



Models For Organizing General Elections (Elections) During The Pandemic Period Of Infectious Disease Outbreaks

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Abstract

Indonesia is a legal state that adheres to a democratic system. Elections are one of the characteristics of a democratic country. In Indonesia, elections are mandated by the 1945 Constitution of the Republic of Indonesia Article Paragraphs (1), (2), (3), (4), (5), and (6). The Pilkada explicitly stated in the 1945 Constitution of the Republic of Indonesia is not part of the General Election, but the Pilkada is an election regime based on the Decision of the Constitutional Court Number 55/PUU-XVIII/2019. Pilkada is held to elect the Governor/Deputy Governor, Regent/Deputy Regent and Mayor/Deputy Mayor simultaneously. Simultaneous elections in 2020 are planned to be held on December 9, 2020, but the world is experiencing a Covid-19 pandemic so that the KPU as the election organizing body has decided to postpone the Pilkada stage. Through Perpu Number 2 of 2020 which was later stipulated to be Law Number 6 of 2020, the Government decided to continue the Pilkada Stages. This law has not been effectively implemented at the time of implementation Pilkada 2020. The principle of legal certainty, the rights of people's safety/health have not been optimally protected. Researchers in conducting research analysis with a sociological juridical approach, namely by obtaining legal knowledge by going directly to the object. The discussion that will be described in the research is the 2020 Pilkada based on laws and regulations and problems that arise in the implementation during the pandemic. The case of holding the 2020 Pilkada is an example for proposing a model concept for organizing an election during a pandemic of infectious disease.

Keywords: Regional Head Election, Covid-19 Pandemic, Model

Introduction

The Unitary State of the Republic of Indonesia is a state based on law as mandated in the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia) which is regulated in Article 1 paragraph (3) which reads "Indonesia is a state based on law". In the fourth paragraph of the 1945 Constitution of the Republic of Indonesia, it is stated that one of the tasks and objectives of the Unitary State of the Republic of Indonesia is to protect the entire Indonesian nation and to advance public welfare. The aim is to create a safe, orderly and prosperous nation and state life.

Democracy and rule of law are concepts that are related to each other because a rule of law that adheres to a democratic system cannot be separated from law. In a democratic country, people's participation is the main thing of the democratic system and one of the characteristics of a democratic country is the holding of general elections.

Indonesia has established itself as a democratic country so elections are a necessity. In elections, people's aspirations are possible to run in cycles. Also in elections, the people as voters will be able to judge the election contestants who offer the candidate's vision, mission and programs, so they will know where their country is going. Manuel Kaisiepo stated about the election:

Indeed, it has become an important tradition that is almost sacred in various political systems in the world. He further said that general elections are important because they function to give legitimacy to existing power and for the new regime, it is this support and legitimacy that is sought. Elections function to maintain the status quo of a regime that wants to continue to be entrenched and if elections are held in this context, then it is this legitimacy and status quo that is at stake, not a matter of democracy which is abstract and has vague dimensions.

Regional Head Election (Pilkada) is one type of local election to elect Regional Heads/Deputy Regional Heads. The holding of the simultaneous local elections which were planned for September 23 2020 had to be postponed due to the Covid-19 infectious disease pandemic. The outbreak of the Corona Virus Disease -19 (Covid-19) pandemic forced the General Election Commission (KPU) as the regional head election organizer to issue KPU Decree Number: 179/PL.02-kpt/01/KPU/III/2020 dated 21 March 2020 which, among other things, regulated the postponement of several stages of the 2020 simultaneous local elections. This step was taken by the KPU following developments in the spread of the Covid-19 virus which the government has declared a non-natural national disaster.

The pandemic situation greatly affected the running of the democratic party in Indonesia. The agenda for holding regional head elections (Pilkada) in 270 regions in the context of electing 9 Governors/Deputy Governors, 224 Regents/Deputy Regents, and 37 Mayors/Deputy Mayors was also affected by this situation. On the other hand, there have been various public reactions, both from community organizations, election observers, and figures who have requested that the holding of the regional elections be postponed in order to maintain the safety and security of citizens. The reaction to the postponement of the regional elections was a form of concern with the increasing number of confirmed positive cases of Covid-19 in various regions in Indonesia. However, it should be considered that the implementation of this election is very important for the advancement of public policy in Indonesia. One of them is the policy regarding the handling of Covid-19.

Elections during the Covid-19 pandemic in many countries around the world are still being held in compliance with health protocols. There are at least 50 countries that have succeeded in holding elections at both the regional and national levels. The United States presidential election can be carried out optimally until Joe Biden is appointed as President of the United States. Pilkada implementation must prioritize the compliance and firmness of officials in implementing health protocols and Bawaslu is the main key to minimizing the risks that will arise including the suspicion of a new cluster of Covid-19.

The government issued Government Regulation in Lieu of Law Number 2 of 2020 concerning the Third Amendment to Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 Concerning the Election of Governors, Regents and Mayors to Become Law, which then stipulated to become Law Number 6 of 2020 concerning the Third Amendment to Law Number 1 of 2015 concerning the Election of Governors, Regents and Mayors. This regulation is the permanent basis for holding Pilkada in 2020 after experiencing a delay of more than 3 months and setting December 9, 2020 as voting day.

The law contains an article which stipulates that the 2020 Pilkada can be postponed if the situation is not possible, Article 201 A paragraph (3) reads "In the event that simultaneous voting as referred to in paragraph (21) cannot be carried out, simultaneous voting is postponed and scheduled return immediately after the non-natural disaster as referred to in paragraph (1) ends, through the mechanism referred to in Article 122A".

