



COMPATIBILITY OF REGIONAL HEAD ELECTIONS THROUGH THE REGIONAL PEOPLE'S REPRESENTATIVE COUNCIL (DPRD) ON PANCASILA: AN ALTERNATIVE VIEW OF REGIONAL HEAD ELECTIONS IN INDONESIA

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Abstract - as the state's fundamental norm, Pancasila requires that all forms of legislation, including the regional head election mechanism, align with or imbued with Pancasila values, especially its 4th Precept. The debate over the election of regional heads through the DPRD or directly through the people is a classic debate. It is often understood that direct elections by the people are more democratic compared with indirect regional head elections. This study aimed to answer the indirect regional head election's compatibility with the values of the Fourth Precepts of Pancasila. This study argues that the indirect regional head election model is more suitable or compatible with Pancasila values. Therefore, reformulation of the regional head election model through the DPRD should be considered for its implementation by the Government and the House of Representatives.

Keywords: Indonesia, Pancasila, regional head election, the Regional People's Representative Council, democracy.

INTRODUCTION

The amendments to the 1945 Constitution provide arrangements regarding general elections as an implementation of people's sovereignty, starting from the general election of members of the legislature, the general election of the President and Vice President to the election of regional heads (*Pilkada*). Arrangements regarding the election of heads of state institutions as well as at the regional level, provide clear evidence that the 1945 Constitution is a written fundamental law that is very democratic. Looking back at the context of regional head elections contained in Article 18 paragraph (4) of the 1945 Constitution states: "Governors, Regents, and Mayors respectively as heads of provincial, district and city governments are elected democratically." The meaning of Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia implies that the election must be carried out in a democratic way, which guarantees the principle of people's sovereignty, such as being directly elected or in other ways according to the privileges or regional specialties regulated by law. However, sovereignty remains in the hands of the people.¹

The phrase "elected democratically" means that members of the Regional People's Representative Council (DPRD) elect a regional head or can also be elected directly by the people in a regional head election. Thus, the phrase "elected democratically" has two interpretations. These two interpretations have been the subject of lengthy debate to date. Moreover, the election for regional heads is often distorted by not only a matter of corruption and money politics, political dowry, huge costs, social conflicts, and other problems accompanying the region's election. However, looking at the context of the 1945 Constitution to regional head elections, there are options to be selected by interpreting the articles concerning regional head elections and people's sovereignty. Therefore, whether the election of regional heads according to the 1945 Constitution after the amendment must be carried out directly, such as through general elections, or whether the election of regional heads through DPRD.²

¹ Sodikin, "Kedaulatan Rakyat dan Pemilihan Kepala Daerah dalam Konteks Undang-Undang Dasar Negara Republik Indonesia Tahun 1945," *Jurnal Cita Hukum*, vol. 11 no. 1 June 2014, 102.

² *Ibid.* 102-103.



Globalization is so intense that it brings liberalization in the current Indonesian regional head elections, carried out directly by the people. Before the amendment to the 1945 Constitution, the General Election for Regional Heads was carried out by the DPRD. However, after the amendment to the 1945 Constitution, it became clear that democracy was what the people wanted. This situation can be seen in a person who has the freedom to express his or her opinions, as in the implementation of regional head elections directly by the people. Initially, the election of regional heads directly by the people made it possible to improve the quality of national leadership because there were more opportunities for the emergence of national leaders from the regions.³

On the other hand, Pancasila (State Ideology) as the state's fundamental norm (*staat fundamental norm*) requires that all forms of legislation, including the regional head election mechanism, be in line with or imbued with Pancasila values, especially its 4th Precept. In Article 2 of Law Number 12 of 2011 concerning the Formation of Legislation, it is expressly stated that "Pancasila is the source of all sources of law." The placement of Pancasila as the source of all sources of the law is in accordance with the Preamble of the 1945 Constitution of the Republic of Indonesia, which places Pancasila as the basis of the state ideology as well as the philosophical basis of the nation and the state, so that any content of regulations may not conflict with the values contained in Pancasila.

