

LEGAL POLITICS OF REGIONAL HEAD ELECTIONS DURING THE COVID-19 PANDEMIC: DO ANTAGONISTIC IMPLICATIONS?

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Abstract

This research aspires to know and analyze the political law of regional head elections in Indonesia in the midst of the COVID-19 pandemic. Next, the implications of COVID-19 are explored to determine its impact on the implementation of regional head elections and democracy in Indonesia. This study aims to analyze the political laws of regional head elections in Indonesia when the COVID-19 pandemic happened and explore the implications of the pandemic on regional head elections and democracy in Indonesia. This research used normative juridical method with specifications in the analytical descriptive investigation, secondary data was used to examine research data qualitatively. The study found that the rescheduled simultaneous regional elections during the COVID-19 pandemic were carried out in December 2020 while also applying stringent health protocols. The COVID-19 pandemic is believed not to have affected democracy in Indonesia since the process was carried out in a direct, open, public, secret, honest, and fair manner. This study also found that public participation in regional head elections amid the COVID-19 pandemic increased compared to previous years; voter turnout in 2015 was 69.35%, and the number increased to 74.89% in 2017. The participation further progressed to 76.09% in 2020 despite the happening pandemic.

Keywords: COVID-19; Elections; Government; Political.

A. INTRODUCTION

The election of regional heads in Indonesia is a local-level democratic gathering routinely held once every five years. Etymologically, democracy is derived from the term "*Demos*," which means people, and "*Kratos*," which implies government. Therefore, democracy is defined as government by the people. Historically, back when the state was still in the form of a city-state, democracy was performed directly since the number of people was still scanty and homogeneous. Over time, the direct government was no longer applicable, considering the number of people was increasing and becoming heterogeneous. Therefore, the meaning of government by the people began to split-shift to the understanding that the government is organized by someone appointed or elected by the community as the sovereignty giver, representing the people in administering the government. In general,

democracy can be divided into two: direct democracy and indirect democracy. Direct democracy indicates that the people elect the leaders for the government directly. Meanwhile, indirect democracy happens when the election of the government heads is carried out through people's representatives who sit in the House of Representatives. The people's Republic of China notified the World Health Organization (WHO) about an outbreak of pneumonia with an unknown cause that was first detected in the city of Wuhan, Hubei province, on December 31, 2019^{1,2}. Since Indonesia was not immune to these domino effects, as of March 2, 2020, the Indonesian people were shocked by the discovery of the first two cases of COVID-19³. This number rose to 1,528 cases in just 29 days with 136 deaths and continued to increase to 6.6 million confirmed cases with 159,565 deaths as of November 24, 2022⁴. China and Singapore have responded to the rapid spread of COVID-19 cases since their first emergence at the end of 2019, particularly by carrying out aggressive tracking and strict quarantine.

In terms of civil liberties, Singer & Sang-Hun⁵ stated that digital tools may dictate the privacy of everyone in the concerned country and have the potential to erode public trust in the government. On a relatively opposite side, Italy, France, and Spain, while fighting COVID-19, were still trying to balance their civil and economic liberties. The influence of civil liberties on trust in a government reaps pros and cons. Hobbes⁶ stated that absolute sovereignty is the best solution to protect all citizens; therefore, civil liberties can be classified as a secondary value. This statement is supported by Schmitt,⁷ who stated that the sovereign capacity must be maintained without exception to accelerate the democratic political process by applying dictatorial elements in the decisive actions taken. On the other hand, Mill⁸ stated that violating civil liberties is illegal, and power should not be exercised if it causes harm to others. Therefore, the liberal tradition emphasizes protecting civil liberties and can maintain people's trust.

1 Cepaluni, G., Dorsch, M. T., Branyiczki, R., Political Regimes And Deaths in the Early Stages of The COVID-19 Pandemic, *Journal of Public Finance and Public Choice*, Vol. 37, No. 1, 2022, page.27-53

2 Gandasari, D., Dwidienawati, D., Content Analysis Of Social And Economic Issues In Indonesia During The COVID-19 Pandemic, *Heliyon*, Vol. 6, No. 11, 2020, page.1-9.

