

## **Implications of Rescheduling the Direct Election of The Regional Head (PILKADA) of South Sumatra in The Midst of The Covid-19 Pandemic**

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### **Abstract**

Based on Article 201 paragraph (6) of Law Number 10 of 2016, Indonesia has an agenda to hold the General Election for Regional Heads (Pilkada) on September 23, 2020. This Covid-19 pandemic period has caused simultaneous Regional Head elections (Pilkada) in seven districts and cities in South Sumatra (Sumsel) were officially postponed, this delay was due to the corona virus outbreak or Covid-19. The purpose of this study is to explain, analyze and find laws in providing alternatives for filling regional head positions during the Covid-19 pandemic. The research method uses empirical juridical (field research), namely examining the applicable legal provisions and what is happening in reality in society. The results show several alternative patterns of filling regional head positions during the Covid-19 pandemic, including through the appointment of a temporary acting or task executor (Plt), indirect elections, and elections using the electronic election system. Each pattern has its advantages and disadvantages, with strong logical and juridical arguments that can be taken into consideration.

Keywords: Acting or Task Executor (Plt), Covid-19, Electronic Election, Indirect Election

### **Abstrak**

Berdasarkan Pasal 201 ayat (6) Undang-Undang Nomor 10 Tahun 2016, Indonesia memiliki agenda untuk menyelenggarakan Pemilihan Umum Kepala Daerah (Pilkada) pada 23 September 2020. Masa pandemi Covid-19 ini telah menyebabkan pemilihan Kepala Daerah (Pilkada) serentak di tujuh kabupaten dan kota di Sumatera Selatan (Sumsel) resmi ditunda, penundaan ini disebabkan oleh wabah virus corona atau Covid-19. Tujuan dari penelitian ini adalah untuk menjelaskan, menganalisis dan menemukan undang-undang dalam memberikan alternatif pengisian jabatan kepala daerah di masa pandemi Covid-19. Metode penelitian menggunakan yuridis empiris (penelitian lapangan), yaitu mengkaji ketentuan hukum yang berlaku dan apa yang terjadi pada kenyataannya di masyarakat. Hasil penelitian menunjukkan beberapa alternatif pola pengisian jabatan kepala daerah di masa pandemi Covid-19, antara lain melalui penunjukan pelaksana sementara atau pelaksana tugas (PLT), pemilu tidak langsung, dan pemilu menggunakan sistem pemilu secara elektronik. Setiap pola memiliki kelebihan dan kekurangannya masing-masing, dengan argumen logis dan yuridis yang kuat yang dapat dipertimbangkan.

Kata kunci: Covid-19, Pelaksana Bertindak atau Tugas (Plt), Pemilihan Tidak Langsung, Pemilu Elektronik

## **INTRODUCTION**

Corona Virus Disease 2019 (Covid-19) is currently hitting various countries around the world. Transmission of this virus occurs widely and rapidly between humans (Susilo et al., 2020). Keeping in mind the danger of the epidemic, through the mandate contained in Article 12 of the Constitution of the Republic of Indonesia, the President then issued Presidential Decree (Keppres) of the Republic of Indonesia Number 11 of 2020 concerning the Determination of Health Emergency. Referring to the study of emergency constitutional law, the determination of this state of emergency is still within the scope of *staatsnoodrecht*, where the state is required to issue policies to deal with emergency situations (Asshididqie, 2014).

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Received: May 20, 2022; Revised: July 15, 2022; Accepted: September 10, 2022

Based on Article 201 paragraph (6) of Law Number 10 of 2016, Indonesia has an agenda to hold the General Election for Regional Heads (Pilkada) on September 23, 2020. However, through Government Regulation in Lieu of Law (Perppu) Number 2 of 2020, The Indonesian government has decided to reschedule the local elections to December 9, 2020. This decision has caused debate in the community, especially among academics. The schedule for the regional elections in December 2020 is considered unrealistic. Due to the fact, until May 16, 2020 the number of positive cases of Covid-19 continued to increase nationally. (Ramadhan et al., 2022) Many people are worried that if the local elections are held in December 2020, it will become a new cluster for the spread of Covid-19.