Indonesian nation continues to maintain and develop the spirit of deliberation to reach consensus in representation. The Indonesian nation is intended to maintain and develop democratic life, as well as develop wisdom and wisdom in deliberations. In this context, the debate over the election of regional heads through the Regional People's Representative Council (DPRD) or directly through the people is a classic debate. It is often understood that direct elections through the people are democratic. Therefore, this paper seeks to provide an alternative view by describing the suitability analysis of the indirect regional head election model for Pancasila. Based on the background described above, the writing in this paper is aimed at answering the question of how is the compatibility of the indirect regional head election on the values of the Fourth Precepts of Pancasila?

1. The Democratic Model of Regional Head Elections in the 1945 Constitution

Elections for regional heads have been regulated in the 1945 Constitution, in which the provisions of the aforementioned Article are used as the constitutional basis for holding regional head elections. As stated in Article 18 paragraph (4), which regulates: "Governors, Regents, and Mayors respectively as heads of provincial, regency and city governments are elected democratically." The democratic phrase of the provisions of the Article is understood as strengthening the understanding that Indonesia is a democratic country (sovereignty of the people), not a monarchy, nor is it a country organized by an authoritarian approach from a regime that reigns absolutely.⁴

Democracy in Indonesia, conceptually and contextually, is called Pancasila Democracy. In this context, the term democracy is synonymous with popular sovereignty. Therefore, the understanding of democracy is the same as the implementation of the understanding of people's sovereignty. Pancasila democracy is no longer relevant if it is still being questioned because it has become the commitment of the entire Indonesian nation and final. However, operationally, the democratic phrase in the provisions of Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia still opens up space for multiple interpretations. This arrangement relates to the choice of the democracy model, whether direct democracy or representative democracy (indirect democracy). Of course, both have a democratic spirit in implementing democracy, in this case, in regional head elections.⁵ In constitutional practice, with the enactment of Law Number 1 of 2015 concerning the Stipulation of Government Regulations in lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors to Become Laws, as amended up to Law

³ Ibid. 103.

⁴ Wendy Melfa, "Menggagas Amandemen UUD 1945 dari PemiluKada", *Jurnal Dinamika Hukum*, vol. 13 no. 1 January 2013, 174-175.

⁵ Ibid., 175.



Number 6 of 2020, the democratic model in the current regional head election is direct democracy, in the sense that the people directly elect the desired regional head candidate.

Direct democracy applied to local elections, philosophically and practically, began with the implementation of direct presidential and vice-presidential elections for the first time in 2004, which was considered the starting point for a change in Indonesia's political configuration as a result of Amendment III to the 1945 Constitution which succeeded in changing the structure and nature of Indonesian democracy. Since then, with the changes and enactment of Law Number 32 of 2004 concerning Regional Government, regional head elections in Indonesia 2005 have been held using the direct election model.⁶

The birth of the desire to directly elect regional heads was initially driven by the argument that local elites who represented the community on several occasions and specific forums wanted regional head elections to be carried out directly, honestly, and cleanly, solely to strengthen and improve the quality of national leadership selection. Based on real people's support, strengthening accountability and legitimacy of local elites, optimizing people's participation, and improving the quality of people's representation, which ultimately leads to the political empowerment of society as a whole.⁷

The direct regional head election is a political necessity because it is motivated by the psychological conditions after political reform, in the form of solid tendencies in the national and predominantly local political arena, in the form of party political oligarchy and a handful of local political party elites (DPRD), whose political actions are manipulated "as if" bringing community interests. Therefore, the implementation of direct regional elections is also politically meaningful in order to break the chain of political oligarchy and build a healthy political democracy.⁸

