



Implementation of village head election with E-Voting

Ahmad Setiawan, Joko Nur Sariono, Dwi Tatak Subagiyo

Department of Law, Universitas Wijaya Kusuma Surabaya, Surabaya, Indonesia

Abstract

This research examines the development of the democratization process in Indonesia since the Reform era of 1999, as well as the implementation of e-voting in village head elections. The Reform era brought many changes to Indonesia's constitutional and legal systems, including regional and village autonomy. This study also explores the application of e-voting as a technological innovation in village head elections to enhance efficiency and transparency. A case study of Magetan Regency is used to illustrate the implementation of e-voting. The results of the study show that e-voting offers various benefits but also faces challenges regarding security and voter trust.

Keywords: Democratization, E-voting, village head elections

Introduction

The success of the reform era was marked by the birth of regional autonomy policies in Indonesia, starting with the issuance of Law No. 22 of 1999, followed by Law No. 32 of 2004 on Regional Governance, and Law No. 23 of 2014 on Regional Governance. The regional autonomy policy has changed the paradigm of governance processes and opened up opportunities for villages to manage and regulate their own affairs according to their characteristics.

The implementation of e-voting is based on Law No. 32 of 2004 on Regional Governance, specifically Article 203, paragraph (1), which states that "The village head, as referred to in Article 202, paragraph (1), is elected directly by the village residents and the election procedure is regulated by Regional Regulations that adhere to Government Regulations"; and paragraph (2) explains that "The candidate who receives the most votes in the village head election, as referred to in paragraph (1), is designated as the village head." Furthermore, Government Regulation No. 72 of 2005 on Villages regulates the election of village heads in the fourth section, starting from Article 43 to Article 54.

Constitutionally, the implementation of village head elections (Pilkades) is currently regulated based on the 1945 Constitution, Law No. 6 of 2014 on Villages, Government Regulation No. 43 of 2014 on Villages, Minister of Home Affairs Regulation No. 112 of 2014 on Pilkades, Regional Regulations on Pilkades, and Regent Regulations on Pilkades.

However, the regulations on the use of e-voting in Pilkades have not yet been explicitly and formally established, as Law No. 6 of 2014, Government Regulation No. 43 of 2014, and Minister of Home Affairs Regulation No. 112 of 2014 do not explicitly address this matter. This means that the formal and mechanical basis does not clearly regulate Pilkades using e-voting.

Literature review

As a country governed by law, Indonesia bases its constitutional system on the 1945 Constitution (UUD 1945), which serves as the guideline for all legislation. Constitutional changes require amendments to subordinate

laws to remain consistent with the fundamental law. Article 18 of the 1945 Constitution regulates regional governance, which includes the division of regions, regional autonomy, and the democratic election of regional heads.

Elections in Indonesia consist of Presidential elections (Pilpres), Legislative elections (Pileg), Regional Head elections (Pilkada), and Village Head elections (Pilkades). However, Pilkades fall within the scope of the district government, while the other elections are entirely conducted by the election organizers, namely the General Elections Commission (KPU) and the Election Supervisory Body (Banwaslu). With the rapid advancement of technology today, Information and Communication Technology (ICT) can be utilized to support the implementation process.

Elections are a method that the government must consider as an alternative in developing a better election administration system in the future within the application of constitutional democracy. This idea is based on the framework that the use of ICT can provide positive contributions to the election process in general and the village head election in particular by increasing efficiency, effectiveness, transparency, and accountability of election results. Strategic aspects of Pilkades, such as the increased authority of villages with the enactment of Law No.6 of 2014 on Villages, make Pilkades a manifestation of democracy that is very close to the community as it involves electing a village head from among local residents. The appropriate use of technology in the democratic process and regional autonomy enables the implementation of e-Voting through regional regulations and district autonomy. The principles of effectiveness and efficiency in Pilkades can be realized through e-Voting.

The determination of the status of the village head election affects the administration of Pilkades and which party has the authority to resolve election result disputes. In the third part of the Village Law, it is shown that the administration of Pilkades falls under village law rather than election law. This provision is reinforced in Article 32 of the Village Law, where the administration forming the Pilkades committee is the Village Consultative Body. The Constitutional Court does not play a role in resolving Pilkades result disputes.

Research methodology

This research was conducted using a descriptive qualitative approach, considering that the researcher intends to obtain an overview of the implementation of Village Head Elections using electronic methods. The data collection techniques in this research involve several stages, including observation, literature review, interviews, and documentation. The analytical model used in this study is the interview model, which includes three components of analysis: data reduction, data display, and conclusion drawing. Miles and Huberman (in Sugiyono 2013:246).

Discussion

In the implementation of the constitution in the Unitary State of the Republic of Indonesia (NKRI), it is well known that there are several philosophical foundations, namely: the Ideological Foundation, the Formal Foundation, the Operational Foundation, and the Technical Foundation. Therefore, state administrators must understand these basic philosophies so that the implementation of the constitution can proceed smoothly in accordance with the objectives and ideals of the establishment of the NKRI. Generally, in our constitution, the ideological foundation is Pancasila and the 1945 Constitution, and the formal foundation is the 1945 Constitution, laws (UU), Government Regulations in Lieu of Laws (Perpu), and Government Regulations (PP).

Strategic matters in village head elections (Pilkades), such as village authority, have increased with Law No. 6 of 2014 concerning Villages. Pilkades is a form of democracy very close to the community as they elect village heads from among those living in their vicinity. The appropriate use of technology in the democratic process and regional autonomy allows for the implementation of e-voting through regional regulations, ensuring that the principles of effectiveness and efficiency in Pilkades can be realized through e-voting.