The Covid-19 pandemic has caused the simultaneous regional head elections (Pilkada) in seven regencies and cities in South Sumatra (Sumsel) to be officially postponed, this delay due to the corona virus or Covid-19 outbreak. The Regional Head who acts as the head of the administrative region is the main person in charge of administering government in the region (Sulaeman, 2015)

So far, research related to the regional head elections (Pilkada) in Indonesia has focused on the debate over the direct or indirect election pattern, the results of which lead to the interpretation of Article 18 paragraph (4) of the 1945 Constitution and the advantages and disadvantages of each pattern (Respatono, 2013) The phenomenon of individual candidates in regional elections has also been discussed, the results show that there are still problems regarding individual candidates (Agus B. Santoso, 2017). The results of other studies show the phenomenon of individual candidates giving rise to a new perspective and order of regional elections in Indonesia (Agus B. Santoso, 2017). There are also other studies showing the phenomenon of empty box support as a free civil society movement (Widyasari et al., 2017). From this situation, researchers are interested in researching the direct election of regional heads during the Covid-19 pandemic in the South Sumatra region. This research is expected to provide benefits, namely as a reference material that can help support science, especially the science of constitutional law in Indonesia. Then this research is also expected to provide practical benefits, namely being a guide and guide for the KPU in implementing direct regional head elections in times of disasters or calamities

The enactment of Law Number 32 of 2004 brought about a fundamental change in terms of regional head elections. Regional heads according to Law Number 22 of 1999 concerning Regional Government are elected and accountable to the DPRD, while according to Law Number 32 of 2004, regional heads and deputy regional heads are elected in one pair directly in the region concerned. Pairs of candidates for regional heads and deputy regional heads may be nominated either by a political party or a combination of political parties participating in the general election that obtain a certain number of seats in the DPRD and or obtain a certain number of votes in the Legislative Election.

Law No. 22 of 2014 has resulted in a change in the mechanism for direct elections by the people to be indirect through the DPRD. Improvements to the provisions of laws and regulations governing the election of governors, regents, and mayors through the Provincial DPRD and Regency/City DPRD are intended to place the mechanism for democratically selecting governors, regents and mayors and to strengthen efficient and effective regional governance in the construction of the government system of The Unitary State of the Republic of Indonesia based on the principle of decentralization.

In the context of the regional head elections (Pilkada), the direct election of the Regional Head and Deputy Regional Head by the community has greater legitimacy than the election by the DPRD. The direct election is considered as a continuation of the ideals of reform that wants to return sovereignty to the people, because the mandate given is directly considered as a citizen's right guaranteed by the constitution (Juliansyah, 2007).

The simultaneous regional head elections are present as a means to strengthen the consolidation of local democracy in Indonesia. At least the purpose of this election is to choose the best leaders of each region so that they are more advanced and united. Another objective of the simultaneous local elections is also to create an efficient and effective election administration. The degree of representation between the community and their regional heads is also expected to increase. In addition, it is also hoped that effective and efficient local government will be created.

## **RESEARCH METHOD**

This research is included in the type of empirical juridical research, or called field research, namely examining the applicable legal provisions and what is happening in reality in society (Arikunto, 2013). In discussing the problem in this study using legal materials (both written law and unwritten law or both primary, secondary and tertiary legal materials), while the empirical approach is to look at law as a social reality, cultural or *das sein*, because in this study the data used are primary data obtained directly from the research site.

In this study, secondary data (library materials) were used, namely data obtained from library materials, which include: official documents, research books in the form of reports, diaries, and etc. In addition, to support secondary data, this research proposal is also supported by field data (primary data), namely data directly obtained from KPPU and BAWASLU both at the central and regional levels. So, the primary data is supportive because the main type of data used in this study is secondary data. The data that has been collected is then processed in the following way:

1. Editing, namely correcting the collected data whether it is complete, correct, and in accordance with the problem.
2. Coding, which provides notes or marks on the type of data source.
3. Classification, namely the grouping of data through the process of checking and classifying data.
4. Systematizing, namely the arrangement of data systematically according to the order so that the discussion can be understood easily.

