

The Power Versus Political Ethics in Selecting the Regional Head and Its Relationship with Corruption in Indonesia

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Abstract—Election of Regional Heads (*Pilkada*) in Indonesia is an arena for political power struggles that are direct, general, free, secret, honest, and fair based on legal norms, social norms, and ethics. This political activity is often characterized by violations through all means that cause material, immaterial losses, and become a political burden that must be paid handsomely by elected Regional Head candidates. This reality is a concern of research to examine and question the violation of local election norms and ethics related to the legal behaviour of elected Regional Heads who commit unethical actions and violate the law in the form of corruption. The approach method in this research is basically based on normative juridical, which puts the law as a norm system and the law as applied law research, which means the application of legal provisions vertically and horizontally related to written and unwritten regulations as secondary data, which is then supplemented by primary data through socio legal approach. In action law is at any particular legal event that occurs in society. Politics, law and ethics are three different but inseparable things. Law and ethics are the norms that serve as guidelines for all community activities to run in an orderly manner. Violation of legal and ethical norms in all political activities in the implementation of local elections is an unconstitutional act and violates social norms in society that have the potential to encourage and trigger embryos of deviation from legal and ethical behaviour, as well as giving rise to motivation to commit corruption, so that in a short time can restore expensive political costs.

Keywords: power, law, political ethics, regional head election

I. INTRODUCTION

Regional Head Election (*Pilkada*) is democracy party as a means and one form of community involvement to determine the figure and direction of leadership in a certain period. Local elections as a means of legitimating the power of Regional Heads, in the formation of leadership in democratic regional administration is an important condition. Aspirational and democratic local elections are competitive, periodic, inclusive, flexible in making choices and information, and independent. In addition, within the framework of developing regional autonomy in the vast territory of the Indonesian State, a large population and spread throughout the archipelago with all its complexity, requires the holding of local elections in a

professional and quality manner whose credibility can be accounted for. The implementation of the *Pilkada* in a democratic manner is the desire of every Indonesian citizen, where every Indonesian citizen who has the right to vote can channel his choices directly, publicly, freely, confidentially, honestly and fairly in accordance with the principle of one person, one vote, one value (*opovov*) "that each voter only uses his right to vote once and has the same value, namely one vote. The escort regulation is adequate, in the provinces and districts / cities, since the enactment of Act Number. 32 of 2004 (Act No. 32/2004), now applies Act Number: 23 of 2014 (Act No. 23/2014) concerning Regional Government [1]. The Indonesian people have conducted *Pilkada*, and conducted *Pilkada* simultaneously in 2015 and 2018 which included the Election of Governors, Regents and Mayors. Simultaneous local elections in 2015 were conducted in 8 provinces and 126 (one hundred twenty-six) districts / cities, while 2018 simultaneous local elections were held in 17 (seventeen) provinces and 154 (one hundred fifty-four) districts / cities. Even though the *Pilkada* Election has strict legal rules, in reality violations of the elections still often occur during the election process, including; violations of the code of ethics, election crime, violations of election administration, election disputes, election dispute, and dispute over election results. These violations begin with the nomination of candidates and especially during their campaigns. Election violations continue as a dynamic picture of politics and elections in Indonesia. Recorded in the Election Supervisory Body (*Bawaslu*) as many as 363 (three hundred sixty-three) election disputes throughout 2018 [2]. Political activities that are characterized by violations of norms and unethical acts by justifying any means, in the elections are a political burden that must be paid handsomely mainly by elected Regional Head candidates. It may be a driver of deviation from the legal and ethical behaviour of the Regional Head in carrying out his duties and authorities later. This reality is a concern in research that is intended to examine and question how violations of norms and ethics in the implementation of local elections related to corruption in Indonesia.