3 Ratcliffe, R., *First Coronavirus Cases Confirmed in Indonesia Amid Fears Nation Is Ill-Prepared For Outbreak*, The Guardian, Available online <https://www.theguardian.com/world/2020/mar/02/first-coronavirus-cases-confirmed-in-indonesia-amid-fears-nation-is-ill-prepared-for-outbreak>

4 WHO (World Health Organization), *WHO Health Emergency Dashboard*, 2022, Available online <https://covid19.who.int/region/searo/country/id>

5 Singer, N., Sang-Hun, C., *As Coronavirus Surveillance Escalates, Personal Privacy Plummets*, The New York Times, 2020, Available online <https://www.nytimes.com/2020/03/23/technology/coronavirus-surveillance-tracking-privacy.html>

6 Hobbes, T., *Leviathan*, 1651, Sclar P., Menston, Monash University Librar, 1969

7 Schmitt, C., *Political Theology: Four Chapters on the Concept Of Sovereignty*, University of Chicago Press, the USA, 2005

8 Mill, J. S., *Civil Rights*, London, Longmans, Green Co Publishing, 1887

According to Bingham J Powell, as cited by M. Rusli Karim, a viable indicator of democratic politics occurs when:

1. The legitimacy of government is based on the judgment that the government represents the people;
2. Arrangements for organizing negotiations (bargaining) to gain legitimacy are carried out through competitive elections;
3. Adults can participate in the electoral process, either as voters or candidates for essential positions;
4. Residents vote in secret and beyond coercion;
5. People and leaders can enjoy fundamental rights such as freedom of assembly, freedom of association, and freedom of the press.⁹

As one of the players for regional autonomy, the regional head has a very strategic and crucial position, task, and authority in achieving the successful implementation of regional autonomy. The regional heads, as the actors in regional administration, are also mediators who bridge the central government with the community and have a heavy duty in favor of winning the country's ambitions. Therefore, the local government as the leader must be chosen thoughtfully so that the elected leader can be truly well-equipped, credible, and qualified. High-quality leaders who can carry out government functions as mandated by law will ultimately impact national development, particularly the success of regional development.

The direct election of leaders in various regions in Indonesia has been carried out since 2004, with the first regional head elections in unison starting in 2015. According to the Commissioner of the General Elections Commission, Arief Budiman, in the Coordination Meeting for the Preparation and Management of the Simultaneous Election Budget 2015 held on Wednesday, April 8, 2015, the purpose of the regional head elections in unison was to achieve budget effectiveness and efficiency.¹⁰

Based on the regional head election agenda prepared by the General Elections Commission, simultaneous regional head elections should have been done in September 2020. However, the Coronavirus Disease 2019 (COVID-19) pandemic that hit Indonesia in March 2020 forced all activities inviting crowds to be suspended. In response to this phenomenon, the President of Indonesia, Joko Widodo, issued Presidential Decree No. 12/2020 concerning the Determination of Non-Natural Disasters of the Coronavirus Disease 2019 (COVID-19) Spread as a National Disaster, which was stipulated on April 13, 2020. Regarding the regional head election, the president also issued a Government Regulation in Lieu of Law concerning the Third Amendment to Act No. 1/2015 concerning the Stipulation of Government Regulations in Lieu of Act No. 1/2014 concerning the Election of Governors, Regents, and Mayors to become Laws. The Government Regulation in Lieu of Law was then subsequently approved by the House of Representatives and stipulated as Act No. 6/2020 concerning Stipulation of

9 Karim, M. R., *Competitive Democratic Elections*, Jakarta, Tara Wacana Press, 1991;

10 Covesia News., The Purpose of Regional Head Elections in Unison for the Budget's Effectiveness And Efficiency

Government Regulation in Lieu of Act No. 2/2020 concerning Third Amendment to Act No. 1/2015 concerning Stipulation of Government Regulation in Lieu of Act No. 1/2014 concerning Election of Governors, Regents, and Mayors to become Laws.

Seeing the above two regulations, the 2020 regional elections in unison, which should have been done in September, were then postponed. Therefore, this study aspires to know and analyze the political law of regional head elections in Indonesia amid the COVID-19 pandemic. Furthermore, the implications of COVID-19 were explored to determine its impact on the implementation of regional head elections and democracy in Indonesia.

