

Quo Vadis Head of Local Government Authority: Products of Local Elections within the Principle of Decentralization

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ABSTRACT

The management of broad governance requires Indonesia to apply a decentralized pattern, by forming regional governments at the first level (provinces) and the second level (Districts/Cities). This is solely to achieve the optimization of national goals and development. However, the division of tasks and relationships between central and regional government authorities continues to experience dynamics. This issue needs to be deeply examined, specifically related to how to obtain and at what level of legitimacy strength, before determining how the working relationship and authority between the Central Government and the regions should be. This research employs a qualitative type, utilizing focused literature studies by taking relevant literature and legal provisions related to the position of regional leaders' authority in decentralization and provincial elections. The analysis used in this study applies the theory of the regional household system proposed by K. Tresna and Bagir Manan, the theory of the relationship model between the Central Government and regions by Clarke and Stewart, as well as the theory of people's sovereignty by John Locke, further emphasized by JJ Rosseau's social contract theory. The findings of this research assume that the methods and strengths of legitimacy regarding the people's sovereignty held by both the Central and regional governments are the same; the difference lies only in the scale of the election/governance areas. Local governments must have extensive autonomy and independence in conducting their regional governance affairs.

Keywords: Local Election, Legitimacy, Local Autonomy

INTRODUCTION

The consequences of independence demand that Indonesia, as a nation, must be capable of managing its household independently without relying too much on other countries. This is because, indirectly, such dependence can invite the desire for re-colonization by other nations (Suseno, 1999). Considering Indonesia's origin as a vast archipelagic nation, implementing a centralized government is highly impractical. Consequently, the founding fathers began contemplating and formulating effective ways to manage governance to ensure optimal functioning. One of the measures taken was the decentralization of authority or the division of territorial powers, each led by government mandate holders based on regions.

The focus of these improvements is primarily related to the aspects of national and regional development. According to Ine Fauzia in her journal, the connection between law and development in the history of Indonesia is divided into several phases, namely: (Ine Fauzia, 2017) Hindu and Buddhist cultures heavily influenced the pre-colonial phase since the 4th century and later Islam in the 13th century. The Hindu and Buddhist cultures, which adhered to a caste system, especially in Javanese society, shaped an ethical system centered around conflict avoidance. The Colonialism Phase featured legal pluralism from the 16th century until 1945. However, generally, the law was used for the benefit of the rulers, functioning as a tool for maintaining order and regulating relationships among different population groups in the colonial regions. The Post-Independence Phase marked the formation of Indonesia's national legal system as a new state.

In 1945, the government issued Law Number 1 of 1945 concerning Regional Government. Based on this law, the Central Government appointed and established Regional Heads who functioned as representatives of the Central Government and as local government heads.(Ni'matul Huda, 2007) In its development, this law has undergone continuous changes to adapt to the evolving conditions and dynamic needs of the times. These changes began with the enactment of Law Number 22 of 1948, Law Number 1 of 1957, and

Presidential Decree Number 6 of 1959 regarding Regional Government. For approximately 30 years, the concept of Regional Government or decentralization was considered tendentially centralistic or centralized because of the solid and dominant role of the Central Government over Regional Governments at that time.

When Indonesia faced a multidimensional crisis in 1998, a reform movement emerged, led by reformist groups of various elements, including students, the public, and others united in a movement with multiple demands. Among these demands was the call for the resignation of Soeharto as the President of the Republic of Indonesia. Alongside this, there were also demands regarding the issue of decentralization. The issue of devolution emerged as a manifestation of the reformists' disagreement with the mechanism for determining Regional Heads during the New Order era, as it was perceived to be oligarchic. (Kevin Raymond Evans, 2003)

As a result of this movement, the government eventually enacted Law Number 22 of 1999 concerning Regional Government, followed by the issuance of Law Number 22 of 1948 concerning the Financial Balance between the Central Government and Regions. Subsequently, a revision was made by Law Number 32 of 2004 concerning Regional Government, accompanied by Law Number 33 of 2004 concerning the Financial Balance between the Central Government and Regions. Furthermore, it was amended by Law 12 of 2008, and the latest revision occurred with Law Number 23 of 2014 concerning Regional Government. The multiple changes in regulations governing Regional Government indicate dynamics and distinct interests in their implementation, particularly concerning governance at the regional level.

Currently, the process of determining and filling public positions at the central and regional levels in Indonesia applies a mechanism of general elections as part of the determination process. This is clearly and explicitly regulated in the 1945 Constitution of the Republic of Indonesia, Indonesia's constitution. The 1945 Constitution of the Republic of Indonesia has

undergone several changes (amendments), with the first change in 1999, the second in 2000, the third in 2001, and the fourth in 2002. These changes were made solely to fulfill the democratic aspirations, emphasizing sovereignty being in the hands of the people. These changes were vigorously pursued, especially after the collapse of the New Order regime, which was marked by multidimensional crises and massive popular movements in May 1998.