The data that has been collected and processed is then analyzed qualitatively, namely interpreting the quality of the respondents' opinions or responses and then explaining them completely and comprehensively regarding several aspects related to the subject matter. In conducting the data analysis, the techniques of interpretation of law and legal argumentation (legal construction) were used. Furthermore, the data that has been analyzed is drawn to a conclusion with the logic of deductive thinking, namely reasoning that is generally applied to the individual and concrete cases that are being faced.

## **RESULTS AND DISCUSSION**

The logical consequence of the postponement of the election is that there is a vacancy of regional head positions in a number of regions. The vacancy of the regional head position certainly cannot be neglected. There needs to be a solution to fill the void to ensure the running of the wheels of local government and the development of the area. Here are alternative solutions that can be done:

### **Appointment of Task Executor or Acting**

Appointment of task executor or acting (also referred to as Plt) is an alternative solution to fill the vacant position. This alternative is often carried out later, especially in the context of creating simultaneous regional elections in a number of regions in Indonesia. The appointment of the acting to fill the vacant

position of the relevant regional head comes from the middle high leadership position for the position of Governor based on Article 201 paragraph (8) of Law No. 8 of 2015 and the post of the first high leader for the position of Regent / Mayor based on Article 201 of Law No. 8 of 2015.

This system has actually been carried out in the history of Pilkada in Indonesia. Law Number 1 of 1945 concerning the Position of Regional National Committees mandates the central government to elect and appoint regional heads. Likewise, Law Number 22 of 1948 concerning Stipulation of Basic Rules Regarding Self-Government in Regions with the Right to Regulate and Manage Their Own Households as well as Law Number 5 of 1974 concerning Principles of Regional Government mandates the DPRD to propose several candidates for regional heads to the central government to be elected and appointed as permanent regional heads (Hutapea, 2015).

The appointment of an acting of duties by the Minister of Home Affairs (Mendagri) is currently similar to the election system that has been carried out by Indonesia, although at that time the chosen subject was to become a permanent regional head. The acting task of filling the vacancy of the regional head position until the inauguration of the regional head remains the result of simultaneous elections. Executors only have limited authority according to Article 132A of Government Regulation Number 49 of 2008 and are not authorized to make strategic decisions or policies. The political power of the executor of the task is also considered weak when compared to other officials who have higher positions. Therefore, even though there are executors in an area, the wheels of regional government and regional development will be disrupted (Deliarnoor, 2015). Especially if the vacancy of the regional head position occurs for quite a long time. This is because the simultaneous regional elections which were postponed to December 2020 are still very likely to be postponed again in 2021 if the impact of the Covid-19 pandemic has not subsided. Another problem that has arisen is the mandate of the Pilkada Law, by launching a grand plan for the simultaneous national elections in 2027. Certainly, the postponement of the 2020 simultaneous elections has disrupted the big plan. In the end, the term of office of the regional head will not reach 5 years in some regions. Based on Article 202 of Law Number 8 of 2015, even though the regional head has served less than 5 years, it will still be counted as 1 period. So that the regional head still gets compensation equal to his basic salary multiplied by the number of remaining months and gets a pension right for 1 period.

Procedurally it may not cause significant problems, but politically it is certainly influential and still causes losses. Elected regional heads who cannot carry out their positions for 5 years will only receive compensation for their basic salary and pension rights, while those who serve for 5 years will receive various allowances whose value is quite large. If calculated, it is not worth the cost of the campaign, which is still quite large.

In addition, political authority that should have been held for 5 years is reduced only during the term of office. In fact, it is this political authority that influences the realization of the regional head's mission that was conveyed during the campaign. It is impossible for a regional head to only have a regional development strategic plan that was proclaimed when the campaign was only for a few years, it would certainly be launched for 5 years. After all, every regional head doesn't want to be considered a failure by the community because he can't be optimal in carrying out his vision and mission program only because of limited time in office. At least that's some of the problems both from the side of the government wheel and the elected regional head later if he is appointed as an executor or acting to fill the vacancy of the regional head.

### **Indirect Regional Head Election**

Indirect Pilkada is a regional head election system chosen by the DPRD or known as the representative system. This system is not a new pattern, but has been used in the history of regional elections in Indonesia. For example, Law Number 1 of 1957 concerning the Principles of Regional Government, Law Number 18 of 1965 concerning Principles of Regional Government, and Law Number 22 of 1999 concerning Regional Governments using the mechanism of DPRD representation as regional head voters.