2. Meaning of the Phrase "Democratically Elected"

One of the constitutional changes at the local or regional level is regarding filling the position of Regional Head. Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia states, "Governors, Regents and Mayors respectively as heads of provincial, regency and city governments are democratically elected." The phrase "elected democratically" is flexible because it can be interpreted by direct election of regional heads by the people or indirect elections through the DPRD, so there are two interpretations of the phrase "elected democratically." These two interpretations can also be seen again at the time of the formulation of Article 18 paragraph (4) of the second amendment of the 1945 Constitution of 2000. The formulators of Article 18 paragraph (4) see differences between the formulators of Article 18 paragraph (4) of the 1945 Constitution. However, the pre-amendments to the 1945 Constitution, especially Article 18 paragraph (4), agree that the election of Governors, Regents, and Mayors shall be carried out democratically. The minutes of the Ad Hoc Committee I meeting (in the 2000 Annual Session) outlined the thoughts behind including the phrase "democratically elected."⁹

In this treatise, there are two different views or opinions. The first opinion proposes that regional head elections be carried out directly by the people, not through a system of representation by the DPRD. In contrast, the second opinion requires that the DPRD carry out regional head elections. The discussion of Article 18 paragraph (4) of the 1945 Constitution occurred ahead of the second amendment, so it is not related to the provisions regarding general elections stipulated in the Third Amendment, which regulates Article 22E of the 1945 Constitution, which regulates explicitly general elections to elect members of the DPR, DPD, and DPRD as well as the President and the Vice President, and general elections are held directly, publicly, freely, confidentially, honestly and fairly every five years.¹⁰

⁶ Ibid.

⁷ Firdaus Syam, "Pilkada sebagai Sarana Pemberdayaan Politik yang Bermartabat dan Demokratis," *Perspektif* vol. 11 no. 1 January 2007, 21.

⁸ Ibid.

⁹ Sodikin, *op. cit.*, 103-104.

¹⁰ *ibid.*, 104



The Constitutional Court, in its decision regarding the judicial review of Law Number 32 of 2004, in decision number 072/PUU-II/2004, thought that in the process of discussing changes to the 1945 Constitution, the choice of regional head election mechanism had also been proposed by factions in the People's Representative Assembly (MPR), both direct election by the people and election through a representative mechanism by the DPRD. However, these two mechanisms explicitly did not become an MPR decision. By deciding to be "elected democratically," it is possible for legislators to consider the most suitable mechanism for regional head election.¹¹

Likewise, in Legal Considerations, the Constitutional Court, in case Number 072/PUU-II/2004, that the implementation of democratic regional head elections, legislators must pay attention to the respect for the diversity of customs and culture of people between different regions, following the provisions of Article 18B paragraph (1) of the 1945 Constitution which states "The state recognizes and respects regional government units that are special or special in nature which are regulated by law." Based on this, the meaning contained in Article 18 paragraph (4) of the 1945 Constitution is that the 1945 Constitution does not require regional heads to be directly elected, and candidates for regional heads do not have to come from a political party or coalition of political parties. The meaning of Article 18 paragraph (4) of the 1945 Constitution with the phrase "elected democratically" does not stipulate that the election of Governors, Regents, and Mayors must be carried out by direct election as the provisions governing the election of members of the DPR, DPD, DPRD, President and Vice President. This norm gives the legislators (President and DPR) the authority to form laws on regional head elections carried out indirectly by the DPRD.¹²

3. Pancasila Values in the Formation of Laws and Regulations

Indonesia has long recognized Pancasila as the foundation of the state, the national ideology, and the source of all sources of law. As the basis of the state, Pancasila contains the meaning of the values to become a guideline or basis for the nation and state. Consequently, all steps in the administration of government and its implementation, including the formation of regulations, must reflect the values of Pancasila. In addition, as the national ideology, Pancasila is a normative ideal for the administration of the nation and state, so the vision and direction for organizing the nation and state must be in the framework of realizing a life that is Godly, humane, united, populist, and just. Meanwhile, Pancasila, as the source of all sources of law, means that Pancasila is the fundamental principle and has the highest position, so the five principles of Pancasila guide the formation of regulations.¹³