B. RESEARCH METHODS

This study employed a normative juridical approach. The juridical approach (law is seen as a norm or *das sollen*) is used because normative legal research as a literature study relies heavily on secondary data.¹¹ Since the research problems were discussed using legal materials, the data types in this study are secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials.¹² Primary legal materials were obtained from laws and regulations related to the research area, while secondary legal materials were collected from literature relevant to the problems examined. Later, tertiary legal material was sourced through a law dictionary. The research specification used is descriptive-analytical, used to define, describe, and disclose data relevant to the problem studied. Furthermore, the data collected was then analyzed using qualitative methods. Next, discussion and analysis involving science, theories, and experts' opinions were later used to pull conclusions.

C. DISCUSSION AND RESULTS

General elections are defined as a mechanism for delegating people's sovereignty to candidates who will become members of the People's Representative Council, Regional Representative Council, Regional People's Representative, President, Vice President, and Regional Heads/Deputy Regional Heads. The delegating process is carried out to devise and implement political decisions following people's will. Moreover, the general election is also a mechanism to improve the configuration of government, public policy, and elite rotation, which is conducted periodically in an orderly manner.¹³

The general election to determine the Regional Head and Deputy Regional Head is part of the democracy implementation. The Regional Head is a political position in charge of leading and running the government apparatuses. Political positions are obtained from the recruitment

11 Soerjono Soekanto, *Introduction to Legal Research*, Jakarta, UI Press, 1991, page.7.

12 Ronny Hanitijo Soemitro, *Legal Research Methods*, Jakarta, Ghalia Indonesia Press, 1982, page. 11.

13 Ramlan Surbakti, *Election System and Democratic Political Order*, in Ramlan Surbakti et al. (Ed), *Engineering Electoral System for the Development of Democratic Political Order*, Jakarta, Kemitraan, page.27.

mechanism for regional leaders, arranged politically by involving political elements chosen by the people. Those chosen elites would then go and become regional head candidates. Within the scope of regional politics, regional head elections have parallel status to legislative elections, shown by regional heads and the Regional People's Representative Council acting as partners.¹⁴

The administration of regional head elections is regulated by various laws and arrangements, ranging from the Basic Law to the General Election Commission Regulations. As a set of regulations that determine the powers and responsibilities of various state instruments, the 1945 Constitution defines the boundaries of various power hubs and describes the relationships between them.¹⁵ Materials regulated in the laws and regulations under the 1945 Constitution must coexist with the 1945 Constitution itself. In compiling materials on government administration, general elections, and regulations in organizing general elections, the 1945 Constitution must be interpreted and should become the primary reference. The articles contained in the 1945 Constitution must be used as absolute guidelines in making laws, Government Regulations, Government Regulations in Lieu of Law, and other legislations. Therefore, the legal basis for forming the election program of a Regional Heads is based on the following laws:

1. The 1945 Constitution of the Republic of Indonesia;
2. Act No. 23/2014 concerning Regional Government;
3. Act No. 10/2016 concerning the Second Amendment to Act No. 1/2015 concerning Stipulation of Government Regulation in Lieu of Act No. 1/2014 concerning the Election of Governors, Regents, and Mayors to become Laws;
4. Act No. 6/2020 concerning Stipulation of Government Regulation in Lieu of Act No. 2/2020 concerning the Third Amendment to Act No. 1/2015 concerning Stipulation of Government Regulation in Lieu of Act No. 1/2014 concerning the Election of Governors, Regents, and Mayors to become Laws;
5. Constitutional Court Decision No. 14/PUU-XI/2013 concerning General Elections in Unison;
6. Constitutional Court Decision No. 100/PUU-XVI/2015 concerning the Election of Regional Heads with a Single Candidate;
7. Regulation of the General Election Commission of the Republic of Indonesia No. 6/2020 concerning the Implementation of the Simultaneous Elections for Governors, Regents, and Mayors in Non-Natural Disaster Conditions due to Coronavirus Disease 2019 (COVID-19);

14 Agus Hadiawan, Evaluation of Direct Regional Head Elections in Lampung Province (Study in South Lampung Regency, Metro City, and Bandar Lampung City), Bandar Lampung, *Scientific Journal of Public Administration and Development, University of Lampung*, Vol. 3, No. 7, July – December, 2009, page.637.