Based on Article 201 paragraph (3) this is actually considered something that is uncertain, especially in the Government Regulation in Lieu of Law it also does not regulate budget issues and whether this Government Regulation in lieu of Law can also become a legal basis for the KPU to exercise discretion in assessing the situation of a pandemic outbreak of the Covid-19 infectious disease in an area it can be considered as disrupting the holding of regional elections. Besides that, it is also not clear whether the KPU has this authority or whether that authority

lies with other agencies, for example the ministry of health and agencies under it as applicable to the Law on health.

The 2020 simultaneous local elections during the Covid-19 infectious disease pandemic experienced a decrease in community participation compared to the previous election, namely the 2019 Election. The target for community participation set by the RI KPU was 77.5% not fulfilled, one of the factors was because the 2020 Pilkada was held during a disease outbreak pandemic transmit Covid-19. The pandemic condition has made people prioritize their health and safety over their right to vote..

Research Problems

1. The government issued Government Regulation in Lieu of Law Number 2 of 2020 concerning the Third Amendment to Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 Concerning the Election of Governors, Regents and Mayors to Become Law, which then stipulated to become Law Number 6 of 2020 concerning the Third Amendment to Law Number 1 of 2015 concerning the Election of Governors, Regents and Mayors. This regulation is the permanent basis for holding Pilkada in 2020 after experiencing a delay of more than 3 months and setting December 9, 2020 as voting day.
2. The law contains an article which stipulates that the 2020 Pilkada can be postponed if the situation is not possible, Article 201 A paragraph (3) reads "In the event that simultaneous voting as referred to in paragraph (21) cannot be carried out, simultaneous voting is postponed and scheduled return immediately after the non-natural disaster as referred to in paragraph (1) ends, through the mechanism referred to in Article 122A".
3. Based on Article 201 paragraph (3) this is actually considered something that is uncertain, especially in the Government Regulation in Lieu of Law it also does not regulate budget issues and whether this Government Regulation in lieu of Law can also become a legal basis for the KPU to exercise discretion in assessing the situation of a pandemic outbreak of the Covid-19 infectious disease in an area it can be considered as disrupting the holding of regional elections. Besides that, it is also not clear whether the KPU has this authority or whether that authority lies with other agencies, for example the ministry of health and agencies under it as applicable to the Law on health.
4. Based on what the author described above, the main problem is as follows:
 1. What are the arrangements for holding the Simultaneous Regional Elections in Indonesia in 2020 during the not optimal pandemic of the Covid-19 infectious disease?
 2. What is the model for holding general elections (elections) during a pandemic of an infectious disease outbreak?

METHODS

In this research method, researchers in conducting research analysis use a sociological juridical approach, namely by obtaining legal knowledge by going directly to the object.

RESULTS AND DISCUSSION

1. Pilkada Based on Legislation

The constitution explains the basis for administration general elections, namely: "General elections are held for elect members of the People's Representative Council, the Representative Council. Region, President and Vice President and the House of Representatives area", which is carried out directly, publicly, freely, secretly, honest and fair every five years (Article 22E paragraph (2) of the 1945 Constitution).

Also the implementation of regional elections, namely: "Governors, Regents, and Mayor respectively as head of local government provinces, districts and cities are democratically elected" (Article 18 paragraph (4) of the 1945 Constitution).

The reform era became a new milestone in improving the quality of democracy in Indonesia. The implementation of Regional Head Elections (Pilkada) which are directly elected by the people provides a wide space for participation to choose and determine political leadership at the regional level. The Pilkada, which later changed its designation to direct Pilkada, is also an effort to encourage the implementation of regional autonomy, because the community hopes that leaders who are directly elected by the community will better understand the conditions in their area.

Based on the Constitutional Court Decision Number 55/PUU-XVIII/2019 Pilkada is part of the electoral regime. Elections for Regional Heads and Deputy Regional Heads or often called Pilkada or Pilkada, are part of the implementation of democracy. Regional Head is a political position in charge of leading and moving the wheels of government. The terminology of public office means that the regional head carries out the decision-making function directly with the interests of the people or the public, has an impact on the people and is felt. Regional heads must be elected by the people and must be held accountable. Meanwhile, the meaning of political positions is that the mechanism for recruiting regional heads is carried out politically, namely through elections involving political elements, namely by selecting the people for figures who nominate as regional heads. In political life in the regions, Pilkada is an activity whose value is parallel to the Pileg, it is proven that the Regional Head and the DPRD are partners.

Direct elections are a democratic mechanism in the context of recruiting leaders in the regions, where the people as a whole have the right and freedom to choose competing candidates in a playing field with the same rules of the game. A country that is governed democratically will not be considered truly democratic if its leaders are not freely elected by the people themselves. Elections have always been used as a benchmark to determine whether a country is democratic or not.

Then in 2014 there was a political debate in the DPR which led to the Stipulation of a Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayor. Entering the beginning of 2015, Law Number 1 Year was issued 2015 Law Number 1 of 2014 Concerning the Election of Governors, Regents, And Mayor. The climax, on 17 February 2015, Session. The plenary session of the DPR RI stipulates Law Number 8 of 2015 concerning. Amendments to Law Number 1 of 2015 Regarding Determination Government Regulation in Lieu of Law Number 1 of 2014 Concerning Election of governors, regents and mayors. Next, at 18. In March 2015, this law was passed and marked the regional elections first directly and simultaneously in Indonesia on December 9, 2015 followed by 269 regions (Mohammad Saihu, 2019: 3-4).

Responding to the postponement of several stages of the elections at the time The Covid-19 pandemic can have various impacts management, both positive and negative. The positive impact, for example, is that this delay provides space for candidates independently to prepare support requirements as a candidate individual. Political parties can also relatively experience relaxation in conducting the recruitment process for regional head candidates.