The assertion that Pancasila as a source of law has been legitimized by several provisions of MPRS Decree No.XX/MPRS/1966 (juncto MPR Decree No.V/MPR/1973, juncto MPR Decree No.IX/MPR/1978) concerning DPR-GR Memorandum Concerning Resources The Rule of Law of the Republic of Indonesia and the Order of the Laws of the Republic of Indonesia, and the MPR Decree No.III/MPR/2000 concerning Sources of Law and Order of Legislation. After the reformation, Pancasila was again confirmed by Law Number 10 of 2004, later revised by Law No. 12 of 2011 concerning the Establishment of Legislation, and subsequently amended by Law Number 15 of 2019. The entire provision, with four amendments, shows that there is no longer any doubt that Pancasila is the highest source of law. Hence, the consequence is that every law content formed is legally obligatory based on Pancasila. For this reason, the content is prohibited from conflicting with the values contained in Pancasila.¹⁴

Positioning Pancasila as the highest source and source of legal order implies that the formation of legislation or other legal products must be based on Pancasila. This positioning is important because Pancasila has three values in forming legislation: first, fundamental values, namely principles that are accepted as propositions and more or less absolute. The basic values of Pancasila

¹¹ Ibid.

¹² Ibid., 105-106.

¹³ Agus Riyanto, "Hidupnya Nilai-Nilai Pancasila dalam Pembentukan Perundang-Undangan", <https://business-law.binus.ac.id/2019/01/29/hidupnya-nilai-nilai-pancasila-dalam-pembentukan-perundang-undangan/> accessed 1 April 2023.

¹⁴ Ibid.



are divinity, humanity, unity, social values, and justice. Second, the instrumental value, namely the general implementation of the fundamental values, especially in legal norms, which are further crystallized in laws and regulations. Third, practical value, namely the actual value implemented in reality, comes from fundamental and instrumental values. Thus, the practical value becomes a filter of whether fundamental and instrumental values live in Indonesian society. These three values, then, are concretized into legal norms. The concretization of these three values is essential because the formation of legislation can be integrated and harmonized with national, regional, and global interests. Thus, the formation of legislation will be based on Pancasila values as guiding stars and directing law in Indonesia, which will apply in the future.¹⁵

In addition to the fundamental values, the instrumental values, and practical values of Pancasila, in the next stage, the elaboration of Pancasila values will be required to be implemented in the formation of legislation based on the noble values of Pancasila which consist of:

1. Divine value, with this value, means that the development of law must always be based on divine or religious values as the basic framework in its formation.
2. Human value, this value can show the direction that in the development of law, it must be able to create a civilized nation and always uphold respect for human rights.
3. Unity value, with this value, means that obligatory to always pay attention to the development of law by adhering to the value of unity or integrity as a nation and state.
4. Community value, mean that law development must be based on democratic values by involving all elements in the Indonesian state (all stakeholders), be it from the executive, legislative, judiciary, and all the people of Indonesia.
5. Social Justice value, this value is essential to pay attention to because the ultimate goal in developing national law is to open and provide a way for justice and prosperity for all Indonesian people.¹⁶

By adhering to Pancasila as the highest source of law and the source of legal order; as primary values, instrumental values, and practical values; as well as the concretization of religious values, human values, unity values, social values, and social justice values show the strong position of Pancasila. In order to make the articles, the legislation that will be regulated, have the ideals, intentions, and feelings of Pancasila, legal politics is needed to become a catalyst for the idealization of Pancasila. With legal politics, the noble values of the Pancasila precepts can be translated or implemented by the blood, spirit, and breath of Pancasila so that the new laws become integral and do not contradict the spirit of Pancasila.¹⁷

4. Compatibility of Indirect Regional Head Election

Pancasila democracy prioritizes common interests with the principles of representation, deliberation, and kinship in building this nation so that the values of Pancasila still survive despite the current globalization, which brings such substantial liberalization into the life of the nation, state, and society. Therefore, if there is an opinion that regional head elections through DPRD are undemocratic, this is not the case because the meaning of democracy that is currently being implemented absorbs much Western democracy, so it seems as if it reduces the rights of the people in terms of conveying their aspirations. According to Pancasila and the 1945 Constitution, elections for regional heads are still democratic as the noble ideals of the nation's founders.¹⁸