15 Miriam Budiardjo, *The Fundamental of Political Sciences*, Jakarta, Prima Grafika Press, 2013, page.169.

8. General Election Commission Regulation No. 10/2020 concerning Amendments to General Election Commission Regulation No. 6/2020 concerning the Implementation of the Simultaneous Election of Governors and Deputy Governors, Regents and Deputy Regents, and/or Mayors and Deputy Mayors in Non-Natural Disaster Conditions due to Coronavirus Disease 2019 (COVID-19); and
9. General Election Commission Regulation No. 13/2020 concerning the Second Amendment to the General Election Commission Regulation No. 6/2020 concerning the Implementation of the Simultaneous Election of Governors and Deputy Governors, Regents and Deputy Regents, and/or Mayors and Deputy Mayors in Non-Natural Disaster Conditions due to Coronavirus Disease 2019 (COVID-19).

Based on various regulations concerning regional head elections mentioned above, regional head elections in Indonesia have been held in unison since 2015. As of this writing, simultaneous regional head elections in Indonesia have been done four times: (1) in 2015 participated by 269 regions; (2) in 2017 participated by 101 regions; (3) in 2018 participated by 171 regions; and (4) in 2020 participated by 270 regions, consisting of nine provinces, 224 regencies, and 37 cities.

1. To what extent has the 2019 Coronavirus Disease pandemic affected the political law in Indonesia's regional head elections?

Based on the present study results, the fourth simultaneous regional head election was already held in December 2020, delayed from the initial schedule in September 2020. The regional head election program was not conducted according to the timeline scheduled by the General Elections Commission due to the Coronavirus Disease 2019 (COVID-19) pandemic that hit Indonesia in March 2020. Tedros Adhanom Ghebreyesus, the current Director-General of the World Health Organization, officially named the pandemic first identified in Wuhan, China, on December 31, 2019, as COVID-19.¹⁶ COVID-19 is well-known caused by the Novel Coronavirus, a group of viruses that can cause infectious diseases in animals and be transmitted to humans. Like Middle East Respiratory Syndrome (MERS) and Severe Acute Respiratory Syndrome (SARS), COVID-19, which transmits very quickly between humans, is known to be contagious and causes respiratory infections, coughs, colds, and even death.

In tackling the COVID-19 pandemic, the President of Indonesia issued Presidential Decree No. 12/2020 concerning the Determination of Non-Natural Disasters due to the Spread of Coronavirus Disease 2019 (COVID-19) as a National Disaster on April 13, 2020. Regarding the election of regional heads, the president also issued a Government Regulation in Lieu of Act No. 2/2020 concerning the Third Amendment to Act No. 1/2015 concerning Stipulation of Government Regulation in Lieu

16 Adityo Susilo et al., Coronavirus Disease 2019, *Indonesian Journal of Internal Medicine*, Vol.7, No.1, March 2020.

of Act No. 1/2014 concerning the Election of Governors, Regents, and Mayors to become Law. The regulation was subsequently approved by the House of Representatives and stipulated as Act No. 6/2020 concerning Stipulation of Government Regulation in Lieu of Act No. 2/2020 concerning the Third Amendment to Act No. 1/2015 concerning Stipulation of Government Regulation in Lieu of Act No. 1/2014 concerning the Election of Governors, Regents, and Mayors to become Law.

Maufud MD,¹⁷ the current Coordinating Minister for Political, Legal, and Security Affairs of Indonesia, defined legal politics as a tool that works in a particular system to achieve state goals or the ambitions of the Indonesian people. Therefore, the discussion of national legal politics must be based on affirming the state's goals. Furthermore, Mirza Nasution,¹⁸ specializing in Legal Politics in the Indonesian Constitutional System, stated that law is the dependent variable, while politics act as the independent variable. Therefore, internal law as regulation is a crystallization of interaction and competition in political will. The dichotomous approach in legal politics serves to see the political configuration and character of the final legal products.