The system was re-introduced with Law No. 22 of 2014 concerning the Election of Governors, Regents, and Mayors, but due to political pressure from various groups in the end it was not used as a mechanism for selecting regional heads at that time. Government Regulation in Lieu of Law Number 1 of 2014 was immediately issued and made into law to restore the direct election system by the people. The public still views the indirect Pilkada as a less democratic system (Indrawan et al., 2021). Article 18 paragraph (4) of the 1945 Constitution states that regional heads are elected democratically. The phrase "democratic" is often interpreted narrowly as direct elections by the people, even though the 1945 Constitution itself does not require regional heads to be directly elected. This is in line with the opinion of Jimly Asshiddiqie and Mahfud MD who stated that the local elections directly by the people or indirectly through the DPRD, both must be interpreted as elections that are equally democratic. So that both are considered constitutional (Hardjaloka & Simarmata, 2016). Historically, the amendments to Article 18 paragraph (4) of the 1945 Constitution have also heeding the idea of regional autonomy and regional diversity with an election system with certain customs, so that the phrase "democratic" was called as a way out.

In line with that, Bagir Manan also believes that the amendment article is in accordance with the spirit of realizing the establishment of an independent and democratic regional government (Kristiyanto, 2013). So that the election is also part of the authority of the local government to organize according to the customs and origins of the area. Then when observed, the provisions of the article are the regime of the local government, because the discussion and formulation are outside Article 22E of the 1945 Constitution which is the constitutional basis of elections (Sodikin, 2015). Therefore, these provisions need to be understood broadly and not just a narrow understanding. Moreover, the DPRD currently has the authority to elect a deputy regional head in the event of a vacancy in the deputy regional head position. Logically, this implies that the electoral system through people's representatives or DPRD is used and recognized by the state, although only in the event of a vacancy in the position of deputy regional head. Certainly, it will be inconsistent if indirect elections are said to be undemocratic, because the authority of DPRD in Articles 317 and 366 paragraph (1) of Law Number 17 of 2014 is the same as indirect regional head elections.

Yudi Latif stated that the democracy used by Indonesia was based on Pancasila and the 1945 Constitution (Hardjaloka & Simarmata, 2016). In the 4th precept, it is stated that "people who are led by wisdom in deliberation/representation" and the 1945 Constitution which states that sovereignty is based on citizenship and deliberation. So, in line with Soekarno and Moh. Hatta that democracy actually has elements of people's sovereignty as well as representative deliberation. The system of representation by the DPRD is actually a form of democracy. Democratically, the people have directly elected members of the DPRD to become people's representatives. So it means that the DPRD has received a direct mandate from its people to carry out its duties to represent the interests of the people. In the midst of the Covid-19 pandemic situation (perhaps also a disaster or other emergency), it is still relevant to build an indirect election option. Apart from being both democratic in accordance with the 1945 Constitution and encouraging the development of regional autonomy, this system has several advantages. This system is

considered more effective and efficient, because the selection method is simple. Although simple, the process carried out is quite strict, one of which is a public testing mechanism by experts/experts as well as regional figures. This is all done to ensure and realize regional heads with high quality and integrity. Apart from being both democratic in accordance with the 1945 Constitution and encouraging the development of regional autonomy, this system has several advantages. This system is considered more effective and efficient, because the selection method is simple. Although simple, the process carried out is quite strict, one of which is a public testing mechanism by experts/experts as well as regional figures. This is all done to ensure and realize regional heads with high quality and integrity.

This system tends to be more cost-effective because it does not need to print a lot of paper ballots and high logistics and operational costs. The high costs that were initially for direct elections, can be allocated for regional development and can be used to suppress the spread of Covid-19. After all, the impact of the Covid-19 pandemic will create a new normal of life, where aspects of health and physical distancing will definitely affect. So, the cost of direct elections with health protocols will certainly increase the procurement of supporting equipment which is large in number. In addition, the timeliness of the local elections can also be implemented so that there are no protracted delays that have the potential to disrupt the wheels of government in a region so that it has an impact on the pace of regional development. This is at least the advantage of indirect elections when implemented, especially with this pandemic situation. However, it is undeniable that this system has weaknesses in practice in the field, such as fears of dishonesty, DPRD members who do not represent the people, and money politics. However, money politics is actually easier to be supervised by law enforcement officers because its spread is not as widespread as in some cases of money politics during direct local elections which are widespread and difficult to supervised.