The problem is, the positive impact is not too significant considering the grace period for changes to the implementation schedule only shifted three months, from 23 September to 9 December 2020. This schedule change is considered forced considering the increase the number of positive cases of COVID-19 has not slumped and is over. If cite an opinion (Andrian Habibi, 2020: 168), in the paper election and Covid-19 published by IDEA International translated by Association for Democracy (Perludem) be the argument for electoral literature. Policy answer yet found. Indirectly, International IDEA only provide advice and leave policy choices to us. Keep the election or postpone it.

Perppu No.2/2020 regulates 3 fundamental changes regarding Pilkada implementation, namely: (1) Article 120 which states factors non-natural disasters as reasons for postponing regional election series; (2) Article 122A deals with postponement and determination of local elections The continuation is determined based on the agreement of the Election Commission (KPU), the Government, and the Republican People's Representative Council Indonesia (DPR RI); (3) based

on Article 201 A, the original Pilkada scheduled for September 2020 postponed and implemented on December 2020 due to pandemic non-natural disaster reasons Covid-19, if in December 2020 the local elections have not been obtained carried out, it can be postponed again according to the procedures of Article 122A (Richard Kennedy & Bonaventura Pradana Suhendarto, 2020 : 189).

IMPLEMENTATION OF ELECTIONS IN INDONESIA DURING THE PANDEMI OF INFECTIOUS DISEASES

The factors influencing the holding of the 2020 Pilkada are not yet effective

The factors that influenced the implementation of regional elections in Indonesia, namely the research locations in Sragen Regency, Grobogan Regency, Surakarta City, and Purbalingga Regency during the pandemic of infectious disease outbreaks were not yet effective, including: juridical factors, legal and institutional structure factors, and legal culture and community participation. It is these factors that influence the results of holding quality and integrity Pilkada and elections.

1. Juridical Factors

There are many violations against the 2020 Pilkada which do not receive the sanctions as stipulated. This is due to weak handling and law enforcement. The concept of a rule of law that guarantees the protection of human rights, in this case guarantees the rights to democracy/suffrage, the right to health/safety and government based on the law, has not been fulfilled because the substance of the Pilkada Law has not guaranteed the rights mentioned above. There are still weaknesses in the drafting of regional election regulations during the COVID-19 pandemic.

In general, the substance of the Pilkada Law still has overlapping and overlapping law enforcement authorities. An example of a case in Rokan Hulu Regency, Riau Province in the 2020 Simultaneous Pilkada relates to a violation of Article 71 of the Pilkada Law Number 10 of 2016. "There was an abuse of authority that violated Article 71 then the Bawaslu handled it and issued a recommendation for disqualification. This was followed up by the KPU with a disqualification decree. The disqualified pair of candidates submitted to the Supreme Court and their application was granted. Whereas in its normative provisions, the disqualification is final and binding. There should be no other legal remedies that can be taken by the candidate pair.

Institutional overlapping often occurs so that it is prone to abuse of authority not in accordance with the objective of forming independent executive organs that can guarantee democracy as stated by Jimly Asshiddiqie in the rule of law principle.

Thus, according to the researcher, it is necessary to guarantee democratic rights/voting rights in accordance with the 1945 Constitution of the Republic of Indonesia Article 1 paragraph (2), health/safety guarantees in accordance with the 1945 Constitution of the Republic of Indonesia Article 28 H paragraph (1) . The guarantee of the right to vote and the right to health/safety is part of the concept of a rule of law according to Julius Stahl for the protection of human rights. The guarantee of these rights must be regulated in law in accordance with Julius Stahl's concept of a state, namely government based on law.

Provisions for the implementation of the 2020 Pilkada which only add health protocol settings in PKPU Number 6 of 2020 as amended by PKPU Number 13 of 2020 are not yet effective because they only regulate administratively prone to violations. Meanwhile Perbawaslu Number 4 of 2020 with sanctions is still weak in law enforcement due to different perceptions from other institutions, namely the prosecutor's office and the police. According to the researcher, regulation on health protocols and sanctions must be integrated with the Election/Pilkada Law.

2. Structural and Institutional Factors

The KPU is the election organizing body based on the 1945 NRI Law Article 22 E paragraph (5) which reads "General elections are held by an election commission that is national, permanent and independent." While Bawaslu and DKPP are regulated in Law Number 7 of 2017.

The arrangement of independent state institutions can help strengthen the existence of a constitutional democratic government. Overlapping rules with one another is caused by the laws and regulations that apply are not in line with the political and constitutional policies that are currently developing.

KPU and Bawaslu as independent implementing agencies must understand their respective duties and authorities so that overlapping does not occur.

Apart from the KPU, there is an independent and autonomous supervisory institution in overseeing and following up on all potential violations that occurred during the election. Bawaslu as an institution that is given authority in terms of enforcement of election/pilkada criminal acts. In addition, Bawaslu is also given the authority to take part in the enforcement of election crimes which are formed through the Sentra Gakkumdu (Integrated Law Enforcement) together with two other independent and autonomous institutions, namely the prosecutor's office and the police. The Gakkumdu center is a court room for prosecution and settlement of reports and findings of crimes that occurred during and after the election. Nevertheless, Bawaslu often encounters problems in handling election crimes because of different perceptions from other institutions.

The KPU and Bawaslu organizing institutions are equal election organizers, the equality of positions between the KPU and Bawaslu is aimed at creating checks and balances. Thus, Bawaslu can be said to be an independent institution. In addition to these considerations, Bawaslu is also given the portion and authority to take part in the enforcement of election crimes which are formed through the Gakkumdu Center (Integrated Law Enforcement) together with two other independent and autonomous institutions, namely the prosecutor's office and the police. The function of the Sentra Gakkumdu is as a coordinating forum in the process of handling any election criminal violations, implementing evaluation patterns.