The objectives of the Indonesian state as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia are: 1) protect the entire Indonesian society, all the independence, and the land that has been fought for; 2) improve the public welfare; 3) educate the life of the people; and 4) participate toward the establishment of a world order based on freedom, perpetual peace, and social justice. These objectives are carried out to satisfy the state's goals while achieving a just and prosperous society based on the Five Principles (*Pancasila*) and the 1945 Constitution of the Republic of Indonesia.

As a country with a decentralized system, Indonesia gives regions (provinces, districts, and cities) authority to regulate and manage their areas as the Unitary State of the Republic of Indonesia. With an abundance of authority given by the central government to the local government, the presence of qualified regional heads who can lead their regions properly is needed so that the goals and aspirations of the country can be achieved. Following the democratic political system adopted in Indonesia, the regional heads must be trustworthy people who genuinely have the legitimacy of the people and have been appointed through direct elections.

Considering that regional head elections in Indonesia are conducted through direct elections by the people, leaders in regions with soon-expiring tenure should together be refreshed or replaced through regional head elections in unison. Based on the agenda set by the General Elections Commission, the 2020 regional head elections in

17 Moh. Maufud MD, *Establishing the Political Law, Enforcing the Constitution*, Jakarta, Rajawali Press, 2010, page.17

18 Mirza Nasution, *Political Laws in the Indonesian Constitutional System*, Medan, Pusantara Press, 2015, page.8.

unison, which were supposed to be held in September 2020, have been postponed due to the COVID-19 pandemic that hit Indonesia in March 2020.

According to several studies, public compliance and trust in government policies are varied and unique. Devine et al.¹⁹ stated that personal and family exposure to COVID-19 is a factor that contributes to the main adherence to the perceived threat of COVID-19. Another study even found that exposure to COVID-19 is still the main factor driving public compliance even though the affected ones are not family related to the citizens but are still people with high positions in the country. This phenomenon was mentioned by Jackson et al.²⁰ as the effect of "social norms," such as sympathy that occurred for the Prime Minister's chief adviser, Dominic Cummings, during the lockdown at the hospital due to COVID-19. When combined with government directives and health experts, national sympathy will foster empathy, solidarity, and ongoing support. Nevertheless, the decision by the government is very complex and requires further study, especially for those who live without privileges that force them to continue their activities outside. These issues have been examined by several studies^{21, 22}, and they found that unequal access due to a policy decision can lead to confusion and favoritism.

Several regulations were issued to ensure that regional head elections were carried out while also seeing extra attention to public health. Mirza Nasution defined regulation as a crystallization of interaction and competition in the political will. The dichotomous approach in legal politics helps to see the political configuration and character of the final legal products. In line with his statement, the policies issued by the government appearing as Presidential Decrees and Government Regulations in Lieu of Laws, which were later stipulated as laws, are the state's efforts to accomplish the implementation of people's sovereignty, allowing people to elect their regional heads while protecting citizens from the spread of COVID-19.

Act No. 6/2020 consists of three articles, principally stipulating that if some electoral areas encounter riots, security disturbances, natural disasters, non-natural disasters, or other disturbances that cause discomfort, the program elections in unison cannot be carried out.

19 Devine, D., Gaskell, J., Jennings, W., Stoker, G., Trust And The Coronavirus Pandemic: What Are The Consequences Of And For Trust? An Early Review Of The Literature, *Political Studies Review*, Vol.19, No. 2, 2021, page.274-285.

20 Jackson, J., Bradford, B., Yesberg, J., Hobson, Z., Kyprianides, A., Pósch, K., Solymosi, R., *Public Compliance And COVID-19: Did Cummings Damage The Fight Against The Virus, Or Become A Useful Anti-Role Model?*, Available online <https://blogs.lse.ac.uk/politicsandpolicy/public-compliance-covid19-june/>, June 15, 2020

21 Skleparis, D., *All Animals Are Equal: The Relationship Between The Cummings Row And Public Trust In Democracy*. British Politics and Policy at LSE, Available online <http://eprints.lse.ac.uk/id/eprint/105484>, June 3, 2020;

