



Democracy in the Selection of Regional Heads to Fill Occupant Positions During the National Simultaneous Election Transitional Period in 2024

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Abstract

The appointment of regional leaders during the transition of multiple national elections in 2024 is a very important matter to discuss. It is based on the fact that the appointment of regional leaders will affect the democratization process in the region. So that the authors are interested in further research. The question discussed in the study is whether the appointment of regional heads during the transition of multiple national elections in 2024 matches the democratic principles and how the ideal concepts of joint capitals in Indonesia. The method of research used in this study is normatif juridical research. Research has shown that in democratic theoretical review, the appointing of regional leaders during the transition of multiple national elections in 2024 does not reflect the application of democratic principles based on democratic parameters.

Keywords: *Appointment of Deputies; The Electoral Head; Democracy*

Introduction

Charging state positions (*staatsorganen, staatsambten*) is one of the most important elements in the administration of state organizations. This was based on the absence of state officials, so functions of the state would not be possible.¹ So important is the role of state officials because the office becomes an important responsible actor in the government arrangement, that filing a vacancy (*staatsorganen, staatsambten*) could cause a state to stagger.² The absence of a position of state especially a regional office in Indonesia can be seen Because of the delays in pillons in 2022 and 2023 caused by the national

¹ Firdaus Arifin dan Fabian Riza Kurnia, *Penjabat Kepala Daerah*, (Yogyakarta: Thafa Media, 2019), hlm. 4.

² Ahmad Marwi, "Kewenangan Penjabat Kepala Daerah Di Bidang Kepegawaian Dalam Menyelenggarakan Pemerintahan Daerah (Studi Pada Pemerintahan Kota Mataram)," *Jurnal IUS Kajian Hukum dan Keadilan* 4, No. 3, (30 Desember 2016), hlm. 542.

simultaneous pillary arrangement in 2024.³ Because of the postponement of the election in 2022 and 2023, there were 271 local heads that would expire so that a special mechanism was needed to fill the vacancy of a regional head in order to avoid the state's stagnation.

A postponement of vote occurred in 2022 and 2023 resulted in 271 areas (101 in 2022, and 170 in 2023) both the provincial and district/city levels experienced a vacancy because their term had expired. The designation of the deputies became the principal choice of the central government to avoid vacuum of power in the region. There were 101 prefects whose term would end in 2022, consisting of 7 governors, 76 regents, and 18 mayors.⁴ As of 2023, 170 deputies had expired and had to be appointed deputies in place of 18 governors, 115 regents, and 38 mayors.⁵

The appointment of deputies to be a solution taken by governments to avoid a power vacuum in the area during a national simultaneous election in 2024. The basis of the law for the appointment of deputies in the process of filling the vacancy of regional headposition until the 2024 continuous election of regional heads is found in article 201 verse (9) act number 10 in 2016, which reads:

*"To fill the vacancy of governor and deputy governor, regent and vice regent, and mayor and vice mayor who ended his 2022 term as in verse (3) and which ended his 2023 as in verse (5), Appointed acting governor, The regents and the mayors are up to the election of governor and deputy governor. The regent and vice regent, And mayor and deputy mayor through National elections in 2024"*⁶

The appointment of deputies in 271 area was a problematic policy. This is based on the fact that in the process of appointing regional leaders does not involve the participation of either the regional council of representatives or the local community in each stage process, leaving citizens as sovereignty positions ignored. The appointment of public officials without involving participation of the community is clearly contrary to the principles and requirements of the democratic government and does not act arbitrarily by constantly ruling people or government or rule by people.⁷

Regional participation in the process of appointing regional leaders during the 2024 national election transition is a fundamental and fundamental matter that must be met within the democratic arrangement. Abraham Lincoln in his speech gave a solid basis for argument concerning democracy by stating that democracy is the government of the people, by the people and by the people.⁸ Based on Lincoln's statement, that in the process the democratic state asa people should be involved in any policy take let alone in the process of his own regional head.