Constitutionally, again referring to Article 18 paragraph (4) of the 1945 Constitution which is an open legal policy, in the sense of opening up opportunities for lawmakers to interpret further. Currently, the DPR as the legislator and the government seems to have agreed with the interpretation that the elections are directly elected by the people. This can be seen in Article 1 of Law Number 8 of 2015 which states that the elections are held directly and democratically. So that, if using an indirect election as an alternative, the DPR must make changes to the Election Law first so that it can be held indirect elections.

### **Election of Regional Heads Using the Electronic System**

The Covid-19 pandemic, not only has a negative impact. Indeed, we are required to self-quarantine and comply with all health protocols. However, with our bodies confined, does not mean our minds are also confined. We still and must continue to free our minds and thoughts. Reflection, action, and recreation, maybe that will give a color for this section. The electronic election pattern may be another solution, when the indirect election pattern is rejected. The electronic election system allows us to carry out direct elections in the midst of a pandemic situation while still implementing health protocols. The development of the era and the industrial revolution 4.0 has provided that possibility. According to Alvin Toffler, the development of the world occurs in 3 waves of eras, namely: the agricultural era (traditional), the industrial era (modern), and towards the information age (post modern) (Toffler, 2022) In every era, the system, and the behavior of the people change according to the times (Herimanto & Winarto, 2008) Based on that, Klaus Schwab, divides the industrial revolution into 4 eras (Schwab, 2017) namely: (1) Revolution 1.0, which occurred in the 18th century through the invention of the steam engine, thus allowing goods to be mass-produced; (2) Revolution 2.0, which occurred in the 19th-20th centuries through the use of

electricity, thus making production costs more affordable; (3) Revolution 3.0, which occurred in the 1970s through a computerized process; (4) Revolution 4.0, which occurred around 2010 through intelligence engineering and the internet of things as the backbone of the movement and connectivity of humans and machines (Prasetyo & Trisyanti, 2018)

Revolution 4.0 has fundamentally changed the way people think, live, and relate socially. This era will disrupt various human activities in various fields, not only in the field of technology, but also in other fields such as economics, social, politics, law, to culture. Because humans in the 4.0 revolution era live in real and virtual worlds. This world dualism, makes humans not only community in the real world, but also virtual (Demartoto, 2013) As a result, a new culture emerged, namely cyber culture. This has an impact on postmodern humans, who are synonymous with specialization and depth. This cyber world and culture can be used as a solution for direct regional elections in the midst of the Covid-19 pandemic. Direct elections that use the electronic electoral system. Electronic elections, so far have been discussed in Indonesia, but are still limited to the level of reflection. Working visits of DPR members, to see the electronic election system in several countries, should be accompanied by action and implementation (not just reflection). Electronic elections can be interpreted as an election system by utilizing electronic media, either computers or internet networks. Electronic elections are not limited to the process of distributing voting rights, but also include the process of candidate registration, voter verification, campaigning, voting, vote counting, and announcement of results. Electronic elections have at least been practiced at the village level, such as in Jembrana Regency, Wonosobo Regency, and 2019 in Malang Regency (Sobari, 2019) so we can use them as a model in our analysis.

Indonesia requires preparation and adjustment of content, medium, and values, to implement electronic elections. This fundamental transformation must be carried out synergistically, by the election organizers (KPU), the executive, legislative and judicial governments, and especially political parties. Because, the dualism of the world and changes in society's culture, change very dynamically and so quickly. Election content should be adjusted according to the culture of postmodern society, which emphasizes the depth of content and material. Likewise, the medium, which is related to infrastructure, should be carefully and adequately prepared to ensure security and confidentiality during the election process. As for values, they should still live up to the principles of direct, general, free, confidential, honest and fair.