II. RESEARCH METHOD

This research is basically a normative legal research, using the socio-legal approach. Research that defines law as Applied Law Research, namely legal research regarding the application of normative legal provisions that are used and used as the most fundamental study material. These legal rules involve both written and unwritten legal provisions in the form of social norms including ethics related to Regional Autonomy and Election - Regional Election in accordance with applicable election principles and principles, extracting through documentation studies to obtain secondary data in the form of primary legal materials, secondary legal materials and tertiary legal materials. The Socio-Legal approach is used to analyse the law not only as a normative set of laws, but also as a law that is seen as a symptomatic and patterned behaviour in people's lives that always leads to interaction in social, economic, political, and cultural relations. In Action on every particular legal event that occurs in the community, it is also used as study material to be investigated in order to obtain a legal basis that is used to regulate the problems of organizing and violating the elections in Indonesia. The focus of this research on normative-empirical jurisdiction is based on the application of the normative legal provisions of in Concreto to certain events and the results achieved according to the facts in the field. Non Judicial Case Study is also used in empirical normative legal research, where the approach to legal case studies is without conflict, and without court interference. Another empirical normative legal research approach is the Judicial Case Study is a case study approach because of conflicts that are resolved through a court decision (jurisprudence), and the third is a situation that has not lasted or has not yet ended [3]. Non Judicial Case Study relates to regulations used in the administration and violation of local elections in Indonesia.

III. RESEARCH FINDINGS AND DISCUSSION

A. Power Versus Political Ethics in Regional Election

The political concept includes the state, power, decision making, policy, and distribution or allocation. Among these concepts, power is an important concept because the core of politics is power. Power is the ability of a person or group to influence the behaviour of someone or other groups in accordance with the wishes of the perpetrators [4]. Power is the core of politics because politics is essentially a struggle to gain power, exercise power, control power, and how to use that power [5]. Election is a contestation of candidates to fight for and seize political power as regional heads and run and use these powers after they are elected. The struggle for true power is a noble struggle that is like a knight fighting on the battlefield. Therefore, the regional head candidates who competed in the elections should act and act knighted by upholding law and political ethics. Law as a complex norm governing legal relations between citizens in society. Political ethics is a moral philosophy about the political dimension of human life or a branch of philosophy that addresses the principles of political morality [6]. Political ethics talks about human responsibilities and obligations as human beings [7]. Political ethics is a moral principle of good and bad in actions

or behaviour in politics or morality (decency) and courtesy (politeness) in political association [8]. Political ethics is a way to assess political action in ethical conduct. The purpose of political ethics is to make people live well and to build equitable institutions [9]. The implementation of the elections in Indonesia was marked by violations of legal norms and social norms including political ethics by the regional head candidate and his success team. The modus operandi that is often done is to do money politics in the form of; share money with voters to elect a candidate for regional head or bribe other regional election stakeholders to gain votes. Politics for money is generally carried out at dawn before the vote which is known as the dawn attack. The money given ranges from ten thousand to one hundred and fifty thousand rupiahs given to voters with a low economic level, ironically indeed one vote is valued with such small money. Voters who do not have a choice (floating mass) can receive a lot of money from a number of regional head candidates, but the candidate who remains the choice is the candidate who gives the most money. Whereas voters who have a choice based on political party loyalty or others are usually not affected by the political money.

In a number of local elections, money politic actions proved effective for the victory of a candidate for regional head. Therefore, the practice of money politics is often done in every election, namely: village head elections, legislative elections, and even presidential elections in Indonesia. For the sake of winning the elections, money politics is not only in the form of money but also in the form of relief goods, which are ready to be asked again at any time if the candidate is not elected. This violation is not appropriate for the Indonesian people who have a saying "do not lick their own saliva", meaning do not ask for something back that has been given, because it clearly shows the lack of ethics and morality of regional head candidates. Other violations were also carried out by regional head candidates and their success teams, namely intimidating voters, spreading hoaxes, insulting and defaming other candidates, carrying out black campaigns and expressing hatred (hate speech) to bring down political opponents. In the digitalization era, this violation was carried out through various social media such as Facebook, Twitter, Instagram and YouTube. The violation is not only a violation of ethics, it is also an Information and Electronic Transaction crime in the election as referred to in Act Number 11 Year 2008 (Act No. 11/2008) on Information and Electronic Transactions (IET). Rational and critical voters may not be influenced by negative information on social media, but sceptical and politically blind voters will be easily influenced. This condition causes democracy in Indonesia which was built since the reform era will run backwards. The use of social media that is not controlled in the elections, can trigger the disintegration of the nation because of hostilities that occur in cyberspace can continue in the real world. Furthermore, in order to win the elections, a regional head candidate and his success team also often commit other violations, even committing unlawful actions in the election process by manipulating voter list data and vote counting results, violations of election administration (usually carried out by prospective regional head candidates / incumbent) by utilizing access to state assets (documents). Incumbent candidates also have access to power with the Regional General Election Commission (KPUD) as the organizer of the