In addition to the limited range of regional participation factors that are overlooked because the appointment of capitals is determined only by the President and the minister of the interior, another factor that is progenerated in the appointment of regional leaders during the 2024 issue of 2024 is that of limited regional leaders and large controls carried out by the central government. Based on chapter 132 A of verse (1) Government regulation Number 49 in 2008, that area chiefs or deputies or deputies who were appointed to fill the vacancy of regional heads or deputies for abdicating to nominate/elect to be deputy

³ <https://nasional.kompas.com/read/2021/09/03/05300011/pilkada-serentak-2024-ini-101kepala-daerah-yang-habis-masa-jabatan-pada>, "Pilkada Serentak 2024, Ini 101 Kepala Daerah yang Habis Masa Jabatan pada 2022," diakses 20 Januari 2024.

⁴ <https://nasional.kompas.com/read/2021/09/03/05300011/pilkada-serentak-2024-ini-101kepala-daerah-yang-habis-masa-jabatan-pada>. "Pilkada Serentak 2024, Ini 101 Kepala Daerah yang Habis Masa Jabatan pada 2022," diakses 20 Januari 2024

⁵ <https://nasional.kompas.com/read/2021/09/03/05350071/170-kepala-daerah-akan-habismasa-jabatan-pada-2023-ini-daftarnya>... "170 Kepala Daerah akan Habis Masa Jabatan pada 2023, Ini Daftarnya," diakses 20 Januari 2024

⁶ Pasal 201 ayat (9) Undang-Undang Nomor 10 Tahun 2016 Tentang Perubahan Kedua Atas Undang-Undang Nomor 1 Tahun 2015 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 1 Tahun 2014 Tentang Pemilihan Gubernur, Bupati, Dan Walikota Menjadi Undang-Undang.

⁷ Topo Santoso dan Ida Budhiati, *Pemilu Di Indonesia*, (Jakarta: Sinar Grafika, 2019), hlm. 4.

⁸ Abdul Aziz Hakim, *Impeachment Kepala Daerah*, (Yogyakarta: Pustaka Pelajar, 2018), hlm. 17.

deputies, as well as deputies who were appointed by the deputy chiefs of the area that replaced the resigning area were banned.⁹

- 1) Mutating an employee;
- 2) Canceling permits issued by previous officials and/or issuing permits that contradict those issued by previous officials;
- 3) Policies on zoning conflict with previous policies; and
- 4) Establishing a policy contrary to that of previous officials' governance and building programs.

Limited authority held by local chiefs and large government controls over any strategic policy that should get approval from the minister of the interior will affect the efficiency of the local government. According to Marko Kuček, the efficiency of governments urgently requires constant participation from local communities in order to suit their needs without the central government's control prerequisite. The policy taken by local governments will be more directly felt and the involvement of local people in policy taking will be better than the central government.¹⁰ With the terms of approval required by the federal government through the ministry of the interior, any policies taken by the local government would take longer. This will certainly reduce the efficiency of governments and will slow the meeting of the needs of the affected region. At the declining welfare of the local people and disturbing autonomy administration, the region in Indonesia.

In view of the foregoing issues, that the appointment of regional leaders during the transition of multiple national elections in 2024 is a very important matter to discuss. It is based on the fact that the appointment of regional leaders will affect the democratization process in the region.

Formulation of the Problem

Based on the background description of the above problem, the background of the problem in this study could be defined:

- 1) What is the appointment of regional leaders during the transition of multiple national elections in 2024 in accordance with democratic principles?
- 2) How is the ideal concept of appointing regional dignitaries in Indonesia?

Research Methods

The method of research used in this study is non-empirical juridical research that focuses on subjective norms of the law. The approach used in the study is that approach to the rule of legislation (approach) involves learning all the legislation related to the legal issues discussed. Methods of data collection are done with literature studies aimed at obtaining data such as books, journals that are relevant to research topics and regulation regulations. The data collected is then analyzed by using qualitative technical descriptive data analysis intended to classify, quantify and test data based on concepts of principles and relevant theories used in research to make current law laws reference. Thus a study would be obtained that would address the issues raised.