Electronic elections have several advantages, including: (1) Cost-effective, both in the campaign and election processes; (2) simple and efficient; (3) more flexible and effective time; (4) Calculation accuracy when counting votes; (5) Minimizing the occurrence of electoral fraud and criminal acts; (6) More environmentally friendly, because it reduces the use of chemical paper and ink; and especially (7) making it easier and more comfortable for voters, especially during a pandemic like now which requires individuals to maintain physical distance.

In addition to advantages at the technical level, electronic elections are also able to attract the interest of youth who tend to be politically apathetic. The condition is that political parties and candidates for regional heads as contestants must transform fundamentally, present various concept, ideas, and programs that are clear and in-depth. Because, as mentioned above, the character of postmodern humans today is specialized and tends to like depth. By attracting the youth, this trend will break political apathy.

The hope is that the abstention rate will decrease, the youth will be prepared to become future leaders. However, we need to be aware that, as a system, electronic elections also have vulnerabilities, namely: (1) Security and confidentiality, which may have electronic loopholes or be electronically attacked; (2) Logistics and medium, which may not be evenly available; (3) Operational issues and readiness of human resources, to operate the existing electronic system; (4) The social gap that still exists,

which may not touch all circles; (5) The readiness of legal instruments related to electronic elections, even though the Constitutional Court has issued the Constitutional Court Decision No. 147/PUU-VII/2009 concerning electronic elections; and (6) budget readiness to build electronic election infrastructure (considering that the focus of Indonesia's budgeting is currently aimed at handling Covid-19).

The election pattern with electronic elections may be a solution. Moreover, the DPR and the government have been trying to design and build an electronic electoral system in Indonesia. The Covid-19 pandemic may be a catalyst, accelerating the design and construction of the electronic electoral system. We need to re-create, create or rebuild a system that allows elections, succession, and democracy to continue. Especially, during a pandemic like this, which doesn't allow us to gather physically. So, the presence of an electronic electoral system is a necessity. The Covid-19 pandemic has made us aware or maybe even accelerate the preparation for Election 4.0 in Indonesia. Medium in the form of physical infrastructure needs to be held, legal infrastructure in the form of laws and regulations related to electronic elections needs to be discussed. Content needs to be carefully prepared by the organizers (KPU) and participants (political parties), as well as the government (executive, legislative, and judicial). In the future, if an extraordinary event occurs like this pandemic, we will no longer stutter with the existence of Election 4.0 and electronic democracy in this post-modern era.

As we know, the Covid-19 health protocol requires us to practice physical distancing and prohibits us from gathering together, washing our hands diligently, applying awareness and etiquette when coughing, sneezing, or having a fever. In fact, holding elections will certainly have the potential to cause crowds. Thus, the KPU as the organizer should regulate several matters related to health protocols in the implementation of the regional elections, including: (1) Limiting the number of periods during campaigning or other political activities related to the elections; (2) Regulating the pattern and mechanism of verification and matching of voter data by officers (as has been implemented, from which previously visited every house, is now coordinated by the Head of the RT) including data on support for individual candidates; (3) Restriction on the number of voters allowed to be in the polling station (TPS); (4) Providing hand sanitizer, body temperature measuring devices, and special booths for voters who are indicated by fever at each polling station; (5) Mandatory body temperature measurement for every voter or officer who wants to enter TPS; (6) Require officers to carry out general health checks at certain designated health facilities to ensure health and physical readiness before serving; (7) Require voters and officers to use personal protective equipment in the form of masks and several other devices, (8) facilitate and guarantee the voting rights of citizens who are outside the voting area, with the option of sending ballots through the post office like an election for Indonesian citizens abroad.

The success of the election requires serious commitment from both the government and the community. The government needs to work hard in dealing with Covid-19 and balance it with public awareness of the health aspects and constitutional rights. This study intends to discuss various rules to facilitate local elections according to health protocols. The goal is to guarantee the right to vote and the right to public health. This article is also open to all other thoughts and arguments. Regional Head Elections (Pilkada) quality is not only a matter of procedural success, but also substantial, namely the realization of the constitutional rights of citizens.



