

RESEARCH ARTICLE

RECALL ON VILLAGE HEADS ELECTION: AN ELECTION LAW REFORM

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ABSTRACT

The research is intended to analyze the model of managing village head elections between times (recall) with a case study in Reban Village, Reban District, Batang Regency. This study uses a qualitative method with a sociological juridical approach. The research emphasized and highlighted that, *first*, Inter-village head election procedures in Reban Village, Reban District, Batang Regency are in accordance with the mandate of Article 47 of Law Number 6 of 2014 concerning Villages. However, referring to Article 45 of Government Regulation No. 43 of 2014 there are stages of selection that are not yet in accordance with technical rules: (a) The holding of the election exceeds the specified time limit. Limitations of technical guidelines become the main obstacle and (b) Funding for the election is still fully burdened to the candidates for village heads. *Second*, the mechanism for electing village heads over time through a voting model with a representative system. Voters who have the right to vote are every family head who lives in Reban Village, proven by a Family Card. Elections are democratic with a turnout of 94.9%.

Keywords: *Village Head Election, Democracy, Political Participation, Recall*

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INTRODUCTION

The dynamics of democracy that occur at the village level have a unique model (Wang & Yang, 2010). The process of succession of leadership at the grassroots is not aggregated by the party system. Expectations for a healthy village head election as a vehicle for democratization are huge (Kamalak, 2013; Arifin & Dasri, 2019). The realization of a good democratic process can be started from the village head election. As long as the Pilkades can be carried out directly, publicly, freely and confidentially as well as honestly and fairly (Fuad, 2014). The village as the smallest system of government encourages a much greater space for participation for the community compared to the regional or central level, because of the proximity to the leader (Nasution, 2014). The realization of community participation in the village is a political contestation in meeting the needs of the village in a sustainable manner (self-sustaining capacity) for the interests of the community (Kumar et al., 2019; Arifin, 2017).

The election of village heads (*Pemilihan Kepala Desa*, hereinafter called Pilkades) is an instrument in the formation of a modern and democratic government (Boonlue, 2015). Where the Pilkades became a form of distribution of the will of the people in the village area (Hess, 2019). The village head is directly elected by the people (Allen, Lyons, & Stephens, 2019). In fact, the election of village heads is no longer pure because it has been intervened by various forces and interests, but it is far more democratic than the election (Bond et al., 2019). The election of village heads as a process of democratization can be realized naturally (Arbatli & Gomtsyan, 2019). But in the context of elections, the political symbols of the rural people are manipulated by the political power above them (Asatryan & De Witte, 2015). That was the result of the regionalization of the people who were ordered to follow instructions from

superiors. Originally as a traditional leader, the village head had strong ties and commitment to the village community (Asatryan, Baskaran, & Heinemann, 2017).

But in its development (Bracco & Revelli, 2018), the position and function began to shift. Its fatherly function began to recede (Cai & Sun, 2018). He is even more visible as an official of the national bureaucracy and an administrator for the interests of the center (Cheung, Davies, & Trück, 2019). This phenomenon cannot be separated from the dynamics of the position of village head who turned out to be a "Symbol of Prestige" (Correa-Lopera, 2019). It is not only a struggle for many people but has become a commodity in the social strata (Correa-Lopera, 2019). The position of the village head is treated as a commodity that can be traded according to rational calculations. The commoditization also often makes the village a political area that is turned into a kind of political market (Das & Maiorano, 2019). Not surprisingly, the strength and capital from outside the village played a role (Evans, Holtemeyer, & Kosec, 2019).

The reform in the village head election process emerged after the issuance of Law No. 6 of 2014 concerning Villages. The election of village heads is held simultaneously to adjust the period tenure of each village. One of the most recent schemes in this process namely the inter-time selection model or recall. In the case of village heads who are dismissed with the remaining term of office for more than 1 (one) year, an inter-regional election can be held through village deliberations. In general, this model is not very popular with the public. Previously if there was a vacancy in the position of a village head, the government appointed an official of the village head until there was a definitive village head elected through the Pilkades. Reban Village is the first village organizer of Pilkades inter-time in Batang District, after the presence of Law No. 6 of 2014 concerning Villages. The previous Head of Reban Village passed away in the remaining 4 (four) years.