⁹ Pasal 132A ayat (2) Peraturan Pemerintah No. 49 Tahun 2008 tentang Perubahan Ketiga Atas Peraturan Pemerintah No. 6 Tahun 2005 tentang Pemilihan, Pengesahan, Penunjukan, dan Pemberhentian Kepala Daerah dan Wakil Kepala Daerah.

¹⁰ Marko Kuček, *Individual Representation and Local Party Government: Representative Behavior of Croatian and Slovenian Municipal Councilors*, (Wiesbaden: Springer Fachmedien Wiesbaden, 2019), hlm. 14.

Discussion

1. Democracy in the Appointment of Regional Leaders During the Transition of Multiple National Elections in 2024

E.E. Schattschneider points out that democracy is a competitive political system in which competition exists between leaders and organizations in outlining public policy alternatives so that the public can participate in the decision-making process.¹¹ While Phillip C. Schmitter defined democracy as a system of government in which rulers are accountable to their citizens for their actions, acting directly through competition and cooperation with their representatives.¹² According to Miriam Budiardjo, the meaning of democracy is government or rule by the people, which is essentially a citizen's government.¹³

Democracy demands participation. As for the substance of participation is an activity to influence government decisions, without any associated impediment the shape, character and results of participation made. In the definition of political participation, Samuel P. Huntington and Joan Nelson define 4 (four) points: first, participation involves activities and does not include any of the attitudes toward political orientation. Second, participation is the political activity of ordinary citizens or the role of citizens as individuals. That is, they are not activities engaged in by active individuals or persons engaging in political or governmental positions. Third, participation is merely an activity aimed at influencing the making of a government decision. Fourth, participation includes all activities aimed at affecting governments, without seeing if they have any effect.¹⁴

Based on the sense of democracy expressed by some of these scholars, the subsequent writers formulated the parameters of democracy used to assess the sides of democracy in the appointment of regional leaders. As for the parameters established by the writer to assess the official designation:

- a. Public participation in the recruiting process and the appointment of deputies;
- b. Public legitimacy in appointing deputies;
- c. Public supervision in the administration of duties and authority of the deputies; and
- d. Accountability to the regional leaders to the populace.

As for the explanation and analysis of the authors in assessing the democratic side in appointing regional leaders during the transition of multiple national elections in 2024 as follows:

1) Community Participation in the Recruiting Process and the Appointment of Deputies;

As to the participation of the community in the directorial processes of the regional leaders, there is not a single chapter of the law either as high as the law or the law administration. In fact, in the process the principal officers were not at all authorized to the regional representatives council of the county of both the province and the district and the city to provide a consideration as a representative of the local people. This can be seen under chapter 86 of verses (2) and (3) act 23 in 2014, which reads;

- (1) *If the governor is temporarily dismissed and there is no deputy governor, the President sets the acting governor on the minister's recommendation.*

¹¹ Uyatno Ladiqi dan Ismail Suardi Wekke, *Gambaran Demokrasi: Demografi dan Perkembangannya*, (Yogyakarta: Gawe Buku, 2018), hlm. 35.

¹² *Ibid.*, hlm. 36

¹³ Miriam Budiardjo, *Dasar-Dasar Ilmu Politik*, Ed. Revisi, Cet. Ke-7, (Jakarta: Gramedia, 2015), hlm. 155.

¹⁴ Samuel P. Huntington dan Joan M. Nelson, *Partisipasi Politik di Negara Berkembang*, terj. Sahat Simamora, (Jakarta: Rineka Cipta, 1994), hlm. 6-8. Dalam Saifudin, *Partisipasi Publik Dalam Pembentukan Peraturan Perundang-Undangan*, (Yogyakarta: FH UII Press, 2009), hlm. 18.