Problems with institutional factors are often found in election management bodies (Bawaslu) which are getting bigger when they enter the Sentra Gakkumdu (Integrated Law Enforcement) arena. The role and function of Bawaslu in the Sentra Gakkumdu often finds weaknesses and gaps when dealing with other institutions, namely the prosecutor's office and the police. Apart from dissenting opinions, the Bawaslu's findings and reports in supervising and supervising the running of elections are only placed as notes in decisions, not as recommendations. Easily, from this it can be emphasized that the decision to input Bawaslu was overruled by the police and the prosecutor's office.

Based on the description above, the institutional structure is in accordance with the rule of law theory according to Jimly Asshiddiqie, which contains elements of the existence of power restrictions, namely the limitation of state power and state organs by applying the principle of vertical division of powers or horizontal separation of powers. Apart from that, the executive organs are independent, in order to limit this power, namely the KPU and Bawaslu, they must carry out their institutional functions properly. The regulation of KPU membership and Bawaslu membership is limited by law.

3. Cultural Factors and Community Participation

Cultural factors also resulted in the implementation of the 2020 Pilkada during the COVID-19 pandemic not being effective. This cultural factor is easier to understand because of the social acceptance factor. People still think that regional head elections are democratic parties which are always synonymous with mass gatherings, money politics, and rah-rah like parties.

This is why at every stage of the Pilkada in 2020 during the COVID-19 pandemic, people always feel moved to keep gathering with the lure of money, goods, and so on.

The holding of direct regional elections cannot be avoided by the culture (culture) of the people in the Indonesian region. For example, the Indonesian people have a habit or culture of "not rejecting sustenance", this makes some Indonesian people always accept gifts or assistance with open arms, whether in the form of money or objects given by the candidate pair/candidates as

sustenance that must be received. It is undeniable that habits like this are one of the factors that still cause politics to thrive in every regional election.

Another culture that is growing in Indonesian society is the General Election which is always synonymous with parties and rah-rah. In general, rah-rah means fun, joy and revelry. Usually, having fun (rah-rah) is not done by individuals, but by groups of people in a big celebration. This is a clear critique of the phenomenon of political party campaigns that prioritize selling music and artists, rather than proclaiming populist programs that will be fought for the welfare of society.

The people still vote for democratic parties with campaigns involving artists/entertainment and it is still difficult to be a smart voter by paying close attention to the candidate's vision and mission.

The importance of law formation and law enforcement for violations of health protocols committed by the public during the Pilkada stages must provide a deterrent effect so that people's health/safety guarantees are fulfilled.

This is in accordance with the principle of a rule of law conveyed by Jimly Asshiddiqie that is democratic in the sense of being able to adhere to and practice the principles of democracy or people's sovereignty which guarantee community participation in the process of making state decisions, so that laws and regulations that are enacted and enforced reflect feelings of justice in society. . Protection of human rights, the protection of constitutional rights to human rights with legal guarantees for demands for enforcement through a fair process as a feature of a democratic rule of law.

On the other hand, increasing public participation is very important in the implementation of general elections in the process of selecting members of the legislature and executive. Because after all, the community has a fairly large share in the general election process where the community as voters determines the winner in the general election process. It is the government's responsibility to involve stakeholders in trying to increase the role of society in elections as a process of democratization that has been running in Indonesia. That increasing public participation in elections is not solely the responsibility of KPU administrators, but the role of political parties is quite large, in addition to other stakeholders. Borrowing the writings of Muh. There are several things that need to be done to increase community participation.

Community participation in the Big Indonesian Dictionary is defined as a matter of participating in an activity, participation, participation, observation of activities in research, namely in the form of active observation and participation in field life or observed objects.

Community participation according to Effendi in principle can be carried out in two forms, namely the form of vertical participation and horizontal participation. the community exists as a status as a follower to respond, criticize a program or policy that is taken. The second form of participation is horizontal participation, the community has initiatives in which each community member or group participates horizontally with one another. This kind of participation is a sign of the beginning of the growth of a society that is able to develop independently.

In contrast to the opinion put forward by Effendi. According to Kell Antoft and Jack Novack, community participation can be carried out in several forms, such as Electoral participation, Lobbying, Greeting on council agendas, Special purpose bodies and Special purpose.

ANALISIS HAMBATAN-HAMBATAN PENYELENGGARAAN PEMILU DI MASA PANDEMI

1. Financing and budget constraints

The 2020 Pilkada as an extraordinary Pilkada which was held during the COVID-19 pandemic outbreak is the implementation of Pilkada which is expensive. The initial provisions for concurrent regional election financing are stipulated by Law Number 1 of 2015 CHAPTER XXII Article 166 "Funding for the election of Governors, Regents and Mayors is borne by the State Expenditure

Budget and can be supported through the Regional Expenditure Budget in accordance with the provisions of the Legislation."

Then this provision was amended in Law Number 10 of 2016 stating that all election activities are borne by the APBD but there are also sentences that can be supported by the APBN in accordance with statutory provisions. This regulation provides technical instructions in Permendagri Number 54 of 2019 CHAPTER II Funding for Election Activities Article 2:

- a. Funding for the election of the Governor and Deputy Governor shall be borne by the Provincial Revenue and Expenditure Budget.
- b. Funding for the election of the Regent/Deputy Regent and Mayor/Deputy Mayor shall be borne by the Regency/City Regional Revenue and Expenditure Budget.