The paper would like to examine, analyze and discuss concerning two main points, *first*, the procedure and mechanism for holding inter-village head elections in Reban Village, Reban District, Batang Regency, and *second*, process of democracy in the inter-village head election in Reban Village, Reban District, Batang Regency?

METHOD

Through qualitative research methods, it is expected to be able to describe the implementation of village head elections over time-based on applicable laws and regulations. This study uses a sociological juridical approach (Fan & Yan, 2019; Arifin, Waspiah, & Latifiani, 2018). The study, which was packaged in the realm of socio-legal study (Fielding, 2018), was designed through several stages, namely: Confirmation of research traditions (design of research strategies and determination of research locations); choosing data collection techniques and choosing data analysis and interpretation techniques (Fischer, 2016). A sociological juridical approach is to identify and conceptualize law as a real and functional social institution in a real-life system.

This study took a study in Reban Village, which was the first village to organize an inter-village head election in Batang District after the enactment of the Village Law. Data collection techniques used are: Observation, interview and document study (Fischer & Ali, 2019). Data collection uses primary and secondary data sources (Ingram & Marchesini da Costa, 2019). Data analysis methods used in this study are as follows: 1). Data collection; 2). Data reduction; 3). Presentation of data; 4). Conclusion and verification. Based on the research results, conclusions can be drawn which are answers to the problems raised in the study.

RECALL ON VILLAGE HEADS ELECTION

I. ANALYSIS ON HEAD VILLAGE ELECTION: CASE OF REBAN VILLAGE

A. Inter-Village Head Election: The Facts on Reban Village

The election of village heads as an arena for open contestation in the democratic process at the village level. The resources of political power from social, economic to cultural resources become a generator of voter mobilization. Political segmentation that has been built is increasingly dynamic following the modernization of national contestation. The election of the village head becomes the political configuration of the village community in changing the power structure to be achieved. The village head as a symbol of power has the political power to determine the direction of the policy that is linear with the aspirations of the people. The election of the village head himself is held in the event of a vacancy in the village head's position. The election of village heads is now held simultaneously according to the time period of each village's tenure. However, in the latest regulation, if the village head is dismissed for the remaining term of office for more than 1 (one) year, there will be an election for the village head from time to time through a village meeting.

Reban Village is located in the Reban District area of Batang Regency. The total area of the geographic area is 203.3 Ha. The total population of 2,349 inhabitants. Reban Village is divided into 15 RTs (*Rukun Tetangga*), 6 RW (*Rukun Warga*) and 3 *Dukuh* (Village) namely Krenon, Reban, and Gumelar. Reban Village is classified as a self-help village with the original category. The majority of the population earns a living as a farmer. Reban Village is the first village to be held inter-village head election in Batang District, after the presence of the Village Law. The previous Head of the Reban Village, died in the remaining 4 (four) year tenure on October 4, 2014. The inter-time election (recall) model became something new in Reban Village. However, it was still stipulated by Government Regulation Number 72 of 2005 concerning Villages, it had not yet been regulated regarding village head elections between times (Recall) to follow up on cases that occurred in Reban Village.

The recall model is a new mechanism that is implemented through consensus and direct collection. During this time if there is a vacancy in the position of the village head, the regional government appoints an official of the village head until the

election of the definitive village head through the election of the village head. The appointment of a village head official by the Regent or Mayor in his main task of holding the election of the village head is no later than 6 (six) months after the village head is dismissed from his position. However, in practice, the term of office of a village head official can be extended until the term of office of a terminated village chief expires. The Village Law and Government Regulations regulate those village head elections are not held temporarily but are held simultaneously. Thus, the village whose village head was terminated before his term had expired and had to wait for a schedule determined based on statutory regulations.

Political contestation in the Pilkades between times remained tight and fierce. Candidates for village heads compete with each other to occupy the post of Village Chief Reban. It is the social structure, position, and rank inherent in the village head that makes many people have ambitions to win the position of the village head. Competition to win seats of power is always followed by ambitious competition. The position of the village head both in the administrative and political capacity of power is a symbol of prestige in social status. Inter-regional elections in Reban Village can be one of the benchmarks, the extent to which the new rules can be realized. The mechanism is regulated formally in article 47 of the Village Law which stipulates that in the case of the remaining term of office of a village head who is dismissed for more than 1 (one) year, an Pilkades is held intermittently through village deliberations.