Article 1, paragraph (2) of the 1945 Constitution of the Republic of Indonesia states, "Sovereignty is in the hands of the people and is implemented according to the Constitution"

Manifestations of people's sovereignty, as desired by reform ideals, are reflected in direct elections. Direct elections conducted by the Indonesian people are considered tangible evidence of the people entrusting a mandate to their representatives to fulfill the aspirations and will of the people.

Regarding democracy, Habibi, through his journal, states that its implementation can be divided into normative democracy and empirical democracy. Normative democracy involves the summary of ideas or ideals about democracy found in philosophy. In contrast, practical democracy refers to its implementation in the field, which may not always parallel its normative ideas. In other words, normative democracy and empirical democracy can be understood as democracy essence and democracy performance, often referred to in legal terms as "das sollen" and "das sein." Meanwhile, the principles of general elections, as recorded in Article 22, Paragraph (1) of the 1945 Constitution of the Republic of Indonesia, state: "General elections are conducted directly, publicly, freely, secretly, fairly, and honestly every five years" General elections in Indonesia are categorized into two types, namely the general election for the president and vice president, and the legislative general election known as 'Pemilu' (Pemilihan Umum), as well as the regional head general election known as 'Pilkada' (Pemilihan Kepala Daerah)."

Furthermore, regarding the election of Regional Heads, Article 18, Paragraphs (3) and (4) state:

(3) Provincial, regency, and city Regional Governments have Regional Representative Councils whose members are elected through general elections.

(4) Governors, Regents, and Mayors, respectively as the heads of the Regional Governments of provinces, regencies, and cities, are democratically elected."

Regulations regarding the election of Regional Heads were subsequently established in Law Number 32 of 2005 concerning the election, verification, appointment, and dismissal of Regional Heads and Deputy Regional Heads. Thus, the history of direct Regional Head elections in Indonesia began for the first time in 2005. Historically, the election of regional heads was conducted indirectly through a mechanism carried out by legislative institutions. This approach prompted reactions and led to reform demands because the mechanism was deemed too exclusive and laden with the "instructions" of those in power, tending to strengthen the oligarchic tendencies of the New Order. (Bagir Manan, 2005)

It was only post-reform that the people conducted the mechanism for Regional Head elections (Pilkada) directly. Regarding the mechanism of direct Pilkada elections, as regulated in the current constitution and legislation, one such regulation is Law Number 10 of 2016 concerning Pilkada. This law emphasizes that the democratic process in determining state officials at the national and regional levels essentially shares the same essence, from the qualifications for candidacy to the declaration of the elected candidate. The critical difference lies only in the scale of territorial authority. Consequently, both the Central Government and Regional Governments should have an equal share of authority over governance affairs based on the aspects of their territorial jurisdiction. (Soejito Irawan, 1990)

Recently, in the context of handling COVID-19, an interesting phenomenon has emerged, namely the declaration of a COVID-19 emergency by Joko Widodo, the President of the Republic of Indonesia, on Monday, March 2, 2020. However, the day before, Anies Baswedan, the Governor of DKI

Jakarta, had already declared a COVID-19 emergency in Indonesia. There was also a tug-of-war between the policies issued by the Jakarta Provincial Government and the Central Government, which garnered public attention and was laden with interests, particularly political nuances.

One notable event was the issuance of Presidential Decree Number 7 of 2020, which replaced Jakarta Governor Decree No. 291 of 2020 regarding forming the COVID-19 Handling Task Force in DKI Jakarta. Subsequently, Jakarta Governor Regulation Number 328 of 2020 was issued regarding establishing a new task force for accelerating COVID-19 handling in DKI Jakarta. One of its provisions involved replacing the task force's chairman, initially held by Catur Laswanto, who Saefullah, the Secretary of the DKI Jakarta Provincial Government, then returned.

These events invited various interpretations from the public, including two main points. First, the Central Government was perceived as slow in early detection and not severe in facing the COVID-19 emergency, potentially diminishing public trust in the Central Government's ability to handle the pandemic. Second, the announcement made by the Central Government through the President of the Republic of Indonesia was seen as politically motivated, given that a similar announcement had been made by the Governor of DKI Jakarta a day earlier.

In light of these events, researchers find it intriguing to examine the authority of Regional Heads in addressing issues affecting their jurisdictions, especially in connection with regional autonomy, considering the principles of decentralization and the direct election of Regional Heads, similar to the general elections for the President and Vice President.

RESEARCH METHOD

This qualitative study employs a focused literature review, gathering literature and legal provisions related to the position of the Regional Head's authority in decentralization and local elections (Pilkada). The analysis in this

research utilizes the theory of the regional household system proposed by K. Tresna and Bagir Manan, the theory of the model of central and regional government relations by Clarke and Stewart, as well as the theory of popular sovereignty by John Locke, reinforced by the social contract theory of JJ Rousseau.