This provision is burdensome for poor regions and the regional election budget deficit is a burden on the regional budget. Pilkada in Sragen Regency with a budget proposal of 36 billion was only approved by 24.5 billion, getting an additional 3 billion during the pandemic and complete PPE pandemic grants from the regional government, in Surakarta City, from the proposed submission of 25 billion, only 15 billion was approved. This is a factor that the financing of implementation by APBD is an obstacle to the implementation of Pilkada. In addition, the delay in signing the NPHD will result in delays in the stages, so that they do not comply with the specified time.

During the 2020 Pilkada, the Ministry of Finance received a request for an additional budget from the Provincial/District/City General Election Commission (KPU) of IDR 4.77 trillion based on the KPU letter as of 9 June 2020. The KPU has divided this amount into 3 stages, namely stage 1 of IDR 1.02 trillion, phase 2 of IDR 3.29 trillion and phase 3 of IDR 0.46 trillion to fulfill the Pilkada implementation in 270 regions. This is because it is very difficult for the regions to budget additional costs for holding it during a pandemic.

To support the entire Pilkada process according to what has been decided, the Ministry of Finance decided to provide an additional budget such as an allocation request from the KPU in the hope that it will not hamper the initial stages of the process according to the KPU or the Ministry of Home Affairs which began June 15 2020. This is being done while continuing to examine the completeness of the various documents provided to the Ministry of Finance with the assumption that the criteria for implementing Pilkada are safe from COVID-19 and are already in the budget proposal given to the Ministry of Finance. Pilkada financing will become a problem factor if it is still borne by the regional budget.

In the context of this research, the problems regarding the implementation of Pilkada in terms of the budget are related to the legal basis that applies in Indonesia. In terms of financing, there is a regulation that Regional Government election financing is not from the APBN.

By amending Law Number 1 of 2015 CHAPTER XXII Article 166 "Funding for the election of Governors, Regents and Mayors is borne by the State Expenditure Budget and can be supported through the Regional Expenditure Revenue Budget in accordance with the provisions of the Legislation." became Law Number 10 of 2016 Article 166 paragraph (1) which reads "Funding for Election Activities is borne by the Regional Revenue and Expenditure Budget and can be supported by the State Revenue and Expenditure Budget in accordance with the Laws and Regulations."

This regulation change is really contradictory and becomes a burden for the regions so that there is non-uniformity in each region. According to the researchers, it is best if the regulations for financing the holding of Pilkada are returned in accordance with the provisions of Law Number 1 of 2015 CHAPTER XXII Article 166 "Funding for the election of Governors, Regents and Mayors is borne by the State Revenue and Expenditure Budget and can be supported through the Regional Expenditure Budget."

2. Administrative violations and election crimes

Election Administration Violations are violations that include procedures, procedures, and mechanisms related to the administration of Election implementation in every stage of Election Implementation. Administrative violations are still lightly sanctioned so they do not provide a deterrent effect for perpetrators.

Election Criminal Violations are criminal violations and/or crimes against the provisions of election crimes as stipulated in the Law on General Elections and the Law on Elections for Governors, Regents and Mayors.

Administrative violations in Sragen Regency, namely during the implementation of the Open Plenary Meeting of the Updating Voters List (DPHP) for the 2020 Election of the Sragen Regent and Deputy Regent which was carried out by PPS throughout Sragen Regency, there was an alleged violation by not submitting the DPHP in the ABKWK form by the Voting Committee Se Sragen Regency.

Administrative violations in Grobogan Regency, namely the alleged involvement of Sub-District/Village Supervisory Committee Candidates involved in Political Party membership and PPS not submitting the softcopy and hardcopy voter lists (form A.B-KWK model) to the Kelurahan/Village Panwaslu (PPKD).

Administrative violations in Surakarta City, namely before the open Plenary Meeting of the DPHP Recapitulation was held, simultaneously the Surakarta City Bawaslu and its staff had submitted a letter of appeal to PPKs throughout Surakarta City to provide the results of the open Plenary Meeting of the DPHP Recapitulation in the form of A.B.1 KWK (by name by address) to Surakarta City Bawaslu and its staff, but until the event was closed Surakarta City Bawaslu and its staff were not given A.B.1 KWK as requested.

Administrative violations in Purbalingga Regency found several names registered in the political information system (Sipol) data and there were also several names whose names had served as PPS members for 2 (two) consecutive terms on the results of the administrative selection of candidate members of the Voting Committee members (PPS), as well as the names of prospective PPS members who pass the administrative selection do not live in the PPS work area as evidenced by a photocopy of an electronic KTP.

Based on the description of the administrative violations above, the researcher believes that these violations will be a public question, whether the 2020 Pilkada have taken place in a LUBER and JUDIL manner and with integrity.

Crime violations in Sragen Regency, namely the existence of a post in the WA group "Wargo Desa Sepat" carried out by brother Supriyanto, whose contents promised hope to get an Aspiration Fund of 100 million for the village that received the highest percentage at the sub-district level, for Yuni - Suroto's victory in the 2020 Pilkada by Supriyanto (WNI with voting rights). Even though this was not proven at the Gakkumdu Center, the Bawaslu, the police and the prosecutor's office held different perceptions of the types of violations at the Gakkumdu center, so that criminal offenses could not be proven and stopped at the Gakkumdu center.

Violations of criminal acts in Surakarta City, namely Witness a.n. Mohammad Halim told the reporter that he did not support the bapason Bagyo Wahyono and FX suparjo, but were met by KPU officials to verify their support for the bapason, the story was conveyed via a WA call. Then on August 7 2020 the witness A.N. Sapardi and witness An.n Tresno Subagyo said that the two witnesses told the reporter that they had been visited by KPU officials to carry out factual verification, even though they did not support the Basis Lontar. However, this was not proven at the Gakkumdu Center because the different perceptions of the types of violations at the Gakkumdu center by Bawaslu, the police, and the prosecutor's office meant that criminal offenses could not be proven and stopped at the Gakkumdu center.