22 Gill, M., *Public Trust And The Public's Health: Two Sides Of The Same Coin?*, BMJ Publishing Group, Available online <https://blogs.bmj.com/bmj/2020/05/28/public-trust-and-the-publics-health-two-sides-of-the-same-coin/>, 2020

Therefore, further elections may be held after the determination of the postponement according to the decision of the General Elections Commission, which must also be supported by a complementary agreement with the Government and the House of Representatives. Furthermore, Act No. 6/2020 also states that the unison voting would be held in December 2020, and if the voting cannot be carried out according to the postponement schedule, then the simultaneous voting will be rescheduled as soon as the non-natural disaster stops.

The protection provided by the government and policymakers in the health sector during a pandemic faces an unavoidable dilemma. Circumstances where there are restrictions on interaction force all people to suffer difficulties in communicating, specifically when one country has implemented anti-contagion policies²³. According to some studies^{24,25}, the limitations of all parties in communicating make it difficult to accommodate civil rights, and one of the toughest decisions that have occurred in several countries is the policy dilemma of deciding whether or not regional head elections should be held.

The study by Arceneaux et al.²⁶ using three main variables related to public elections, such as regulations on protests and gatherings, censorship of news media statements, and postponement of elections, found that society tends to be flexible and supportive of government appeals in order to fight the spread of COVID-19. This finding is also supported by Cairney & Wellstead²⁷ through their research model using three elements: (1) policymakers' trust in experts to understand policy issues; (2) the trust of policymakers in citizens to follow government suggestions and instructions, and (3) public trust in the government and government policies, which found that what was conveyed by health experts during a pandemic greatly influenced public trust, and this phenomenon is greatly influential in policy making.

Public trust in regulations based on the opinion of health experts is then utilized and applied by some governmental institutions in conveying the COVID-19 policy. For example, the British Prime Minister, Boris Johnson, called policy during COVID-19 "a policy guided by science." Then, former Britain's Health Secretary, Matt Hancock, emphasized that the U.K. government's design policies are driven by science and guided by the recommendations of medical experts and

23 Cassan, G., Sangnier, M., The Impact Of 2020 French Municipal Elections On The Spread Of COVID-19, *Journal of Population Economics*, Vol. 35, No. 3, 2022, page.963-988

24 Ataguba, O. A., Ataguba, J. E., Social Determinants of Health: The Role of Effective Communication In The COVID-19 Pandemic In Developing Countries, *Global Health Action*, Vol. 13, No. 1, 2020, page.2-5

25 Becher, M., Marx, N. L., Pons, V., Brouard, S., Foucalt, M., Galasso, V., Kerrouche, E., Alfonso, S. L., Stegmüller, D., COVID-19, Government Performance, and Democracy: Survey Experimental Evidence from 12 Countries, Technical Report, National Bureau of Economic Research, 2021

26 Arceneaux, K., Bakker, B. N., Hobolt, S. B., De Vries, C. E., Is Covid-19 A Threat To Liberal Democracy? *PsyArXiv*, Web, October 5, 2020;

27 Cairney, P., Wellstead, A., COVID-19: Effective Policymaking Depends On Trust In Experts, Politicians, And The Public, *Policy Design and Practice*, Vol. 4, No. 1, 2021, page. 1-14

scientific advisory groups for emergencies. Therefore, all decisions taken are based on guidance from ministers and science or medical officials. Regarding decision-making, Indonesia also took similar actions, where there were restrictions on activities such as closing and paying for schools, universities, religious places, offices, restaurants, and public spaces for various entertainment and sports. All these restrictions are set by the national and regional governments, assisted by the support of health experts, and conveyed through the mass media^{28, 29}.

As an effort to secure elections amid the COVID-19 pandemic, Act No. 6/2020 concerning the Implementation of Simultaneous Elections for Governors, Regents, and Mayors in Non-Natural Disaster Conditions due to Coronavirus Disease 2019 (COVID-19) issued by the General Elections Commission has been amended twice, resulting in the issuance of General Elections Commission Regulation No. 10/2020 and General Elections Commission Regulation No. 13/2020. In those regulations, the General Elections Commission regulates the platforms of the regional elections by applying a stringent health protocol.