elections. While the Election Supervisory Body (*Bawaslu*) as the election supervisor is also impressed by turning a blind eye to the violation because it has also been bribed by the incumbent regional head candidate. Other violations often committed by the incumbent regional head candidate are to use his position and power to win the elections. The mode is by using local government facilities for campaign purposes, conducting collusion with the *KPUD* to manipulate data in the voter list and the results of vote counting, and collusion with *Bawaslu* so that they are not subject to sanctions. That is why many political opponents consider that fighting against incumbent regional head candidates in the elections is very difficult because the incumbent candidate will use his position and power to win the elections by all means, including violating ethics and the law. Act Number 10 Year 2016 (Act No.10 / 2016) concerning the second amendment to Act No.1 / 2015 concerning the Establishment of Government Regulation No.1 / 2014 concerning Governor Election, Regent Election and Mayor Election into states law that: the incumbent regional head who nominates himself back in the elections must apply for leave. This provision is intended so that the incumbent regional head does not use his power and position for his victory in the elections. However, many incumbent regional head candidates who before applying for leave had used their power and position to win in the elections. After any leave, the incumbent regional head candidate was still able to do this through his success team from among local government officials.

Based on the description above shows that many local elections in Indonesia are coloured by criminal acts of election, violations of political ethics, and violations of election administration; and other violations including election disputes, which are very alarming and alarming in the political education of the community in the field of democratic development. The function should be carried out by political parties that carry regional head candidates, where in practice, political parties provide poor political education to the people. People through local elections are not educated to politically be ethical, polite, and honest. But being educated to do politics unethically, violently, brutally, fraudulently and justifies all means, including violating the law and political ethics so deeply, that violations of law and political ethics in the elections have led to political practices without law and ethics. The practice of politics without law and ethics is not as beautiful as political theories in various literatures which teach that political ethics must be the basis in all political life, also strengthen the negative stigma about politics in the eyes of people who consider politics as something bad. The negative stigma will be more strongly embedded in the minds of the people because in every local election it is always treated to these bad political practices.

Sociologically, power is not actually seen as good or bad because power is a very important element in the life of a society. Good or bad judgments must always be measured by the usefulness of that power for the community. The problem is that power cannot be shared equally among all members of the community, so that the main meaning of power arises namely the ability to influence others according to the wishes of the holder of power [10]. Such power which cannot be

divided equally results in a struggle for power which in practice is carried out in various ways, including in ways that violate the law and political ethics. Political ethics is very necessary in any situation, whether normal, safe, orderly and controlled or disorderly or chaotic. In situations like this, political ethics is relevant for several reasons. First, political ethics talks about authority, that is, however harsh and impolite politics is, its actions require legitimacy. The legitimacy comes from norms, morals, values, law or laws. Second, unfair and harsh politics cause casualties, and the victims will arouse sympathy and protest against injustice. Third, conflicts and conflicts of interest that continue to occur require a good and fair resolution [7]. Politics, law and ethics are actually three different things, but they cannot be separated. Politics is power governed by policy rules, while law and ethics are related to norms as a way of life in society. Ethics are principles related to morality [9]. Law and ethics are principles that should underlie every human life, including political life. Politics without law and ethics will lead to cruel, brutal political practices and justify all means to gain power. Politics without law and ethics will also create hatred and hostility which will ultimately threaten the life of democracy and national integration.

B. Finding

1) *Regional head corruption*: In essence, politics is a struggle to gain power, exercise power, control power, and how to use power [5]. In the context of the elections, politics is not only related to the struggle to gain power as regional head, but it is related to how the regional head uses and exercises his power after being elected. The Regional Head should uphold the law and political ethics in using and exercising his authority. In fact the regional head of the regional election results whose process is filled with election violations shows that many regional heads in Indonesia commit corruption as unethical acts and acts against the law. According to Webster's Third New International Dictionary [11], Corruption is an invitation (from a public official) with improper considerations to breach duties. An action can be categorized as an act of corruption if it contains the following elements: (1) the perpetrators or several perpetrators; (2) actions that violate applicable norms, both moral / religious, ethical, or legal aspects; (3) there is an element of detrimental to the finances or wealth of the state or society, both directly and indirectly; and (4) the existence of an element of gaining personal or group / group certain advantages. Corruption in Indonesia is very worrying and has become a culture of public bureaucracy because many are carried out by officials, both in the central and regional governments. The number of regional heads in Indonesia involved in corruption is also very alarming. By source tribunews, during the period of 2004-2018, the Corruption Eradication Commission (KPK) conducted Operation Arrest (OTT) of 100 (one hundred) regional heads and 4 (four) regional deputy heads [12], with details as in table 1 as follows:

TABLE I. REGIONAL HEAD CAUGHT IN OPERATION ARREST DURING 2004-2018

No.	Year	Number of Operation Arrest	Percentage
1.	2004	1	1,0 %
2.	2005	1	1,0 %
3.	2006	4	3,8 %
4.	2007	7	6,7 %
5.	2008	6	5,8 %
6.	2009	6	5,8 %
7.	2010	4	3,8 %
8.	2011	3	2,9 %
9.	2012	4	3,8 %
10.	2013	4	3,8 %
11.	2014	14	13,5 %
12.	2015	4	3,8 %
13.	2016	9	8,7 %
14.	2017	8	7,7 %
15.	2018	29	27,9 %
Total		104	100,0 %

Source: www.tribunnews.com (processed data) 2018

Based on the above data, the regional heads affected by the Operation Arrest during 2004-2018 fluctuated, but the most cases were in 2018 which was 29 (twenty-nine) regional heads, in 2014 there were 14 (fourteen) regional heads. Positions affected by the Operation Arrest during 2004-2018 consisted of governors, regents, mayors, deputy regents and deputy mayors with details in Table 2 [12] which is:

TABLE II. POSITION OF REGIONAL HEAD CAUGHT IN OPERATION ARREST DURING 2004-2018 [12]

No.	Position	Number of Operation Arrest	Percentage
1.	Governor	15	14,4 %
2.	Mayor	23	22,1 %
3.	Regent	62	59,6 %
4.	Deputy Mayor	1	1,0 %
5.	Deputy Regent	3	2,9 %
Total		104	100,0 %

Source : www.tribunnews.com (processed data) 2018

Based on the data above, during 2004-2018, regional heads affected by the KPT OTT: Regent 62 (sixty-two) people, Mayor 23 (twenty-three) people, Governor 15 (fifteen) people, Deputy Regent 3 (three) people, and 1 (one) Deputy Mayor. The regional heads affected by the KPT OTT are spread across 23 (twenty-three) provinces with the details in Table 3 [13]:

TABLE III. REGIONAL HEAD CAUGHT IN OPERATION ARREST DURING 2004-2018 BASED ON PROVINCE [13]

No.	Province	Number of Operation Arrest	Percentage
1.	East Java	14	13,5 %
2.	North Sumatera	12	11,5 %
3.	West Java	11	10,6 %
4.	Central Java	8	7,7 %
5.	Southeast Sulawesi	6	5,8 %
6.	Papua	5	4,8 %
7.	Riau	5	4,8 %
8.	Nangroe Aceh Darusallam	4	3,8 %

Table 3. Cont.

No.	Province	Number of Operation Arrest	Percentage
9.	Banten	4	3,8 %
10.	East Kalimantan	4	3,8 %
11.	South Sumatera	4	3,8 %
12.	Bengkulu	3	2,9 %
13.	Lampung	3	2,9 %
14.	North Maluku	3	2,9 %
15.	West Nusa Tenggara	3	2,9 %
16.	South Sulawesi	3	2,9 %
17.	North Sulawesi	3	2,9 %
18.	South Kalimantan	2	1,9 %
19.	Riau Islands	2	1,9 %
20.	East Nusa Tenggara	2	1,9 %
21.	Jambi	1	1,0 %
22.	Central Kalimantan	1	1,0 %
23.	Central Sulawesi	1	1,0 %
Total		104	100,0 %

Source: www.merdeka.com (processed data)

Based on the data above, regional heads affected by the Operation Arrest in 2004-2018 are spread across 23 (twenty-three) provinces out of 34 (thirty-four) provinces in Indonesia. The provinces with the most regional heads affected by the Operation Arrest were 14 (fourteen) people in East Java, then 12 (twelve) North Sumatra people, and 11 (eleven) West Java people. Modes of acts of corruption committed by regional heads include budget mark-ups and various gratuities (bribes). The gratuities that are mostly done are in the management of licenses, tender processes, projects, and promotions.