By using the concept of Pancasila democracy above, the author will then analyze the suitability of the indirect regional head election model, which was normalized in Law Number 22 of 2014 concerning the Election of Governors, Regents, and Mayors against the Indicators of Pancasila Values, especially Precept 4 which has been formulated by the Pancasila Ideology Development Agency (BPIP):¹⁹

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Fendi Setyawan, "Kajian dan Evaluasi Regulasi yang Bertentangan dengan Nilai-nilai Pancasila", Slide Show, BPIP, Jakarta.



1. Every citizen has the same status, rights, and obligations.
2. Every citizen respects differences and may not impose his opinion and will on others.
3. Deliberation guided by wisdom in making decisions for the common good.
4. Good faith and sense of responsibility in accepting and implementing the results of deliberative decisions.
5. Active participation of every citizen in politics and development proportionally and responsibly.
6. Every decision taken in deliberations must be accountable to God Almighty, uphold human dignity and values, the values of truth and justice, and prioritize unity and integrity for the common good.
7. The aspirations and will of the people are conveyed in a representative system through deliberative institutions.
8. The role and obligations of the state in guaranteeing people's rights through a representative system in deliberative institutions.

For practical purposes, this study focuses more on the indicator of the fourth precept of Pancasila, which according to the author, has direct relevance to the indirect regional head election model, which was normalized in Law Number 22 of 2014 concerning the Election of Governors, Regents, and Mayors. When examined further, Law Number 22 of 2014 was formed as a response to the implementation of democracy in the regions, which often only becomes an arena for power struggles and the interests of several groups. The practice of money politics, black campaigns, buying and selling of votes, and fraud in vote counting became the inevitable face of direct regional elections. This practice was exacerbated by violations, leading to disputes over the election results, in which the losing candidate filed a lawsuit in the judiciary. Various problems that often occur in implementing regional elections in Indonesia show that there is still no effective law enforcement tool that fulfills a sense of justice. Therefore, considering reducing the disputes and saving the regional election implementation budget, the House of Representatives drew up Law Number 22 of 2014 concerning the Election of Governors, Regents, and Mayors. Law Number 22 of 2014 subsequently received a firm rejection from the public, including President Susilo Bambang Yudhoyono, who then issued Government Regulation in Lieu of Law (Perppu) Number 1 of 2014. Perpu Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors was ratified on October 2, 2014, only 2 days after the ratification, which was promulgated on October 2, 2014. Law Number 22 of 2014 was promulgated and immediately revoked with Perpu Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors. This Perppu was subsequently accepted by the DPR and passed into Law Number 1 of 2015. In this Law, it is desired that regional head elections be carried out directly by the people.

Although short-lived, Law Number 22 of 2014 is still a relevant alternative election model solution to study. In the General Explanation of the Law in question, it is explained that:

"In accordance with the provisions of Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia, governors, regents, and mayors, respectively, as heads of provincial, regency, and city regional governments are democratically elected. The election mechanism is democratically held to implement people's sovereignty in provinces and regencies/cities."

"Based on an evaluation of the direct and one package elections for the governor/deputy governor, regent/deputy regent, and mayor/deputy mayor, so far it illustrates the empirical fact that the costs that must be incurred by the State and by candidate pairs to organize and participate in the election for governor/deputy governors, regents/deputy regents and mayors/deputy mayors directly have the potential to increase corruption, decrease the effectiveness of government administration, increase conflict escalation and decrease voter turnout.

"Improvement of the provisions of laws and regulations governing the election of governors, regents, and mayors through representative institutions carried out by the Provincial DPRD and Regency/Municipal DPRD is intended to put in place a mechanism for electing governors, regents and mayors in a democratic manner and strengthens efficient local governance. Effective in constructing the system of government of the Unitary State of the Republic of Indonesia based on



the principle of decentralization. Therefore, a separate law is needed that comprehensively regulates the election of governors, regents, and mayors to perfect the implementation of the election for governors, regents, and mayors.