- (2) *When the regent/mayor is suspended and there is no deputy regent/deputy mayor, the minister sets the acting regent/mayor on the recommendation of the governor as a representative of the central government.*

Based on the regulation, it is understood that in the process of appointing deputies, there is no participation space given to either the local or the local representative council. The zoning of deputies became the President's prerogical right to appoint governors and prerogical rights from the interior minister to the acting regent and mayor. Under such conditions, the restructuring mechanisms and the implementation of regional heads are both highly elitist and intransigent because the process of appointing deputies is the central elitist authority and in no way involve the direct representation of both the people and the people.

The close of participation space for local communities to contribute to the role of local leaders as local leaders is an act that can hurt democratic values in Indonesia. But public participation in the government arrangement is the essence of democracy in building harmonious relations between countries in this case the regional leaders and the local people. There is a civic participation area in the appointment of deputies as a constitutional mandate that places the principle of public sovereignty as one of the principal pillars of the state process. This is established in chapter 1 verse (2) the constitution of 1945. Furthermore, the participation of society is a constitutional right of citizens in this area that is guaranteed in article 27 verses (1) and section 28c (2) of the 1945 constitution that gives citizens the opportunity to participate in government, including in determining leaders or local heads

2) Legitimacy of the People in Appointing Deputies

According to the writer, the legitimacy in the process of appointing deputies has to represent the third legitimacy, the legitimacy of jurisdiction, the legitimacy of sociological and ethical legitimacy. It is based on the legitimacy of more than claims. Legitimacy, however, is a principle for the realization of judicially, morally and socially dimensional values and morals, so that all three are cumulative or impersonal, with only the authority of the prefects. One can choose. Thus, that the appointment of regional heads should represent legacies from legal, moral and social dimensions, as legitimacy becomes a prerequisite to violating the duties and authority of the deputies. Concerning the legitimacy of the appointment of deputies, it is necessary to see in chapter 86 verses (2) and (3) act 23 in 2014, which reads:

- (1) *If the governor is temporarily dismissed and there is no deputy governor, the President sets the acting governor on the minister's recommendation.*
- (2) *When the regent/mayor is suspended and there is no deputy regent/deputy mayor, the minister sets the acting regent/mayor on the recommendation of the governor as a representative of the central government.*

According to the rule, both the local and local representatives' council was not asked to consent to the appointment of the local chiefs. The rule of law gives only authority to the President and the minister of the interior when it comes to appointing deputies. However, as was previously noted that legitimacy must be gained by citizens and meet the legitimacy criteria of legal, moral and social dimensions. Thus, the leadership of the regional headmen during the transition of the 2024 continuous national election would have no full legitimacy of power, since in the process there was no participation space for communities to express their will in order to ensure and preserve the interests of the region.

3) Public Supervision in the Performance of Duties and Authority of the Local Chiefs

In relation to the administration of the duties of the deputies, the general supervision of the local administration was carried out by the central government. This is appearing in chapter 7 verse (1) act 23 in 2014 on local government, which says: "the central government has been conducting local administration administration and oversight." In carrying out such control, the central government would not directly carry out supervision, but it would be carried out by the minister of the interior or the head of the non-minister-government to oversee the provincial government and by the governor as a representative of the state/city government. However, the surveillance read: nationally coordinated by the minister of the interior.

4) Accountability to the Prefect to the Populace

With regard to the accountability of the deputies, that the accountability of the regional headofficers is defined by the 2005 government regulation no. 6 on the selection, attestation of appointment, and termination of the regional head and deputy. In isa chapter 132 verses (3) it states that "the performance of the duty of the deputies is accountable to the President through the ministers of the interior for the governors and to the ministers of the interior for the acting regent/mayor." According to these rules, the governors are accountable to the President through the interior minister, while the regents and the mayor are accountable to the home minister. These accountability corresponded with the authority of the appointment of deputies, where the President authorized to appoint governors and the interior authorities to appoint governors and mayors according to article 86 verses (2) and (3) act number 23 of 2014.