The research methodology begins with the presentation of data, encompassing primary, secondary, and tertiary data. Subsequently, data abstraction is conducted to distil facts, which are then analyzed to generate new information and knowledge related to the research theme – the authority of Regional Heads in decentralization and local elections.

RESULT AND DISCUSSION

Direct Elections at the Central and Regional Levels

As previously disclosed, direct elections for regional heads in Indonesia were initiated in June 2005 after Law Number 32 of 2004 concerning provincial governments was enacted. The event and lengthy debates coloured the journey of legislative changes regulating the election of Regional Heads in Indonesia. Essentially, the alteration in the mechanism of electing Regional Heads is a product of the reform demands that emerged following the fall of President Soeharto, renowned for his New Order regime. (Sodikin, 2014). A highly centralized pattern characterized the determination of Regional Heads during the New Order regime. The Central Government had significant control in deciding who was "approved" to become a Regional Head. Consequently, the existence of Regional Governments during that time was perceived to lack autonomy entirely, and all matters within the jurisdiction and policies of the region were regarded as identical to the wishes of the central authority. (Riwu Kaho, 2012)

Article 15 of Law Number 5 of 1974 concerning the Basic Principles of Regional Government stipulates that the Central Government selects Regional Heads, while the Regional People's Representative Council (DPRD) only has

the authority to make recommendations. Therefore, during the New Order regime, many regional governments had some administrative positions filled by military personnel, considering the president's background also came from the same circle. These methods were seen as shifting democratic values towards oligarchy and were deemed detrimental to governance at both the central and regional levels. The climax of the reform movement was inevitable; demanding the resignation of the President of Indonesia and improving decentralization were among the issues raised at that time.

Subsequently, under the leadership of BJ Habibie, who replaced Soeharto as the President of Indonesia, the government issued Law Number 22 of 1999 to meet the demands of reform. In substance, this law altered the pattern of selecting Regional Heads, slightly loosening the grip of the Central Government. This regulation gave DPRD the authority to determine Regional Heads, unlike before when they only had the authority to make recommendations. This approach is an indirect electoral process. The determination of Regional Heads is done directly by the internal members of DPRD through various methods, ranging from deliberations to the final choice through voting. (BN Marbun, 1982)

However, such methods still needed improvement in meeting reform demands because oligarchic values were perceived to persist. The process of selecting Regional Heads by members of DPRD was deemed closed and elitist. Additionally, lobbying and negotiation practices within the DPRD were seen as prioritizing and involving the fractional interests of political parties rather than those of the constituents. As a result, the public felt unrecognized and believed they had never given consensus to the products produced through such mechanisms.

As a result of these issues, numerous pressures emerged, leading the government to change Law Number 22 of 1999. This resulted in the issuance of Law Number 32 of 2004 concerning Regional Governments, which essentially mandates the local community's direct election of Regional Heads.

This election pattern is still in use today, despite some changes, especially when Law Number 22 of 2014 was enacted, intending to revert the selection of Regional Heads to DPRD (Regional People's Representative Council) as initially mandated by Law Number 22 of 1999. Along with the issuance of Law Number 22 of 2014, Law Number 23 2014 concerning Regional Governments was also introduced. However, this change still needs to be implemented as President Susilo Bambang Yudhoyono promptly issued Government Regulation instead of Law (Perpu) Number 1 of 2014, requiring the public's direct election of Regional Heads. The latest amendment to the election regulation occurred with Law Number 10 of 2016 concerning general elections for Governors, Deputy Governors, Regents, Deputy Regents, Mayors, and Deputy Mayors.

Direct elections by the public were considered costly due to significant operational expenses. This led the government to discuss strategies related to the efficiency of elections. Finally, in 2015, a breakthrough emerged – simultaneous regional elections (Pilkada Serentak). In 2015, simultaneous regional polls were conducted for the first time, and the government has maintained this approach until now. Over the years, simultaneous regional elections have been carried out in various periods, including 2015 (269 regions covering nine provinces, 224 regencies, and 36 cities), 2017 (101 regions including seven provinces, 76 regencies, and 18 cities), 2018 (171 regions covering 17 provinces, 115 regencies, and 39 cities), and in 2020, it is planned to be held in 270 areas, including nine provinces, 224 regencies, and 37 cities.(Prayudi dkk, 2017)

Several reasons reflect the general public's preference for the direct election model at the regional level. According to Prayudi et al., they mention several advantages of implementing direct regional elections. One of them is that direct regional elections provide space for contestants openly and competitively, as well as an effort to enhance solid political legitimacy at the regional level.(Prayudi dkk, 2017)

The people in the region have very high expectations for the development and progress of their area. This hope is manifested through their desire to directly elect regional leaders to choose figures capable of working effectively and responsibly, maximizing regional management, and providing prosperity for the local community. Based on the principles of popular sovereignty, these values should concern the government in the governance process, which essentially involves the people's livelihood.

