalam Hukum Praksis sebagai Suatu Keutamaan (Legal Morality in Practyical Law as a Virtue)", *Jurnal Hukum dan Peradilan*, Vol. 04, No. 3, November 2015, p. 394

[14] Angga Suanggana, *op. cit*.

tion through general election institutions according to the Article 135: Violations of the code of ethics general elections officials forwarded by Election Supervisory Agency to Election Organizer Ethics Council; election administrative violation forwarded to General Election Commission; election dispute forwarded to Election Supervisory Agency; and the General Election Violation is followed up by Indonesian National Police.

Based on the stipulation of Article 157, dispute case of a general election result is examined and prosecuted by the special judiciary made prior to concurrent general election. Meanwhile, the dispute of vote result is examined and prosecuted by constitutional court until special judiciary is made. Therefore, general election institutions which must be occupied by special competence staff convenient with the mentioned regulation are: General Election Commission, Supervisory Committee, Election Organizer Ethics Council, police, prosecutor, lawyer and judge in general election court who must have a comprehensive understanding about the general election.

Conclusion

The phenomenon of concurrent regional election is a realization of people sovereignty and as a characteristics of democratic constitutional country. Initially, regional elections were not concurrently conducted and caused excess. Regulation of two-stage concurrent direct regional election started from period I in 2006 and the second period in 2007.

The problems in implementing regional election as explained above, is a consequence of Article 18 paragraph (4) Constitutional 1945 which states that '*Governors, Regents, and Mayors as government in the province, district, and city level are chosen democratically*'. Generally, the regional election problems are divided into three categories namely law enforcement of general election which is ad-hoc, disintegrated regulations and human resources quality.

Suggestion

The regulation required for the next general election is a regulation that can unite all of general election regulations in presidential election, general legislative election, and regional election. The regulation is lex specialis and then it is integrated into a general regulation through the law of general election (lex generalis). All of the permanent infrastructures above must be occupied by qualified eligible people in conducting general election from various perspectives. To improve electoral technocrats, wide range of education is considered strategic.

References

Fauzan, Muhammad, et.al. 2013. *Pemilihan Umum Kada (Rekonstruksi Demokrasi Lokal Dalam Sistem Ketatanegaraan RI)*. Yogyakarta: Kanwa Publisher;

Suanggana, Angga. "Pemilihan Kepala Daerah dan Pengadilan Pemilihan Kepala Daerah". *Jurnal Konstitusi*. Vol. IV No. 1. June 2011. Pp 24-25;

Sarnawa, Bagus. "Putusan Mahkamah Konstitusi Nomor 209-210/PHPU.D-VIII/2010 dalam Kaitannya dengan pelaksanaan Atas Netralitas Pegawai Negeri Sipil oleh Bupati/ Walikota". *Jurnal Konstitusil*. Vol. IV. No. 1. June 2011. Pp. 152-153;

Fitriyanti, Fadia. "Penyelesaian Hukum atas Proses/Tahapan Perselisihan pemilihan umum Melalui Alternatif Penyelesaian Sengketa (APS) dan Arbitrase". *Jurnal Konstitusi*. Vol. IV No. 1. June 2011. Pp. 14-15;

Muda, Iskandar & Kadafi, Muhammad. "Penerapan Konsep Hukum Pembangunan Ekonomi dalam upaya pencegahan eksploitasi pekerja alih daya. Kajian Putusan Mahkamah Konstitusi Nomor 27/PPU-IX/ 2011". *Jurnal Yudisial*. Vol. 6 No. 1 April 2013. Pp. 17-32. DOI: 10.29123/jy.v6i1. 116;

Rumesten, Iza. RS. "Fenomena Calon Tunggal dalam Pesta Demokrasi". *Jurnal Konstitusi*. Vol. 13 No.1. March 2016. Pp. 72-92;

Mahfud MD, Moh. "Aspek Hukum Negara dan Administrasi Negara Kelembagaan Pengadilan Pajak (The Law of the State Aspect and Institutional Administrative Tax

Court)". *Jurnal Hukum dan Peradilan*. Vol. 04 No. 3. November 2015. Pp. 351-360;

Indriati, Noer, et.al. "Model of Sister City Cooperation in Order to Improve Regional Development in Banyumas Regency". *Jurnal Dinamika Hukum*. Vol. 16. No. 2. May 2016. Pp. 156-163. DOI: 10.20884/1.jdh.2016.16.2.562;

Harun, Refly. "Rekonstruksi Kewenangan Penyelesaian Perselisihan Hasil Pemilihan Umum". *Jurnal Konstitusi*. Vo. 13 No. 1. March 2016. Pp. 1-24;

Arrsa, Ria Casmi. "Affective Fallacy Terhadap Kedudukan Hukum Kepada Daerah sebagai Pemohon Pengujian UU Terhadap UUD dari Sudut Pandang Asas-Asas Umum Pemerintahan Yang Baik". *Buletin Hukum Kebanksentralan*. Vol. 14 No. 1. January-June 2017. Pp. 104-123;

Subiharta. "Moralitas Hukum Dalam Hukum Praksis Sebagai Suatu Keutamaan (Legal Morality in Practyical Law as a Virtue)". *Jurnal Hukum dan Peradilan*. Vol. 04 No. 3. November 2015. Pp. 385-398;

Hasyim, Syarifuddin. "Analisis Pelaksanaan Demokrasi dalam Pemilihan Gubernur Provinsi Nanggroe Aceh Darussalam". *Jurnal Media Hukum (JMH)*. Vol. 18 No. 1. June 2011. Pp. 94-95;

Nugroho, Wahyu. "Politik Hukum Pasca Putusan Mahkamah Konstitusi atas Pelaksanaan Pemilihan Umum dan Pemilihan Umumkada di Indonesia". *Jurnal Konstitusi*. Vol. 13 No. 3. September 2016. Pp. 480-502.