Violations of criminal offenses in Purbalingga Regency, namely that at 14.00 WIB on October 16 2020, Witness Endang Yulianti heard live satellite TV which was opened on the Super group page (facebook) and the account "Sukhedi Karangmalang". Whereas on November 1 2020 at the Daais Salam Purwodadi Mosque a routine Sunday morning recitation was held starting at approximately 06.30 WIB to 08.00 WIB and attended by approximately 600 people. At 06.50 WIB the REPORTED went up on the pulpit in the mosque, and gave remarks and introductions which basically conveyed a personal profile including family background, educational history, employment history and then also conveyed that all this time the REPORTED had wandered and

then asked by several Kyai Purbalingga to be nominated to become a candidate for regent of Purbalingga in 2020

Based on the description of the election crime violations above, many of them have not been proven because there are many different perceptions in the Gakkumdu Sentra. Dissenting opinion between Bawaslu, the Attorney General's Office, and the Police. The researcher argues that the Bawaslu institution should be strengthened by regulation

1. Violation of health protocols

The types of violations of the health protocol that occurred the most during the Pilkada stages were crowds without keeping a distance, not wearing masks, and not having hand sanitizer available. Cases of violating the Covid-19 health protocol had resulted in intimidation of election supervisors and rejection from supporters of candidate pairs.

Violation of health protocols at TPS where TPS is set up in a place that is not large, thus allowing an unsafe distance between voters.

Violation of the health protocol in Sragen Regency, namely the Sragen Regent Candidate Pair Yuni - Suroto has carried out its first campaign with face-to-face activities with residents at Mr. Wardi's house, Dk. Gelangan, Dawungan Village, Masaran District, as stated in STTP Number: STTP/01/X/YAN.2.2/2020/RES.SRAGEN. The campaign will be held on 4 October 2020, 07.00 – 12.00. Candidate for Regent Yuni campaigns on a leisurely bicycle while distributing T-shirts. After arriving at the Mondokan area, he was stopped by Raras Mulatsih, the commissioner of the Sragen Bawaslu, Supervision Coordinator. Because there is no STTP, they are asked to stop the campaign.

No health protocol violations were found in the election for the Grogoban regent. However, contrary to Bawaslu data, in the report on the implementation of the Grobogan Regency KPU there were violations of health protocols during the process of registering and determining pairs of candidates for regent and deputy regent which involved the community, namely the accumulation of crowds of supporters who accompanied and accompanied the candidate pairs to the Regency KPU office during a pandemic. COVID-19.

Violations of the health protocol in Surakarta City, namely Data from the Central Java Bawaslu shows that the 2020 Election for the Mayor and Deputy Mayor of Surakarta City has zero health protocol violations. However, the reality on the ground is not like that. As Arie Sunaryo's report on merdeka.com The Election Supervisory Body (Bawaslu) Solo suspects that the two prospective candidates have violated the COVID-19 health protocol because they brought many supporters on their way to the KPU. The Monitoring Division of the Solo Bawaslu, Muh Muttaqin regretted that there was a mass procession of the Gibran-Teguh couple when registering at the KPU on Friday (4/9/2020) by bicycle and horse carriage. Meanwhile, the Bajo couple registered with the KPU on Sunday (6/9/2020) by riding a horse, andong, and on foot. The two groups ignored physical distancing which highlighted violations of health protocols.

Referring to data from Bawaslu, no violations of the Health Protocol were found during the Election of the Regent and Deputy Regent of Purbalingga Regency. However, according to iNews.id, five violations of the COVID-19 prevention health protocol were recorded during the Pilkada campaign period from 26 September 2020 to 22 October 2020 in Purbalingga Regency. According to data from the Central Java Bawaslu, violations to the 2020 Pilkada in Central Java involved the most violations of the health protocol, namely 217. Violations of the health protocol were committed by participants from the winning team, the organizing team, and the public at almost all stages. The stages of registering candidate pairs were marked by violations of health protocols with processions that caused large crowds. The campaign stages are not in accordance with health protocols. The voting and counting stages are not in accordance with the health protocol. This further fueled the spread of the COVID-19 virus.

The researcher's opinion is that health protocol arrangements are only an additional rule in PKPU Number 6 of 2020 and this is the nature of administration with provisions for sanctions in Perbawaslu having a risk of being violated. It is recommended that health protocol arrangements and sanctions for violations be included in the Election/Pilkada Law.

Election Model during the Pandemic Period of Infectious Diseases

1. Ideal Arrangement of Legal Substance for Organizing Elections during a Pandemic Period of Infectious Disease Outbreak

a. Improving the Implementation of the Stages of Budgeting & Regulation

Law No. 10 of 2016 Article 166 paragraph (1) Funding for Election Activities is borne by the Regional Revenue and Expenditure Budget. The State Revenue and Expenditure Budget can support it by following the Laws and Regulations. This article is substantially burdensome for Regional Governments whose budgets are limited and burdens the APBD.