Ideally, in implementing direct regional elections, there should be three principles to ensure the recognition of popular sovereignty and the realization of reform aspirations. These principles are as follows (Sigit Pamungkas, 2009):

Firstly, voter satisfaction is crucial due to the complexity of changing the mechanisms and procedures for electing regional leaders that had occurred previously. This change was driven by the perception in local communities that they have a right that should be exercised independently and separately without the involvement of other representatives. Even though members of the Regional People's Representative Council (DPRD) are considered representatives of the electorate, their preferences are still viewed as different and represent a separate mandate from the public. Therefore, when the community directly participates in the election and decides who their preferred leader is, it becomes a source of satisfaction as they have assessed and tested the leader.

Secondly, public opinion is significant. Direct elections for regional leaders should provide moral values to the chosen figures to fulfil their responsibilities as well as a response to the trust given by the voters. Any policies implemented should reflect the desires of the local community they lead while also considering more extensive national interests. Hence, local interests should not be disregarded in favour of interests other than those of the nation.

Thirdly, accountability involves political sanctions that the elected figures must demonstrate in the post-leadership period. After their term, a

regional leader must be accountable to the public for the region's governance. However, up to the present time, there is no precise mechanism related to the accountability of regional leaders that directly results in political sanctions from the voting public. Enforcement of the law by the police, the Corruption Eradication Commission (KPK), and others remains the primary avenue for addressing corruption and other criminal cases, which are not directly related to the leader's accountability but more to their status as ordinary citizens.

It considers several descriptions of changes in the Pilkada pattern and the underlying reasons. The process of electing regional leaders directly is still considered the best pattern as a manifestation of democracy that reflects the accommodation of the political rights of citizens in the region. Until now, this pattern has still been considered to represent the people's sovereignty at the regional level. (Jimly Asshiddiqie, 2015). As for implementing the direct election of regional leaders, which is considered expensive, should be easy as long as the process results can cover the high costs incurred. However, potential issues that could tarnish this direct Pilkada process must be anticipated to prevent harm to the election process and its results. Examples include political party's demand for political dowry, ineffective party cadre system, the practice of money politics in elections, and other factors that undermine the democratic process.

The direct election of regional leaders has been in place for a very long time, and even today, a better pattern for determining regional leaders has not been found compared to direct Pilkada. In its 15 years, the natural election system is expected to provide a better pattern and results than previous methods of selecting regional leaders.

While the implementation of direct Pilkada has indeed satisfied the voting public, the actual execution of the trust the voters gave has yet to yield the sweet fruits envisioned by the reform aspirations. According to Corruption Eradication Commission (KPK) data, since its establishment in December 2002, the institution has arrested and processed 119 regional leaders

suspected of corruption in various regions. This is not a heartening result of the direct Pilkada process. Therefore, a thorough examination and evaluation of the implementation of the natural Pilkada system carried out so far is necessary.

The direct Pilkada process should be subject to evaluation if significant positive outcomes cannot justify the expenses incurred in this immediate regional leader election process. This indicates that there is something wrong with the implementation of the process.

Legitimacy of Central and Regional Sovereignty

The direct election process used to select presidential and vice-presidential candidates is essentially identical to the process of selecting pairs of regional leaders. The difference lies only in the scale of the election region. To prove this similarity, the author attempts to analyze the legislation governing General Elections (Pemilu), namely Law Number 7 of 2017 concerning General Elections, and the legislation governing Regional Elections (Pilkada), namely Law Number 10 of 2016 concerning Regional Elections. In addition, the author also analyzes other regulations that support the implementation of each election process, such as regulations from the General Election Commission (KPU), the Election Supervisory Agency (Bawaslu), the Ethics Council for Election Organizers (DKPP), and other regulations.

In the presidential and vice-presidential elections, their nomination is a requirement as stipulated in Article 222 of Law Number 7 of 2017 concerning General Elections, which states:

"Political Parties propose candidate pairs or a Coalition of Political Parties participating in the Election which meets the requirements of obtaining at least 20% (twenty per cent) of the total seats in the DPR or obtaining 25% (twenty-five per cent) of the valid votes nationally in the previous DPR election."

On the other hand, in the regional head elections, the candidacy requirements are stated in Article 40 paragraph (1), which states:

"Political Parties or a coalition of Political Parties can register a candidate pair if they have met the requirements of obtaining at least

20% (twenty per cent) of the total seats in the Regional People's Representative Council or 25% (twenty-five per cent) of the cumulative valid votes in the general election for members of the Regional People's Representative Council in the respective area."

Another difference is that the nomination of presidential and vice-presidential candidates is required based on proposals from political parties and coalitions of political parties, as mandated by Article 6A paragraph (2) of the 1945 Constitution, which states:

"Candidates for President and Vice President are proposed by political parties or coalitions of political parties participating in the general election before the implementation of the general election."