In the writer's opinion, the explanations above are still relevant for their validity, bearing in mind that, based on an evaluation of the direct election of governors/deputy governors, regents/deputy regents, and mayors/deputy mayors in one package, so far it illustrates the empirical fact that the costs to be incurred by the State and by candidate pairs to organize and participate in the direct election of governors/deputy governors, regents/deputy regents and mayors/deputy mayors also has the potential to increase corruption, decrease the effectiveness of governance, increase conflict escalation and decrease voter participation.

Next, it discusses the consistency, coherence, and correspondence of articles in Law Number 22 of 2014 against the indicators of Pancasila values as previously described. In this aspect, the central matters in the Act are referred to as follows: 1. Title of the Act; 2. The preamble consideration letter b; 3. Article 3 paragraph (1); 4. Article 12 paragraph (1); 5. Article 16 paragraph (1); and Article 48 paragraph (1) and paragraph (2).

First, regarding the Title of the Law: Election of Governors, Regents, and Mayors, It can be stated that democracy has been considered an essential instrument in carrying out an ideal conception of the state to answer questions regarding enforcing people's power. As a country that adheres to democracy, Indonesia is required to carry out the process of the birth of democracy itself by adhering to the principles of sovereignty, in which the people are entirely in control. Based on this argumentation, the election of regional heads as a manifestation of people's sovereignty follows the core values of "populist" contained in the fourth precept of Pancasila.

Second, regarding the Considering Preamble letter b, which determines: "that the direct election of governors, regents, and mayors has so far been filled with various problems that are inconsistent with democratic principles,;" it can be argued that based on Article 18 Paragraph (4) of the 1945 Constitution, regional head elections are a matter of open legal policy, so direct and indirect elections are equally democratic elections. Therefore, this matter does not need to be questioned. What needs to be questioned is why regional head elections have resulted in many regional heads being involved in corruption cases so far. In addition, during the implementation of the direct Pilkada, political dowry, money politics, the use of grants, the phenomenon of single candidates, and so on were rife. There was bribery of the regional election organizers, and the costs of holding the regional elections were relatively high. Based on this argument, when associated with the values of Pancasila, regional elections should ideally reflect the values in the 4th Precept of Pancasila. Namely: The aspirations and will of the people are conveyed in a representative system through deliberative institutions.

Third, regarding Article 3, paragraph (1) stipulates: "Members of the Provincial DPRD democratically elect governors based on the principles of freedom, openness, honesty, and fairness; and paragraph (2): Regents and mayors are democratically elected by members of the Regency/Municipal DPRD based on the principles of freedom, openness, honesty, and fairness"; It can be argued that the debate on the election of regional heads (pilkada) through the Regional People's Representative Council (DPRD) or directly through the people is a classic debate, but it is so "hot" when it is raised to the surface from time to time that it seems that it will never go out. It is often understood that direct elections through the people are democratic. When the regional election was discussed or returned to the DPRD, it gave rise to reactions from various parties. Not only people unfamiliar with constitutions, democracy, and politics but legislators and even a handful of constitutional law experts have also been dragged into the flow of debate against the local elections through the DPRD. It is said that if the elections through the DPRD are a form of democratic decline, the people's sovereignty "dies." Some even say the elections are not democratic. The debate regarding the ideal form of local elections often arises. So far, the debates that have arisen do not touch the substantial nature of the election system itself. Regarding regional elections, the 1945 Constitution's founders used a flexible phrase: "elected democratically." Therefore, it can be concluded that the legislators of the 1945 Constitution



ultimately left the method of election to the legislators (open legal policy). The consequence of all this from a constitutional point of view is that if the DPR and the President transfer the Pilkada to the DPRD (indirect Pilkada), then that is also genuinely constitutional. Likewise, when elected directly by the people, it remains constitutional. Based on this argumentation, when it is related to the values of Pancasila, regional elections through the DPRD reflect more the values in the 4th Precept of Pancasila.