## **KPU Preparation in Implementing Direct Regional Head Elections during the Covid-19 Pandemic**

Following main headings should be provided in the manuscript while preparing. The separation between main headings, sub-headings and sub-sub headings should be numbered in the manuscript with following example:

Several problems and challenges in preparing and implementing the 2020 Simultaneous Regional Elections were faced by the KPU, including the stage of factual verification of support for individual candidates which was delayed in March 2020 due to the widespread pandemic (with the issuance of KPU Decree No. 179/PL.02- Kpt/01/KPU /III/2020). However, the challenges are not only related to health protocols. The challenges that must be anticipated by the Election Organizer include the potential for violations or politicization of the pandemic for the benefit of the campaign by camouflaging it as an aid for the community to protect themselves from the pandemic (covert campaign). For example, the distribution of masks at polling sites (TPS). This suggests that the Election Organizers can be more observant in mapping out potential violations of campaign rules that take advantage of the pandemic moment. Of course, it must be balanced with outreach to the public (voters) about things that are in violation, and so that they do not accept gifts that are disguised campaigns like that.

The potential for violations is increasingly important considering that as of July 2020, 369 neutrality violations have been found by the State Civil Apparatus (ASN), of which 33% of the violations were committed by the highest officials or leaders in the regions. Violation of the Prospective Candidate is by using Social Assistance (Bansos) or masks accompanied by a photo of the Candidate Pair of Pilkada. So far, such violations have tended to be left in plain sight by the public and law enforcement agencies. In preparing for the 2020 Simultaneous Pilkada, the KPU has coordinated with all its staff, both at the centre and in the regions. This coordination is carried out by providing directions on health protocols that must be met at each stage of the voting. Logistical readiness to support official health protocols from the Ministry of Health to the procurement of health protocol supporting equipment in all polling sites (TPS) is also continuously being pursued. The KPU has also set detailed standard health protocols at polling stations starting from washing hands, using plastic gloves, maintaining distance, wearing masks, prohibiting crowds, using hand sanitizers, reminding to avoid holding metal in public places, preparing for spraying disinfectants, avoiding touching, and etc.

The KPU also continues to discuss technical issues that will regulate campaign technicalities, which are directed at avoiding gatherings that are gathering masses, and constantly reminding the public to stay away from physical crowds. KPU chairman Arief Budiman stated that the KPU had finished compiling health protocols, one of which was that the organizers of the upcoming Pilkada were required to take vitamins and conduct rapid tests. Campaigns will also be designed to avoid crowds as much as possible, such as at rallies and closed-door meetings. The next preparation is to intensify coordination with the Covid-19 Handling Acceleration Task Force in each region regarding the implementation and socialization of health protocols, coordination in the context of refocusing the budget in each Regional Government that will hold the Simultaneous Pilkada in 2020. Coordination is also related to the preparation of the Voting Organizer Group (KPPS) equipment which must be equipped with health Personal Protective Equipment (PPE) such as masks, hand sanitizers, face shields, and gloves. Coordination is also carried out in determining physical distancing at each TPS, where the maximum number of officers and voters in the TPS area is a maximum of 12 people. The ballot tool is also planned to use a single-use punching tool.

During the process of technical preparations and preparing KPU regulations (PKPU), the KPU can learn about the success of the elections in South Korea during the Covid-19 pandemic. This is supported

by the Senior Program Manager of the International Institute for Democracy and Electoral Assistance (IDEA) Adhy Aman, who said that if the 2020 Simultaneous Regional Head Elections were forced to be held in the midst of the Covid-19 pandemic, Indonesia could learn from South Korea, which successfully held elections in the midst of the Covid-19 pandemic. -1986. The participation rate in the South Korean elections was even the highest since 1992 (66%), an increase of 8.1% from the previous year which was held under normal conditions. KPU needs to see that the election in South Korea is said to be good because it is able to make regulations and technical implementation of all stages of the election in an emergency situation, namely the initial voting before the D-Day of voting and the election by letter via post. This system existed long before the pandemic was anticipated. Voters can cast their ballots 2 days before the D-Day so that there is no accumulation of people at the polling station (TPS). For voters who are sent by mail, this is done by filling out a blank ballot from home which is then sent by post box to the address of the election authority. This system is supported by a very adequate election budget.