Meanwhile, regional heads are allowed to come from individuals/independents. However, the requirements for regional head candidates from individuals/independents are more stringent than those proposed by political parties. Article 41, paragraph (1) states:

"Independent candidates can register themselves as Governor and Deputy Governor Candidates if they meet the support requirements of the number of residents who have the right to vote and are listed in the permanent voter list in the most recent general election or the previous election in the respective area..."

The minimum support requirements for independent Governor candidates are outlined in Article 41 paragraph (1) letters a to e, namely 10% if the number of eligible voters is 2,000,000, 8.5% if the number of eligible voters is above 2,000,000-6,000,000, 7.5% if the number of eligible voters is 6,000,000-12,000,000, and 6.5% if the number of eligible voters is above 12,000,000. The same principles apply to selecting candidates for Regent/Mayor, adjusted to the scale of their respective election regions. Furthermore, the provision for determining the elected candidate pairs, whether for the president/vice president or regional heads, requires a minimum of 50% of the valid votes.

Based on the above discussion, it can be concluded that, firstly, the democratic process carried out through the mechanism of direct elections,

both at the central and regional levels, has the same pattern, even though the regulations separate them; secondly, the logical consequence of the same election pattern and mechanism is resulting in the equal level of legitimacy of sovereignty granted by the people, with differences only in territorial power aspects.

Central and Regional Authorities

As a legal state (*Rechtsstaat*), as emphasized in Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia, Indonesia also declares that its governance must be based on the sovereignty of the people, implemented according to the constitution. This implies that the policies issued must reflect the people's will and be embodied in laws and regulations. In response to the governance of Indonesia as a country with vast territory and high diversity, the government eventually implemented the principle of decentralization (Nugroho, 2013). Namely, the formation of governance at the regional level, where certain authorities of the Central Government are delegated to the regions to administer governance at the local level. Not all authorities, duties, and responsibilities of the Central Government are transferred to the Regional Government; laws and regulations regulate all these governance matters. The theoretical understanding of decentralization, according to Hoogerwarf, is the acknowledgement or delegation of authority by higher public bodies to lower-ranking public bodies to independently and based on their own interests, make decisions in the field of regulations (*regelendaad*) and governance (*bestuursdaad*)(Abdullah, 2016).

Regarding the implementation of the distribution of power by the government, three principles of regional government are applied: the principle of decentralization, deconcentration, and assignment of duties. Their definitions, according to Law Number 23 of 2014 concerning Regional Governments, are as follows:(Rizal, 2020)

- a. Decentralization is the transfer of government affairs from the Central Government to autonomous regions based on the principle of

autonomy.

- b. Deconcentration is the delegation of the distribution of government affairs, which are the authority of the Central Government, to the governor as the representative of the Central Government, to vertical agencies in certain regions, and the governor and regent/mayor as responsible for general government affairs.
- c. Assignment of Duties is the assignment from the Central Government to autonomous regions to carry out some government affairs that fall under the authority of the Central Government or from the Provincial Government to the regency/city government to carry out some government affairs that fall under the authority of the provincial government.

Nevertheless, regarding government affairs, Bagir Manan once said:

"There is no government affair that is completely and naturally the affair of the central or regional government. Any government affair can shift from being a regional affair to a central affair and vice versa at any time."(Bagir Manan, 2001)

The regional government administration in Indonesia has distinctive characteristics over time due to revisions of the regulations governing it. About the administration of regional government, there is a theory of the regional household system (*huishoudingsleer*) proposed by Bagir Manan that specifically discusses certain concepts in organizing the household of the provincial government. Bagir Manan states three teachings in the regional household system: formal, material, and accurate. These teachings are as follows:(Said, 2015)

1. Formal Household System (*formele huishoudingsleer*):

The authority, division of tasks, and obligations between the Central Government and regions must be more detailed and classified in the formal household system. The Regional Government can also own any authority, tasks, and responsibilities held by the Central Government and vice versa.

However, the Regional Government is not allowed to deal with matters regulated by higher-level laws or regional regulations, as these fall under the authority of the higher-level Regional Government and the Central Government. Consequently, if a Regional Government deals with a matter and a higher-level government takes over that matter, any regional regulations issued can be annulled by the higher regulations.

2. Material Household System (*materiele huishoudingsleer*):

Unlike the formal household system, the material household system requires precise and detailed classification and categorization of the authority, tasks, and obligations between the Central and Regional governments. This doctrine is based on the belief that all forms of authority, tasks, and responsibilities of the government can be differentiated, determining which falls under central and regional authority. Thus, government administration will run relatively effectively and efficiently, avoiding overlaps in authority. Regulations play a vital role in ensuring the continuity of implementing the material household system.

3. Real Household System (*Riil*):

The actual household system is a middle ground between the formal and material household systems. This system requires that the position of authority, tasks, and responsibilities of the government be based on the accurate or actual conditions of the government itself. Each Regional Government's authority, tasks, and duties may differ. For example, Indonesia is an archipelagic country with high heterogeneity levels. However, once again, it becomes a challenging task to formulate regulations to classify the authority, tasks, and responsibilities between Regional Governments and the Central Government.