Then it is necessary to add provisions on the obligation of the central government to allocate funding for the holding of Pilkada in the State Revenue and Expenditure Budget. So that Law no. 10 of 2016 Article 166 paragraph (1) can be added with the sentence "Funding for Election Activities is borne by the Regional Revenue and Expenditure Budget and must be supported by the State Revenue and Expenditure Budget in accordance with the Laws and Regulations."

b. Improvements to the Implementation of the Stages of Formation of the Organizing Body

Regulation for the establishment of the PKPU organizing body Number 6 of 2020 Article 14, which reads, "Establishment of PPS, KPPS, and PPDP, Inauguration of PPS, KPPS, and PPDP in the Continuing Concurrent Elections is carried out by implementing the health protocol for the prevention and control of the 2019 Coronavirus Disease (COVID-19) or through online media." In substance, this article does not guarantee the people's right to obtain information about the stages. PKPU Number 6 of 2020 Article 14, which reads, "Establishment of PPK, PPS, KPPS, and PPDP, Inauguration of PPS, KPPS, and PPDP in the Advanced Concurrent Election is carried out by implementing the health protocol for the prevention and control of Coronavirus Disease 2019 (COVID-19) or through the media online." Added provisions regarding re-establishing PPK, PPS, KPPS, and PPDP membership in the previous election.

c. Implementation of the Voter List Updating Stages

PKPU Voter List Updating Regulation Number 2 Year: Updating Data and Compilation of Voter Lists in the election of Governor and Deputy Governor, Regent and Deputy Regent, and/or Mayor and Deputy Mayor. In the provisions for updating the voter list as stipulated in Articles 11-26, it is necessary to add provisions regarding the right of voters to pinch themselves through an application provided by the KPU and have the right to refuse the presence of PPDP officers in updating the voter list.

d. Implementation of the Stages of Registration of Candidates

Registration of Prospective Pairs of Candidates at the KPU of Surakarta City is carried out with the following steps:

1. Ensure that the Prospective Pairs of Candidates, Leaders of Political Parties, or Coalitions of Political Parties who propose to be present at the time of registration;
2. Ask the Prospective Candidate Pairs, Leaders of Political Parties or Joint Political Parties, and the liaison team to fill out the attendance list book by stating the arrival time and affixing signatures. This arrival time record forms the basis for calculating the registration deadline for Prospective Pairs of Candidates. If the time record exceeds the specified time limit, registration cannot be accepted;
3. Do not accept registration if the leadership of a political party or coalition of political parties or one of the prospective candidates or prospective pairs of candidates is not present at the time of registration unless the absence is caused by an obstacle as evidenced by a statement from the competent authority;
 - a. Receive nomination requirements documents and examine compliance with the completeness and legitimacy of nomination requirements;
 - b. And ensure that all registration processes for Prospective Pairs comply with the COVID-19 health protocol discipline.

e. Implementation of PKPU Campaign Stages

Number 6 of 2020 concerning General Election Commission Regulations concerning Implementation of the Election of Governors and Deputy Governors, Regents and Deputy

Regents, and/or Mayors and Deputy Mayors Simultaneously Continuing in Disaster Conditions Non-Natural Coronavirus Disease 2019 (Covid-19)

In-campaign provisions must be added to the KPU's obligation to facilitate online media in campaigns, including blank box candidates. As well as digital campaigns that are more encouraged by the ease of regulation such as YouTube, TikTok, and other content.

f. Implementation of the Vote Voting and Counting Stages

of PKPU Number 6 of 2020 Article 82 reads, "Provincial KPU and Regency/Municipal KPU can utilize information technology by providing live broadcasts of activities for determining the Summary of Vote Count Results and Determining Candidates for Governor and Deputy Governor, Regent and Deputy Regent, and / or the elected Mayor and Deputy Mayor to be witnessed by support teams, election observers, the mass media, and the public from their respective residences."

The article needs to be amended to read "Provincial KPU and Regency/Municipal KPU can utilize information technology with **obligations** provide live broadcasts of the activities of determining the Vote Count Results Recapitulation and Determining the Candidates for Governor and Deputy Governor, Regent and Deputy Regent, and/or Mayor and Deputy Mayor elected to be witnessed by support teams, election observers, the mass media, and the public from their respective residences each."

2. Ideal Arrangements for the Legal Structure of Elections During a Pandemic Period of Infectious Diseases

If good law is if good law enforcement officials do not support it, then justice is only wishful thinking. The weak mentality of law enforcement officials has resulted in law enforcement not working as it should. Many factors influence the weak mentality of law enforcement officials, including a weak understanding of religion, the economy, the recruitment process, and so on. It can be emphasized that law enforcement factors play an essential role in the functioning of the law.

Soerjono Soekanto thinks that the legal structure, which includes law enforcers/law enforcers, is a role model group in society that should have specific abilities following the people's aspirations. They must be able to communicate and gain understanding from the target group, in addition to being able to carry out or carry out acceptable roles. In the context of this research, matters related to the legal structure will be directed and focused on state institutions that have duties in organizing general elections at the central level to the district and city levels.

While the legal structure in question is the election supervisory board, this supervisory board includes all divisions in the Bawaslu. This supervisor includes all levels from the center, province, district/city, sub-district, sub-district/village, and TPS supervisors. As for the legal culture, because it is closely related to the legal awareness of the community, in this case, it is the legal awareness of organizers, participants, and the voting public in implementing health protocols at each stage of the Pilkada.

The occurrence of various crises, such as a crisis of confidence in the state administration, is also an indicator of the formation of state institutions with an independent label which then adds to the complexity of the problem. It is necessary to strive for structuring or reconstruction through the grand design of state institutions in the constitution through changes. Reconstruction or realignment of independent institutions in the constitutional structure of Indonesia will establish harmony and synchronization between these institutions. It is hoped that this rearrangement based on statutory regulations will be distinct and distinct.

Article 152 paragraph (1) of Law Number 10 of 2016 reads "to equate the understanding and pattern of handling election crimes, Provincial Bawaslu, and or Regency/City Panwas, Regional Police and/or Resort Police, and the High Court and or the State Prosecutor's Office establish an Integrated Law Enforcement Center. This article needs to be corrected because there is an overlap in the authority of the Election Organizing Body and the Gakkumdu Sentra, which needs to run optimally.