The determination of the status of village head elections impacts the organization of Pilkades and the authority responsible for resolving disputes over the election results. According to Article 37, paragraphs (5) and (6) of the Village Law, disputes in village head elections are resolved by the authorized party, in this case, the regent/mayor.

In the process of village head elections using e-voting, it is important to note the potential for disputes. The resolution of disputes in village head elections using the e-voting system requires more attention from both the central and regional governments because, according to Article 37, paragraphs (5) and (6) of Law No. 14 concerning Villages, the authority responsible for disputes in village head elections is the regent/mayor. Finding alternative resolutions for disputes in village head elections is challenging because, in e-voting, everything from the beginning to the result count is done automatically by electronic devices.

Alternative dispute resolution in village head elections must use in-depth studies, besides the fact that village head elections using the e-voting system do not yet have a strong legal basis. Village head Elections using the e-voting system are considered to violate local customs and traditions because the right to village autonomy is clearly regulated in the 1945 Constitution, which acknowledges the origin rights of villages and their living communities.

Conclusion

Constitutional changes and the implementation of e-voting are crucial steps in the development of democracy in Indonesia. E-voting provides a solution to traditional election challenges but requires improvements in infrastructure and security for the future. E-voting offers various benefits such as efficiency, transparency, and increased voter participation. However, challenges like security, voter trust, and the need for adequate infrastructure remain obstacles in the implementation of e-voting. A case study in Magetan Regency shows that despite some shortcomings, e-voting is a positive breakthrough for democracy in Indonesia.

The formal and operational foundations, namely the Village Law, Government Regulations on Villages, and Ministry of Home Affairs Regulations on Village Head Elections, have not explicitly and definitively regulated the implementation of e-voting in simultaneous village head elections. Meanwhile, disputes in village head elections are still dominated by issues regarding the standardization of e-voting usage, as the e-voting system for village head elections has not yet received certification from the relevant authorities.

Suggestions

The central and regional governments need to strengthen regulations that support the use of e-voting in village head elections. This includes revising relevant laws and government regulations, as well as issuing specific local regulations to ensure a clear and structured legal framework. Information and Communication Technology (ICT) infrastructure should be improved, especially in remote areas. The government needs to ensure stable internet access and adequate hardware to support the e-voting process.

Security of the e-voting system must be enhanced to protect data integrity and ensure no manipulation of results. Additionally, steps should be taken to increase voter confidence in the e-voting system, such as through public education and demonstrations of e-voting.

The government should provide intensive training to election officials and the public on how to use the e-voting system. Extensive socialization about the benefits and workings of e-voting can help reduce resistance and increase public participation.

Conducting pilot tests of e-voting on a smaller scale before full implementation is crucial. Evaluation of these pilot tests can provide valuable feedback for system improvement before full deployment in village head elections.

The government needs to establish clear and efficient dispute resolution mechanisms related to the results of village head elections using e-voting. This is essential to maintain fairness and legitimacy in the election process.

Developing and implementing standards and certifications for the e-voting system is necessary. This includes validation from independent third parties to ensure that the e-voting system meets high standards of security and reliability.

With these measures, it is hoped that the implementation of e-voting in village head elections will be more effective, efficient, and transparent, thus positively contributing to the democratic process in Indonesia.

References

1. Undang-Undang Nomor 6 Tahun 2014 tentang Desa.;
2. Undang-Undang Nomor 32 Tahun 2004 tentang Pemerintahan Daerah;
3. Peraturan Pemerintah Nomor 43 Tahun 2014 tentang Peraturan Pelaksanaan Undang-Undang Nomor 6 Tahun 2014 tentang Desa;
4. Peraturan Menteri Dalam Negeri Republik Indonesia Nomor 112 Tahun 2014 tentang Pemilihan Kepala Desa;
5. Peraturan Menteri Dalam Negeri Republik Indonesia Nomor 65 Tahun 2017 tentang Perubahan atas Permendagri Nomor 112 Tahun 2014 tentang Pemilihan Kepala Desa;
6. Peraturan Menteri Dalam Negeri Republik Indonesia Nomor 72 Tahun 2020 tentang Perubahan Kedua atas Permendagri Nomor 112 Tahun 2014 tentang Pemilihan Kepala Desa;
7. Anggito, Albi dan Johan Setiawan. 2018. Metodologi Penelitian Kualitatif. Sukabumi: CV Jejak.Efendi, Jonqaeidi dan Johnny Ibrahim,2016, Metode Penelitian Hukum Normatif dan Empiris, Depok: Prnadamedia Group;
8. Ramlan dan Eka NAM Sihombing, 2021, Hukum Pemerintahan Desa, Medan: Enam Media;
9. Rudy, Hukum Pemerintahan Desa, 2022, Bandar Lampung; CV. Anugerah Utama Raharja; Tumpal P. Saragi, 2014, Mewujudkan Otonomi Masyarakat Desa, Jakarta: CV. Cipiruy;
10. Hanif Nurcholis, 2011, Pertumbuhan DanPenyelenggaraan Pemerintahan Desa, Jakarta: Erlangga;
11. Manan, B. (2000). Wewenang Propinsi, Kabupaten, dan Kota dalam Rangka Otonomi Daerah. Makalah pada Seminar Nasional Pengembangan Wilayah dan Pengelolaan Sumberdaya Alam di Kawasan Pesisir, Bandung;
12. Priyono, E., & Nurdiana, F. (2010). E-Voting: Urgensi Transparansi dan Akuntabilitas. disampaikan dalam Seminar Nasional Informatika 2010, UPN "Veteran" Yogyakarta, 22 Mei 2010.