The existence of a regulation or law is a definite necessity. It must be done to establish boundaries and provide a framework for regulating the authority relationship in the implementation of affairs between the Central Government and regions. The authority relationship between the central and regional

governments must be maintained while considering various aspects related to regional autonomy, which should assess the quality of legitimacy received by both the central government and the provincial government. One aspect of this is the electoral process, which determines the selection of a Governor/Mayor/Regent as the Head of the Region and the President as the Head of the Central Government. (Farid et al., 2017).

As mentioned earlier, legislation regarding regional governments (Pemda) has undergone several changes, with the latest revision being made by Law Number 23 of 2014. In this regulation, various government affairs are discussed, and at the same time, it regulates the division of authority between central and regional governments. This is stipulated in Article 9 of Law Number 23 of 2014 regarding regional governance, which categorizes government affairs into three types: absolute government affairs, concurrent government affairs, and general government affairs.

Model of Central and Regional Authority Relations

The governance system used by Indonesia, considering the regulations on the division of government affairs stipulated in Law Number 23 of 2014 concerning Regional Governments, tends to apply material and fundamental teachings. This is evident from the division of concurrent government affairs, some of which are mandatory, and others are optional. This government affairs division between the central and regional governments is quite beneficial.

However, looking at the facts of the regulation of the division of government affairs, it is not in line with the aspirations of the reform, which envisions regional governments as autonomous governments resulting from a process known as "Pilkada" (Regional Head Elections). As stipulated in the legislation, the regulation on the model of authority relations between the central government and the regions positions regional governments only as governments formed and dispatched by the centre, despite its mechanism of determination and sovereignty legitimacy not being as such.

The 1945 Constitution of the Republic of Indonesia has expressly regulated the authority relations between the central government and regions. As mentioned in Article 18 (A):

- (1) The authority relations between the central government and regional governments of provinces, regencies, and cities, or between provinces and regencies and cities, are regulated by law, considering the specificities and diversities of the regions.
- (2) Financial relations, public services, utilization of natural resources, and other resources between the central and regional governments are regulated and implemented relatively and harmoniously based on the law.

Based on the provisions in the constitution, the authority relations between the central government and regions are restricted through legislation, both laws specifically regulating autonomy and other separate legislation regulating various aspects of these authorities. This indicates that the authority relations between the central government and regions are often dynamic and require many regulations (Ni'matul Huda, 1994).

Next, regarding the working relationship and authority between the Central Government and regions, Clarke and Stewart, as cited by Ni'matul Huda through the theory of authority relations between the Central Government and regions, propose three (3) models of relations between the Central Government and regions, namely:(Said, 2015)

1. **The Relative Autonomy Model** means that the Central Government grants extensive freedom to the Regional Government to handle all matters related to its household. This approach compels the Regional Government to become more self-reliant in administering governance in its area. The Regional Government can manage its affairs if it stays within the authority framework established by legislation. This first model can create a better governance structure, as it prevents power struggles between the central and regional governments. The relationship between the centre and the region is limited to consultative matters, and the Central

Government needs the authority to intervene as long as the governance process in the area is conducted correctly.

2. **The Agency Model:** The existence of the Regional Government is nothing more than an implementer of policies made by the Central Government. The level of autonomy under this model is very narrow and considered non-existent. The Regional Government exists merely as an extension of the Central Government, waiting for central commands to initiate governance in its region. Consequently, the effectiveness and efficiency values will be neglected in this model's governance process, given the large number of Regional Governments requiring extra workforce and a significant amount of time. On the other hand, this model can become a weakness for the Regional Government, which tends to depend on the Central Government and needs more independence.
3. **The Interaction Model:** This interaction model emphasizes the relationship or interaction between the Regional Government and the Central Government. This model aims for synergy between the Regional Government and the Central Government through interactions to determine what should and should not be done by the Central and regional governments. The drawback of the relationship between the Central and Regional Governments using this model is the vulnerability to conflicts of interest between the Central and Regional governments. Given that the discussions between the two governments may go differently than imagined, it requires time and strategic approaches to reach a consensus that can be genuinely accepted and implemented by both parties.

Law Number 23 of 2014 concerning Regional Governments, which regulates the division of authority and the implementation of government affairs, was issued following the enactment of Law Number 22 of 2014 concerning the Election of Governors, Regents, and Mayors, which 226 members approved. This law is aimed at appointing Regional Heads by the internal members of the Regional People's Consultative Assembly (DPRD).

Subsequently, the then President of the Republic of Indonesia, Susilo Bambang Yudhoyono, handed over two presidential regulations (Perppu) to the DPR as a response to the enactment of the Regional Elections Law. Ultimately, this law was revised by Presidential Regulation Number 1 of 2014 and enacted as Law Number 1 of 2015 concerning the Ratification of Presidential Regulation Number 1 of 2014 into Law. Finally, Law Number 10 of 2016 was issued concerning the Second Amendment to Law Number 1 of 2015 concerning the Ratification of Presidential Regulation 1 of 2014 concerning Regional Elections into Law.