The stages of Pilkades between time in Reban village: 1). Preparation Phase: Establishment of the election committee, preparation of election procedures, preparation of Pilkades cost budget, preparation of Pilkades schedule, Pilkades socialization, data collection on permanent voter lists, registration of prospective village heads, selection and determination candidate for village head, designation of image mark and campaign. 2). Stage of Election: Deliberation on voting, vote counting, and determination of election results. 3). Post-election stage: Reporting of election results, the interim appointment of village heads and dissolution of the committee. However, referring to Government Regulation No.43 of 2014, there are some special notes on the stages of the Pilkades that need to be evaluated. Implementation of Pilkades exceeds the specified time limit. Pilkades was only held on July 12, 2015, whereas the village head had previously died on October 4, 2014. As stipulated in Article 45 of Government Regulation No. 43 of 2014 that village deliberations held specifically for the implementation of Pilkades between times were held no later than 6 (six) months since the village head was dismissed. The limited technical guidelines regarding Pilkades between times (recall) become the main obstacle to the incompatibility of the implementation time with the applicable rules.

The election committee had problems in determining the mechanism for electing the village head. Technical guidance regarding Pilkades between times (recall) in Batang Regency is still limited. The Regional Regulations and Regulations of the Regent of Batang Regency which specifically regulates the election of village heads are still in the legislation process. The selection committee used the results of the village consultation agreement as a basis for consideration in the preparation of the Pilkades order. As mandated in Article 45b paragraph (1) Government Regulation No. 43 of 2014, that village deliberations in determining the technical election of

village heads between the times (recall) carried out by the election committee. The election committee has the authority to determine the technical rules for the election based on the results of the village discussion agreement.

Furthermore, there are still many policies that have national coverage of the derivation of regional regulations or the decisions of regional heads, but the existing legal umbrella cannot be implemented optimally. The fact that appears as the next implication is that the implementation of the Pilkades so far has run without an adequate foundation and policy umbrella while many national regulations still require local wisdom regulations. The legal vacuum in the region regarding local regulation is very dangerous if there are disputes in the village head election caused by a very high factor of group fanaticism, blasphemies (black campaign) and the loss of mutual respect in the democratic process. The stages of village head election between times have the potential for conflict. Village consultation as a strategic forum has a central role in managing conflicts that arise.

Funding for the election of the Pilkades is still fully borne by the candidates for village heads. Based on the latest guidelines, the financing budget is borne by the Village Budget Fund (APBDesa). This is regulated in Article 45 a paragraph (2) of Government Regulation No. 43 of 2014 which states that election costs are borne by the APBDesa by the election committee submitted to the acting village head. The transition period caused the application of the Village Law not yet fully realized. The Regional Government of Batang Regency has not budgeted funding sources for Pilkades funding from time to time through the village budget. So the election committee charged Pilkades financing to the village head candidates. This policy clearly opens up space for access to money politics. Competition from prospective village heads took place increasingly tight.

The practice of political lobbying, campaigning to money politics is possible, considering that it has become a hereditary tradition that adorns the holding of village head elections. The practice of money politics in village head elections has a pattern that includes the components of the actors, strategies, and value systems that drive them. The practice of money politics that takes place extensively increases the formal participation of voters, however, such participation is pseudo-participation because there is no rationality. Political voluntarism does not appear (Dawkins et al., 2019). Expensive politics goes on to buy up votes (money politic). The expectation of a good and clean Pilkades implementation is to give birth to a village head who is able to realize a village government that is responsive to the aspirations of the people, able to articulate issues, the campaign work program into an accountable public policy (Watts, Tacconi, Irawan, & Wijaya, 2019). Inter-regional Pilkades in Reban Village as the implementation of a new model of the democratic process seems to still have a space for the entry of negative traditions that have lasted for generations.

B. Democracy Process on Village Head Election in Reban Village

The inter-village head election mechanism in Reban Village is implemented through a voting model with a representative system. Voters who have the right to vote are every family head who lives in Reban Village, proven by a Family Card. The total number of

voter lists is 686 people, with details of the number of male voters as many as 612 people (89.2%) and female voters as many as 74 people (10.8%). The election results are as follows: Voters who came to give their voting rights were 651 people (94.9%). Voters who abstained were 35 people (5.1%). 1st Candidate (Faridul Wujdan) obtained 182 votes (28%), 2nd Candidate (Didiek Sutamaji) obtained 439 votes (67.4%) and damaged or invalid ballots, as many as 30 votes (4.6%).