2) *Relation of regional head election and corruption:* Corruption of regional heads in Indonesia is caused by several factors but the most prominent factor is due to the high political costs in the elections. Political costs are a major weakness in direct elections [14]. Pilkada in the era of political liberalization is very possible that those who can fight in these elections are those who have strong economic and political capital [15]. Furthermore, it was also stressed that most of the corrupt practices of regional heads were due to the high cost of political dowry that must be paid by regional head candidates to the political parties that carried it [16]. Election costs are expensive due to among others to finance political money in the form of giving money to voters to win the elections. Voters whose economic level is low will make their choices to the regional head candidates who give the most money. If the basis is money, then the local elections will not produce competent regional heads but corrupt regional heads to return all the local election costs they have incurred. This is related to the elections with the number of regional heads affected by the Operation Arrest. The data as in Table 1, shows that before the 2005 direct local election era, the number of regional heads affected by the Operation Arrest was relatively small, namely only 1 (one) person in 2004 and 1 (one) person in 2005. However, after the direct local election was conducted as as stated in Table 1, the number of regional heads affected by the Operation Arrest increased and the peak occurred in 2018, namely 29 (two nine nine) people. Thus, there is a close relationship between the direct local elections and the large

number of regional heads who are corrupt. KPK Deputy Chairman, Alexander Marwata, said that the KPK had conducted a review of the Pilkada funding related to several operations conducted by the KPK. Based on the investigation, many regional heads affected by Operatiin Arrest said that they participated in the elections by being sponsored by certain parties or even borrowing money. Some say that to become a regional head, one must prepare between 20-30 (twenty to thirty) billion, even in Java, which is greater than that. Even though if it is calculated from the regional head's official income for 5 (five) years, it will not reach 6 (six) billion. As a result, elected regional heads will try to return the money spent at the time of the elections. The high political costs make it difficult to eradicate corruption [17]. Corruption is also related to the powers of regional heads. Regional heads in Indonesia in the era of regional autonomy are like small kings in the area but have great power. But on the other hand, the regional head must find a large amount of money in a short time to recover the costs he had incurred during the elections. As a result, the power of a large regional head is very tempting to be abused by corruption. The rise of corruption cases of regional heads in Indonesia is evidence of the statement of Lord Acton (1834-1902) that "Power tends to corrupt and absolutely power corrupts absolutely".

IV. CONCLUSION

Election in Indonesia is an arena of struggle for political power which has been arranged in accordance with applicable law. This political activity is often a political burden that must be paid dearly by the candidates for the Regional Head, especially by the elected Regional Head candidates, when the process of implementation is coloured by violations. Violations of ethics, administration, criminal acts of election to violation of disputes over election results, such as: money politics, intimidation, hoaxes, committing insults and defamation, black campaigns, hate speech, manipulating data in the voter list and the results of vote counts, as well as using positions and power to win the elections. Victory over regional elections like this, can encourage and be a trigger for the growth of embryos of deviant legal and ethical behaviour of the Regional Head in carrying out his duties and authorities, corruption among them. Violation of the election process raises politics without legal and ethical norms, namely cruel, brutal politics and justifies any means, so that the negative political stigma remains firmly attached to the community. Therefore, the legalization of the power to realize ethical politics, legal norms - ethics and politics must be carried out

proportionally. There were 104 (one hundred and four) Regional Heads of Regional Election results in the period of 2004 20018 who were caught in the Operation Arrest for committing corruption with a budget mark-up mode and various gratuities (bribery) for licensing, the tender/auction process, projects, and promotions. Fluctuations in the number of regional heads who committed corruption in the 200420018 period were coloured by the process of organizing between the local elections and the direct local elections. Regional Head of Regional Election Results in 2005, in 2004 the number of corrupt regional heads was only 1 (one) person, and 1 (one) person in 2005. After the direct Regional Election was held, the number of regional heads affected by the Operation Arrest increased and the peak occurred in 2018 namely as many as 29 (twenty-nine) people.

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