Meanwhile, Law Number 23 of 2014, revised by Presidential Regulation Number 2 of 2014 concerning Regional Governments, was stipulated by Law Number 2 of 2015 concerning the Ratification of Presidential Regulation 2/2014 concerning Amendments to Law Number 23/2014 concerning Regional Governments into Law. It was last amended by Law Number 9 of 2015 concerning the Second Amendment to Law Number 23/2014 concerning Regional Governments into Law.

The existence of Law Number 2 of 2015, which only revises the authority of DPRD members, and Law Number 9 of 2015, which adjusts the division of tasks for regional heads and deputy regional heads, does not change the regulation regarding the division of government affairs in Law Number 23 of 2014 at all. This means that the regulation on the division of government affairs still refers to Law Number 23 of 2014, and automatically, the existence of this law was initially designed in such a way using the optional and concurrent function concepts, indicating a robust centralistic nuance. , from the beginning, the mechanism for determining Regional Heads was prepared through elections conducted by internal members of the DPRD, not through direct elections by the people.

According to Abdul Rauf in his journal, this pattern tends to reflect an agency model, where the central government is considered too dictatorial and makes the regional government merely a technical executor of the policies

adopted by the central government. Rauf argues that there are at least several reasons underlying his analysis, namely:(Said, 2015)

First, the division of government affairs in the Regional Government Law tends to reduce the authority of Regional Governments by the Central Government. On the one hand, the central government has authority over the implementation of absolute government affairs; on the other hand, it also has the right to general government affairs. Furthermore, the central government itself has the authority to implement concurrent government affairs, some of which can be delegated to regional governments to follow the norms, procedures, standards, and criteria (NPSK) set by the central government. This is stated in Article 16 of Law Number 23 of 2014 in paragraphs (1) and (2), with its consequences mentioned in Article 17, paragraph (3), which states that:

"If regional policies made in the context of organizing Government Affairs within the authority of the Region do not adhere to the norms, standards, procedures, and criteria as referred to in paragraph (2), the Central Government cancels the regional policy as referred to in paragraph (1)."

Second, the central government's authority over regional government affairs needs to be revised and made more relaxed. This will undoubtedly hinder the autonomy and make it rigid for Regional Governments to develop their creative management of Regional Governments. For example, the Central Government obliges Regional Governments to organize government affairs by central NPSK policies, conduct monitoring, supervision, and evaluation, and have the right to cancel government affairs conducted by Regional Governments.

Third, the division of tasks based on the Regional Government Law must reflect a broad grant of autonomy to regions. The current Regional Government Law does not apply a residual function or the principle of remaining, which genuinely provides comprehensive authority (general competence) to Regional Governments. The residual function is a system of

dividing authority adopted by the old regulation, Law Number 22 of 1999, which, after Law Number 32 of 2004 issuance, changed into concurrent function – a strongly centralistic power. Even today, it is still used in the Regional Government Law.

As a result, what happened to Anies as the Governor of Jakarta when taking steps and policies related to the COVID-19 emergency caused polemics and appeared political. Indeed, this can be understood, considering Anies Baswedan, as the Governor of Jakarta, was seen as a significant figure behind the political opposition to Joko Widodo, who was elected as president for the 2019-2024 period during the presidential election in 2019. Here, it is clear that there is a political flavour that adds spice to the events, so there is an expression of "old sins" that have not been forgiven or even feared; considering the emergence of rumours about the 2024 presidential election, one of which places Anies as a potential candidate in the upcoming presidential constellation.

Such relationships in the governance process should not be allowed and would even be detrimental, as this can lead to a system failure in governance. As a result, many interests and public welfare may be sacrificed for the interests of a few individuals. What would happen if this involved many other regional governments?

In such cases, professionalism and political maturity should be prioritized, especially when it involves and risks public welfare (Subakti, 2001). However, with the autonomy demonstrated by a Regional Government, the Central Government should support and encourage other Regional Governments to act independently and better. This includes the attitude of a Regional Head, who is able to take swift actions in handling emergencies affecting their region through their authority (Lukman Hakim, 2012).