The first village in Indonesia as the executor of the inter-village head election is Grogolan Village, Dukuhseti District, Pati Regency. The legal basis used to carry out the Pilkades namely Decree of Regents Pati No. 54 of 2014 concerning the Implementation of Pati Regulations in 2014 concerning the Village Head. In its regulation, those who have the right to vote in the Pilkades between times are the elements of figures, elements of the organization and elements of institutions in the village up to a total of 194 voting rights. The election of village heads in Grogolan is carried out through a village consultation forum with a voting system based on the specified suffrage.

The mechanism of the implementation of the inter-village election between Reban Village and Grogolan Village is indeed not much different. The technical obstacles faced by Reban Village made the selection committee use a slightly different mechanism. The selection mechanism is determined through the results of the village consensus agreement. The pros and cons of the democratic process always emerge in political dynamics. Democracy is basically an ideal model for managing conflict between autonomy or freedom with control. The concept of democracy offered in the implementation of Pilkades between times actually has an ideal model, if the village forum is held properly and optimally. In a juridical manner, inter-village head of village election techniques can be carried out using 2 (two) ways. As regulated in Article 45b paragraph (3) of Government Regulation Number 43 of 2014 that the election of candidates for village heads by the election committee is through a consensus mechanism or through voting agreed upon by village deliberations.

The mechanism of the inter-village head election in Reban Village through the voting model, with a representative system, does not conflict with applicable regulations. The selection mechanism is the result of a village consultation agreement. The holding of village head elections cannot be separated from the democratic process that involves community participation. Legally the existing regulations have given strategic choices to the community to determine how they channel their aspirations (Tarverdi, Saha, & Campbell, 2019). Indeed the democratic process not only requires state accountability to a high degree and a reorder of civil society, but also requires substantial direct participation in local community institutions (Stutzer, Baltensperger, & Meier, 2019; Qibtiyah & Muafifah, 2019). The inter-regional election in Reban Village is a real form of channeling the will of the people in the democratic process. Model of voting with a representative system, as a form of acculturation of the political culture of the Reban Village community with applicable regulations.

The voting model with the right to vote granted to each head of the family does not necessarily make the Pilkades run less democratic. Where in this portion each head of the family who has the right to vote, given the opportunity to consult with the family in channeling aspirations. This is intended so that other family members also

have a portion in the democratic process, even representation. It might be understood that democracy is not a rigid, dead, absolute, or concept that cannot be developed. Democracy can be understood based on the vision or perception of the people who study it (Song, 2019; Ayon, 2017). The concept of democracy in Indonesia wants the role and full participation of the people. Where democracy in Indonesia should prioritize local values and culture does not have to emulate Western culture.

Democracy in the Indonesian state based on the 1945 Constitution is often referred to as Pancasila democracy. Democracy is synonymous with the process of deliberation to reach consensus, by starting with family and mutual cooperation which is shown on welfare which contains religious elements based on truth, love and noble character (Zhang, Gan, Xu, & Yao, 2014). The principles of democracy are equality, freedom, and pluralism. In the context of implementation and implications, this can be understood as recognition of the diversity of the participatory political attitudes of the community within the democratic framework at the village level (Schneider, 2019). The election of village heads from time to time is a manifestation of democracy in local wisdom in the village administration (Qiao, Ding, & Liu, 2019). Community participation in the democratic process is expected to be able to drive change for village development and progress (Williams, 2019). In the election of the village head, the community has rights and obligations as citizens, although the mechanism for the transfer of people's sovereignty is done through their representatives (representative democracy).

The inter-village head election process in Reban Village has been democratic and does not conflict with applicable regulations. The concept of democracy developed by the Reban Village community can be used as a reference in the process of channeling the will of the community. Although the village head election uses a representative system, strategic decision making is produced through a deliberative forum. The level of community participation in the voting process was very high. In practice in the field, channeling the will of the people through indirect democracy (Indirect Democracy) can be carried out properly if there is good cooperation and support from all parties involved (Min & Wohn, 2018). Indirect democracy (indirect democracy) is a democracy that involves all people in making an indirect government decision, meaning that the people send representatives who have been trusted to convey their will or message (Page, 2019). Here the people's representatives who are directly involved become the people's intermediaries (Westman, Castán Broto, & Huang, 2019).