So that it is necessary to understand the handling of criminal acts and establish an election court under one roof under the coordination of the Bawaslu so that it binds all types of election violations, both administration and election disputes, and the election code of ethics.

3. Ideal Legal Culture of Election Implementation during a Pandemic Outbreak of Infectious Diseases

Legal culture is an emphasis from a general cultural perspective on habits, opinions, ways of acting, and thinking, which directs social forces in society. Legal culture is more directed to people's attitudes, beliefs, and values adopted by people and their ideas or expectations of law and the legal system. In this case, legal culture is a picture of attitudes and behavior towards law and all the factors determining how the legal system obtains a place suitable and acceptable to the community. The higher the legal awareness of the community, the better legal culture will be created and can change the community's mindset so far. In simple terms, the level of public compliance with the law is an indicator of the functioning of the law.

PKPU Number 6 of 2020 Concerning the Election of Governors and Deputy Governors, Regents and Deputy Regents, and/or Mayors and Deputy Mayors Simultaneously Continuing in Disaster Conditions Non-Natural Coronavirus Disease 2019 (COVID-19) only regulates additional regulations regarding health protocols at each stage Pilkada implementation. However, this regulation is deemed ineffective due to weak public compliance with statutory provisions. PKPU only regulates administrative matters and does not contain sanctions. So that sanctions for violating health protocols should be regulated in laws and articles governing the KPU being able to use the media internet to broadcast stages changed to "obligation."

Conclusion

The Covid-19 outbreak that has occurred in all countries in the world has become a national disaster. The pandemic has disrupted all sectors of people's lives. In addition to impacting the public health sector, it also impacts other sectors, namely education, economy, culture, society, and governance. In 2020, Indonesia held a democratic party, namely the 2020 Simultaneous Regional Elections. However, with the outbreak, the government issued a policy regarding postponing the 2020 Pilkada. The postponement of the 2020 simultaneous regional elections after the issuance of Perpu Number 2 of 2020 must be anticipated in a planned, directed. Comprehensive manner, making Pilkada implementation regulations and various derivative policies, including budgeting, apart from having to be timely and able to capture the reality on the ground, must be ensured that they are in line with the needs of holding regional elections according to the Covid-19 handling *protocol*. If, in reality, based on various studies, it will not be possible to hold a vote in December 2020, the KPU as an independent institution must quickly take a stance so that there are not many legal, political, and social losses that occur due to policies that are slow, immature and forced. Apart from that, legal certainty, protection of people's safety/health rights, and democratic rights must be a priority in implementing the 2020 Pilkada with integrity.

- a. The holding of regional head elections during the *coronavirus disease (Covid-19)* pandemic is a legal policy to protect the rights to safety/health and democratic rights by the government in the form of laws and regulations based on philosophical, sociological, and juridical aspects, but the current ones are not optimal and following Pancasila and aspired to by the 1945 Constitution of the Republic of Indonesia.
- b. The principles of the legal protection of the people's safety and health rights and democratic rights in the implementation of regional head elections during the *coronavirus disease (Covid-19)* have not been appropriately implemented in the legal politics of statutory regulations in Indonesia.
- c. The ideal concept for the model for holding general elections during an infectious disease pandemic is to harmonize and synchronize existing laws and regulations because the holding of regional head elections during the coronavirus disease (Covid-19) pandemic does not yet have effective regulations that fulfill *human rights*. citizens, namely accommodating the right to safety/health and the people's democratic rights must be implemented appropriately in a regulation.

Recommendations Suggestions

a. Government and Parliament:

In making regulations, the principle of legal certainty must be adhered to. Article 201 A paragraph (3) should read, "If the simultaneous voting referred to in paragraph (2) cannot be carried out, the simultaneous voting is postponed and rescheduled immediately after the non-natural disaster as referred to in paragraph (1) ends, through the mechanism referred to Article 122. A, **deleted**.

b. KPU:

1.) Must ensure that voter data is accurate because disputes over voter data have eroded public trust in election organizers. The validity of voter data can end the polemic of inherited electoral problems stemming from the confusion over voter data that has been going on all this time. The KPU must have the courage to ensure that its voter data is accurate. This can easily be proven if there are few or insignificant voters using Special Voter Data (DPK). Providing space for voters to poke themselves with the application provided by the KPU during the voter list updating stage. Because voters are worried that spreading infectious disease outbreaks will disrupt their health and safety.

2.) The KPU must utilize information technology by broadcasting live the stages of candidate registration, campaigning, and vote counting.

3.) Adopt *early voting* for Indonesian citizens overseas when general elections in Indonesia take place and adopt the USA Election, which protects people's safety/health rights and democratic rights by designing voting to be done at home and sent by post. Adopt *e-voting* from Estonia.

4.) Designing an electronic e-recapitulation as a growing discourse to anticipate malpractices that may occur after the voting, the KPU must ensure the security and validity of electronic e-recapitulation data, which becomes the official election result data. Situng's polemic experience in the 2019 general election should be a valuable lesson, namely that electronic e-recapitulation as official regional election data will be prone to lawsuits if the level of security and validity is not ensured with a transparent and reliable e-recapitulation process.

5.) Bawaslu

must be able to anticipate various possible 2020 Pilkada malpractices following the 2020 Pilkada Vulnerability Index compiled by coordinating with the KPU, in particular, to create various innovative schemes to anticipate bottlenecks that occur in the *implementation* of the 2020 Pilkada. Another anticipation is by discussing the use of the budget and several possible budget diversions in the 2020 Pilkada due to the emergency.

6.) Community

as mandated by law to exercise their right to vote and comply with health protocols for the success of quality elections.

The government, DPR, KPU, and Bawaslu should recognize the psychosocial condition of society due to the excesses of *Covid-19* that they are feeling.

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