Based on the data and facts outlined above, the author assesses that several factors prevent the effective contribution of regional government administration, namely:

Firstly, electoral disorientation. Direct elections for regional heads should be an initial step to anticipate deviations from the essence of democracy toward oligarchy. However, in practice, there is still a deviation that can happen at any time and be carried out by anyone. The cost of organizing local elections (Pilkada) is considered expensive by many due to the following reasons: 1) In its mechanism, it has not applied an efficiency pattern. For example, the election budget prepared by the Election Commission (KPU) still assumes the possibility of having 5 (five) candidate pairs, even though, on average, Pilkada is only contested by 2 or 4 candidate pairs. The recent idea of simultaneous local elections is expected to address this, but until now, there has been no significant change in efficiency; 2) The direct election process is still manual (offline) and has yet to be able to maximize the development of digital technology that has entered the era of the Industry 4.0 revolution. With the manual (offline) method, the KPU, as the election organizer, requires many human resources, both from the central level to the KPPS (Village Election Organizing Group) as ad hoc organizers at the grassroots level. Similarly, the Election Supervisory Body (Bawaslu) as the election supervisor requires a considerable number of human resources, from the central level to the Polling Station Supervisors (Pengawas TPS) as supervisors at the grassroots level. This means that the government needs to allocate budgetary allowances for the organizers and supervisors, which is a significant amount. The logistics of the election are relatively expensive, and there are other necessary fiscal allocations; 3) The awareness of candidates for regional heads and their teams, as well as the voters, are not yet fully aware of the urgency of Pilkada, which should aim for the progress and prosperity of the region rather than mere political business (political business) that talks about profit-loss and buying and selling. For example, the prevalence of money politics that decorates Pilkada contests.

Secondly, the dysfunction of political parties. In Article 11 of Law Number 2 of 2008 concerning Political Parties ("UU Parpol"), it is mentioned

that political parties have functions such as political education for members and the wider community to become Indonesian citizens who are aware of their rights and obligations in social, national, and state life. Other functions include creating a conducive climate for the unity of the Indonesian nation for the welfare of the people, absorbing, collecting, and channelling the political aspirations of the people in formulating and determining state policies, political participation of Indonesian citizens, and political recruitment in the process of filling political positions through democratic mechanisms with attention to gender equality and justice.

From the functions entrusted by the law to political parties, not all have been fully realized and performed by political parties. In this regard, several notes must be considered. (Mirriam Budiardjo, 2009), 1) Political Education Aspect: Political parties should ideally provide political education to the public, whether or not there is an election atmosphere. This can take various forms, such as seminars, workshops, or other methods. It should not be limited to recess or campaign periods. 2) Conduciveness Aspect: Political parties should be able to mitigate the development of primordialisms within society to prevent vertical and horizontal conflicts. In reality, numerous internal conflicts and factional disputes occur within the body of the political party itself. 3) Aspiration Support Aspect: Political parties should emphasize to elected cadres that they represent the people's aspirations and fulfill them with full responsibility on behalf of the people, not for the political party's interests. 4) Political Participation Aspect: Political parties should be agents capable of changing political culture within society. When apathy pervades most of the population, the political party cannot be considered successful in carrying out this function. 5) Political Recruitment Aspect: Political parties should have a clear and firm hierarchy and cadre development structure. The political recruitment process should only be done after considering the pattern and hierarchy of cadres as regulated in the party's constitution. Examples of small forms of political party awareness that are considered to have not yet

emerged include: 1) The critical power of election participants, including political parties, in updating the voter list still needs to be improved. 2) Election participants, including political parties, need to be organized in creating, distributing, and installing campaign tools and materials during the campaign period. 3) Election participants, including political parties, still involve prohibited entities such as civil servants (ASN), village officials, and others in campaign activities.

Third, the discrediting of regional autonomy, the division of government affairs in Law Number 23 of 2014 concerning Regional Governments has yet to provide extensive autonomy to regional governments. As the head of government at the regional level, the Regional Head should be given broad authority to manage the regional government. The regional government should act as and on behalf of the regional government, which is entitled and capable of being creative in developing and maximizing the management of regional potential. It is only appropriate for some government affairs that are the region's authority to be co-opted by the central government. In contrast, the regional government itself is only used as the technical executor of policies from the NPSK set by the central government. The legitimacy strength of the regional government is as muscular as that of the central government, based on the scale of electoral regions and its authority. As a result, the administration of government at the regional level becomes rigid and inflexible, causing the contributions that can be made by the regional government, especially in terms of regional development, to be less impactful.

CONCLUSION

The regulation of the election of the president and vice president and the election of regional heads and their deputies, although governed by different regulations, uses the same pattern, namely direct elections by the people. The only difference lies in the scale of the electoral region. This means

that the legitimacy of sovereignty granted to regional governments is as strong as that of the central government. Therefore, regional governments should have broad autonomy in managing their regional governance, just like the authority held by the central government.

The central government excessively co-opts and has too much control over the authority of regional governments. In addition, the established mindset still positions regional governments as technical implementers of policies made by the central government. One example is the provision regarding the determination of NPSK (Norms, Procedures, Standards, and Criteria) by the central government that must be adhered to by regional governments in every policy and in carrying out governance in their regions; otherwise, it will lead to cancellation. This indicates the excessive dominance of the central government over the division of government affairs, whether absolute, concurrent, or general government affairs. As a result, regional governments' independence and autonomy become narrower and more robust. Consequently, regional governments need help and are considered to contribute less effectively to development in their regions.

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