In terms of agile handling of the pandemic, the KPU can adopt the technique of making special new place of polling station around the Covid-19 patient isolation area. Then, the provision of Personal Protective Equipment (PPE) for election officers, participants and voters who come directly to polling stations in the form of masks, gloves, hand sanitizers, soap, body temperature gauges, and other health protocol equipment must also be carried out adequately. On the D-day of voting, voters who have a body temperature above 37.50C must be moved to a special place that has been prepared. To implement the above matters, the KPU must be careful in making KPU Regulations (PKPU) whose contents can realize the important things mentioned above. One of the important things that need to be done is to do good coordination with KPU in the regions (Province and Regency/City), political parties, law enforcement agencies and the Ministry of Health regarding the regulation of health protocols for the moment of giving and voting. Everything must lead to one goal, which is to produce rules for the implementation of the 2020 Simultaneous Regional Head Elections that guarantee a sense of security for the parties involved, both the election organizers in the field and the voters.

The KPU must immediately adapt to the situation. During a pandemic, of course, campaign rules need to be directed to avoid mass gathering. The essence of the rules that must be issued is related to the use of communication technology in campaigning. If necessary, the KPU can start engineering the use of e-voting instead of the conventional way of voting at the voting booth. In facing the challenge of potential violations of the 2020 Simultaneous Regional Elections campaign, the KPU must coordinate with the Election Supervisory Body (Bawaslu) to "open its eyes widely" to covert campaigns that use the framing social assistance program as assistance for the Covid-19 pandemic. However, the KPU must be able to distinguish, which is the Social Assistance for a pandemic that is indeed carried out based on a Regional Government program and the camouflage of Social Assistance for a pandemic that is a covert campaign, which includes a photo of the Election Candidate Pair.

Handling or the follow up on campaign violations itself will also be a difficult challenge for the KPU. During the pandemic, many of the parties involved will definitely face difficulties who are not willing to be physically present on the grounds of avoiding the spread of the Covid-19 virus. In fact, not all evidence of violations can be submitted through the online system. Some evidence, such as campaign props, needs to be presented physically and it is not enough if it is just a virtual proof this issue must immediately get attention from the DPR RI and the Government because there are still conflicting rules between laws, namely between Law Number 10 of 2016 concerning the Election of Governors, Regents and Mayors, who are not familiar with the judiciary in absentia with Law Number 7 of 2017 concerning General Elections who are familiar with the concept of justice in absentia. This is certainly very confusing for Bawaslu to

enforce the rules for implementing Pilkada, which will result in the suboptimal quality of Bawaslu's performance.

The thing that seems to need to be done immediately by the KPU is to submit a request to the DPR RI to review the synchronization of laws and regulations related to the handling of election campaign violations or elections in absentia, where during the pandemic, this issue becomes very crucial. This action needs to be taken so that in the future the KPU can carry out enforcement of regulations for campaign violations (which are executed by Bawaslu) more smoothly without being confused by the overlapping election rules in the law.

## **CONCLUSION**

Covid-19 disrupts the holding of local elections in Indonesia. Conditions show that until now the number of Covid-19 cases is still increasing. The direct election is threatened that it cannot be held, the logical consequence is that there will be a vacancy in the position of the regional head. To prevent these vacancies, several alternative patterns of filling regional head positions can be a solution, including through the appointment of a temporary acting or task executor (Plt), indirect elections, and elections using the electronic election system. Each pattern has its advantages and disadvantages, with strong logical and juridical arguments that can be taken into consideration. KPU cannot work optimally without coordination with all related parties. The government and the DPR RI can provide support to the KPU in realizing direct elections during the Covid-19 pandemic that is safe from the potential spread of the Covid-19 virus, but still ensures democratization, transparency, accountability, honesty and fairness in its implementation. What needs to be done is to pay attention to in detail the inputs from the KPU and Bawaslu about what items they need in order to carry out the elections in accordance with the health and social distancing protocols from the Ministry of Health.

The Government and Election Organizers should further sharpen the rules and sanctions for election violators more clearly, especially in this very dangerous Covid-19 period in order to produce effective and fair elections as a whole, not only for potential participants but also for the voting community.

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