II. POLITICAL PARTICIPATION ON HEAD VILLAGE ELECTION

A. Analysis of Reban Village

Participation is an important aspect of the democratic process (Lee, Heffron, & Mirza, 2019). Political participation is an organized effort by citizens to elect their leaders and influence the shape and course of public policy (Lee et al., 2019; Arifin & Hidayat, 2019). Political participation as an activity of a person or group of people to participate actively in political life, namely by choosing the country's leadership directly or indirectly influencing government policies. The social dimension in

national politics is often mixed with access to interests. Therefore, that political culture dominantly influences the level of political participation (Liu, Xue, Yang, & Shi, 2019). Inter-regional elections in Reban Village are inseparable from village community participation. The selection mechanism is fundamentally determined through an agreement on a village deliberation forum as regulated in Article 54 paragraph (1) of Law Number 6 of 2014 which states that a village deliberation is a deliberative forum participated by the Village Consultative Body, the Village Government, and elements of the village community to deliberate strategic matters in the administration of village government.

The Reban Village community as an element of village deliberation in a participatory manner has played an active role. The strategic decisions regarding the Pilkades were largely generated from the aspirations of the people. Community representation in the composition of the election committee has fulfilled a quota. Even though the election was through a voting system with a representative system, the level of community participation was very high. The people of Reban Village who have the right to vote are 686 people. While the level of community participation in the voting process reached a percentage of 94.9%. In the practice of organizing democracy, political participation is a vital element. Because of the low number of political participation, it is doubtful that the democratic process will fully gain the people's legitimacy.

Inter-regional elections in Reban Village have been running democratically. Access to money politics is closely monitored by all parties concerned. The two competing village head candidates have agreed to sign an agreement containing a prohibition on the use of money political access in the implementation of Pilkades between times. The success of an elected candidate in order to attract more sympathy from the public as well as more possible, if the elected candidate can take advantage of Power & will then be translated into the language of political strategy, for example, such as campaigns and money politics (Lappie & Marschall, 2018). While the source of power itself can come from wealth, wealth, status, family, science, information, position, popularity, high social status and also the organized masses both in terms of religion and economy (Kang, Park, & Song, 2018). With a political strategy, formal and informal support will flow automatically for the elected candidates (Jiang, 2018).

The high percentage of Reban villagers in giving their voting rights is not a measure of the success of the democratic process. However, the active role of the community in organizing the Pilkades significantly influences the level of political participation in the democratic process. The commitment of all related parties, in minimizing the access to money politic must be given appreciation. Because it started with the democratic party of the village community that good political education should be taught (Jaung, Carrasco, & Bae, 2019; Arifin & Hidayat, 2019).

CONCLUSION

Procedures for organizing inter-village head elections in Reban Village, Reban District, Batang Regency are in accordance with the mandate of Article 47 of Law

Number 6 of 2014 concerning Villages. However, referring to Article 45 of Government Regulation Number 43 of 2014 concerning Regulations for Implementation of Law Number 6 of 2014 concerning Villages, there are several stages of the Pilkades that are not in accordance with the technical rules of implementation, namely: (1). The limited technical guidelines regarding inter-district head elections in Batang District are the main obstacle. (2). Funding for Pilkades between time is still fully borne by the candidates for the Village Head. So it is not in accordance with the mandate of Article 45a paragraph (2) of Government Regulation No. 43 of 2014 which confirms that the cost of implementing the Pilkades is imposed on the APBdes.

The inter-village head election mechanism in Reban Village is implemented through a voting model with a representative system. Voters who have the right to vote are every family head who lives in Reban Village, proven by a Family Card (KK). The Pilkades is still running democratic with a high level of political participation. Strategic provisions in the implementation of Pilkades are discussed through village deliberations. The level of community participation in the voting process reached 94.9%. The commitment to ban the use of access to money politics in the implementation of the Pilkades is well enforced by all parties concerned.

From the conclusions outlined above, the authors provide the following recommendations: Several stages of holding inter-village head elections in Reban Village are not in accordance with the applicable technical guidelines, as outlined in the conclusion. So the authors provide suggestions as follows: (1). The Regional Government of Batang Regency must immediately make Regional Regulations and Regents Regulations governing the election of village chiefs over time. In addition, budgeting for Pilkades funding funds between time through the APBDesa can be realized. By alleviating the material burden of the village head candidates, it is hoped that healthy competition can be carried out by minimizing access to money politics in the elections.

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