According to the authors, although the deputies were mandated by both the President and the minister of the interior and therefore were only obliged to hold the two to account, but the national service of the year was critical for the regional heads during the 2024 transition in the case of the 2024 elections to report the accountability to the regional representatives' council. This was based on the fact that the headland's tenure (pj) could exceed one year and even exceed 2 years. Moreover, it cannot be explained that although the office of the prefects was a temporary position, but in carrying out his duties and privileges as regional leaders, the regional leaders still joined the regional council of representatives. As a representation of the local community and the local government organizer.

2. The Ideal Concept of Appointment of Regional Chiefs in Indonesia

In the law or the rule of execution on which the prefects are designated by the law, there is not a single chapter that affirms that there is a community participation chamber through both the regional council and the public and direct in the process of the joint capitulation. In fact, in the process the principal officers were not at all authorized to the regional representatives council of the county of both the province and the district and the city to provide a consideration as a representative of the local people. This can be seen under chapter 86 of verses (2) and (3) act 23 in 2014, which reads:

- (1) *If the governor is temporarily dismissed and there is no deputy governor, the President sets the acting governor on the minister's recommendation.*
- (2) *when the regent/mayor is suspended and there is no deputy regent/deputy mayor, the minister sets the acting regent/mayor on the suggestion of the governor as a representative of the central government.*

Under the condition, there is no participation space given to either the local or the local representative council. The zoning of deputies became the President's prerogical right to appoint governors and prerogical rights from the interior minister to the acting regent and mayor. Under these

conditions, the recruiting mechanisms and the appointment of deputies were both elitist and inmediate because it did not involve the council of representatives of both the people and the people. The effect of the closing of the participation of the regional leaders in the process of the central government as explained earlier, namely, the lack of political legitimacy of the local leaders, and a disharmony between regional leaders and local communities. Governmental organisations, and inoperative political communication between local leaders and local communities.

For dealing with those problems, the authors suggest the participation of regional people Through the involvement of local representatives and community representatives in the process of appointing regional leaders. As for the first writer's proposal, there is an authorization of the council of representatives of the local people to take part in determining potential deputies. Second, the involvement of elements of society through competency test mechanisms conducted by the competency test committee. As for the concept of competence test offered by the author to use the competence test competency contained within Act number 22 in 2014 on the election of governors, regents and mayors. Competence tests are competency and integrity tests performed by the independent competency committee established by the provincial leadership of the people's council of provincial (for governors) and the regency/mayor's council of regents/mayor) together with the definitive head of the area. As for the competency test committee, it consists of elements of academic and civic action to recommend candidates for governors, regents and mayors to the regional council of representatives and definitive capitalists to be discussed together to determine prospective deputies. The results of the discussion that had resulted in the future future deputies were then sent to the minister of the interior to be appointed vassino. Competence thus constituted the initial doors of appointing prospective deputies before being discussed by the local council of representatives together with the definitive and appointed by the President (for the governor) and the minister of the interior (for the acting/mayor).

Conclusion

After research and analysis of the problems studied by the author, it may be concluded that in the review of democracy's theory, the appointing of regional heads during the transition of a continuous national election in 2024 does not reflect the application of democratic principles based on the parameters of democracy used by the writer on William n. dunn's approach to public policy process: First, there is no community participation chamber through either the representative council or the people directly in the process of the joint chiefs of the region. Second, there is no strong legitimacy, since in the process there is no participation space for communities to express their will in order to ensure and preserve the interests of the region. Third, there is no public supervision room in overseeing the performance of the duties of the local chiefs. Fourth, there is no obligation for the regional chiefs to report accountability to both the regional representatives as representatives and directly to the local people.

The authors suggest a new concept and a revision to the appointment of regional leaders, that is, with the involvement of local representatives' council and local community elements in the process of appointing regional heads by competence. The competence test aims to test the competence and integrity of the regional chiefs performed by the independent competency committee established by the provincial leadership of the people's council of provincial (for governors) and the regency/mayor's council of regents/mayor) together with the definitive head of the area.

Based on the foregoing conclusions, the recommended Suggestions based on this study in the process of appointing public officials especially deputies, should communities either through the local people's representative council as representative and community should be directly given the participation room to ensure the rights and importance of regional leaders that directly impact local communities.

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