Fourth, regarding Article 12 paragraph (1), which stipulates: "Election participants are governor, regent and mayor candidates proposed by factions or a combination of factions in the Provincial DPRD and Regency/Municipal DPRD and/or individual candidates,"; It can be argued that the phenomenon of independent or individual candidates in Indonesian regional head election is not new. Many pairs of candidates at the provincial and district/city levels have fought their way without the support of these political parties. Although not easy, many candidates choose this path. The independent path provides space for candidates who do not have access or support from political parties. Independent candidates are also a solution for those uncomfortable with candidates from political parties. The opening of independent pathways makes the opportunity to be elected in Pilkada more open for everyone. So far, the opportunity for non-political figures to participate in an election is not great. Even if political parties open up, this process is often costly. Based on this argumentation, when associated with the values of Pancasila, individual candidates in regional elections reflect the values in the 4th Precept of Pancasila: Active participation of every citizen in politics and development in a proportional and responsible manner.

Fifth, regarding Article 16 paragraph (1), which stipulates: "Citizens who register as candidates for governor, candidate for regent, and candidate for mayor, whether those proposed by political parties, coalitions of political parties, and/or individuals are required to take a public examination." It can be argued that the existence of a public review mechanism provides at least three important benefits in the regional head election process: a. public examination is part of the internal selection process of political parties, which involves public participation; b. public tests can be placed as part of an objective candidate campaign; and c. through a public test, community participation is expanded in the regional head election process. So far, in regional head election regulation, the provisions regarding public testing have not been accommodated.

Sixth, regarding Article 48 paragraph (1) which stipulates: "The President appoints the deputy governor based on the recommendation of the governor through the Minister; and paragraph (2): Deputy regents and deputy mayors are appointed by the Minister based on recommendations from regents/mayors through governors as representatives of the central government"; It can be argued that the role and functions of deputy regional heads have often been questioned, this is inseparable from the many criticisms of the deputy regional heads, as well as the divisions or partnerships between regional heads and deputy regional heads in running the regional government. Deputy regional heads are officials in the structure of regional government. However, their existence is still problematic. Based on the assumption that the position of deputy regional head is unconstitutional because it is not explicitly stated in the 1945 Constitution. Through the submission mechanism by regional heads, the problems above can be resolved, so it is expected to create a harmonious condition between regional heads and their deputies.

CONCLUSION

The indirect regional head election model is more suitable or compatible with Pancasila values, especially the 4th Precept. However, this does not mean that the direct election of regional heads, in the current Regional Head Election Law, is not necessarily compatible with Pancasila values. This conclusion is reasonable since there are two interpretations of the phrase "elected democratically," which is contained in Article 18, paragraph (4) of the 1945 Constitution. The first interpretation argues that being elected democratically means that regional head elections are carried out directly by the people; the second interpretation argues that being elected democratically means that regional heads are elected through DPRD. These two interpretations raise pros and cons in forming the Law on Regional Head Elections. The phrase "elected democratically" in the context of



the 1945 Constitution regarding regional head elections is an open legal policy so that regional head elections can also be carried out through the DPRD. This interpretation is also interpreted as implementing people's sovereignty based on Pancasila democracy.

Based on Article 18 Paragraph (4) of the 1945 Constitution, regional head elections are a matter of open legal policy, so direct and indirect elections are equally democratic. Therefore, this matter does not need to be questioned. What needs to be questioned is why regional head elections have resulted in many regional heads being involved in corruption cases so far. In addition, during the implementation of the direct Pilkada, political dowry, money politics, the use of grants, the phenomenon of single candidates, and so on were rife. There was bribery of the regional election organizers, and the costs of holding the regional elections were relatively high. This condition, in turn, opens up space for reformulating the regional head election model through the DPRD, which should be considered for its implementation by the Government and the DPR.

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