Also, the lottery voting of candidate numbers and the campaign can only be done through social media (online). If the campaign cannot be done online, the campaign must be conducted in a room or building with a limited number of participants. The maximum number of participants in the campaign building allowed is 50 by considering the distance between each campaigner and spectator for at least one meter. In addition, restrictions on guests in public debates were also sounded.

The study by Cotti et al.³⁰ found that in-person voting increased COVID-19 cases within weeks of the general election being held in Wisconsin, USA. In contrast, new COVID-19-positive cases in the same region with low votes (relatively absent participants) decreased within one to three weeks after the election. The sinister relationship between active participation and the high number of COVID-19 cases has become a hot discussion among the public and even made headlines in the New York Times³¹ titled "Wisconsin Primary Recap: Voters Forced to Choose Between Their Health and Their Civic Duty." The writing from such a leading media satirized policymakers who continued to carry out in-

28 Bavel, J. J. V., Baicker, K., Boggio, P. S., Capraro, V., Cichocka, A., Cikara, M., Crockett, M. J., Crum, A. J., Douglas, K. M., Druckman, J. N., Drury, J., Using Social And Behavioural Science To Support COVID-19 Pandemic Response, *Nature Human Behaviour*, Vol. 4, No. 5, page. 460-471

29 Blair, R. A., Morse, B. S., Tsai, L. L., Public health and public trust: Survey evidence from the Ebola Virus Disease epidemic in Liberia, *Social Science & Medicine*, Vol. 172, 2017, page.89–97, 2017

30 Cotti, C. D., Engelhardt, B., Foster, J., Nesson, E. T., Niekamp, P. S., *The Relationship Between In-Person Voting, Consolidated Polling Locations, And Absentee Voting On Covid-19: Evidence From The Wisconsin Primary*, Cambridge, MA, USA, National Bureau of Economic Research, 2020

31 The New York Times, *Wisconsin Primary Recap: Voters Forced To Choose Between Their Health And Their Civic Duty*, The New York Times, Available online <https://www.nytimes.com/2020/04/07/us/politics/wisconsin-primary-election.html>, 2020;

person voting amid a pandemic, and it was emphasized that the event caused long lines, crowds, and accommodated intense social interaction.

The International Institute for Democracy and Electoral Assistance³² stated that there had been a postponement of national elections during February 2020-July to 2021 in 78 countries due to high cases of COVID-19. However, the same study found that more than 128 countries still hold voting. Such facts further emphasize that the political system faces a trade-off between the health and political rights of the people, which also ultimately affects legitimacy and efficiency^{33, 34, 35}.

Considering that the COVID-19 outbreak and the risk of holding elections during a pandemic are unpredictable³⁶, it turns out that the holding of elections in December 2020, which was still being carried out following stringent health protocols, had a good impact in terms of material discussion. The public debate materials that have been determined despite the restrictions were quite varied, especially on the seventh point: 1) the welfare of the community; 2) regional development; 3) improvement of services to the community; 4) solutions to regional problems; 5) harmonization of the district/city/provincial development with the nation as a whole; 6) efforts to strengthen the Unitary State of the Republic of Indonesia and its independence; and (7) policies in handling, preventing, and controlling the COVID-19. For the strict health protocol to be maximized, timing in the voting process was also limited to prevent crowds that could accelerate the spread of COVID-19.

By bringing up the above material, the general election committee implemented the strict health protocol more optimally, and timing in the voting process was also carried out to prevent crowds which could have an impact on accelerating the spread of COVID-19. Moreover, issues related to COVID-19, such as social distancing, washing hands, wearing masks, keeping distance, staying away from crowds, and reducing mobility, have received massive emphasis due to debate material being broadcast nationally. The various regulations imposed by the government are efforts to satisfy the rights of the people as sovereignty possessors.

32 The Institute for Democracy and Electoral Assistance (IDEA), *Global Overview Of COVID-19: Impact On Elections* IDEA, Available online <https://www.idea.int/news-media/multimedia-reports/global-overview-covid-19-impact-elections>, 2021

33 Cotti, C., Engelhardt, B., Foster, J., Nesson, E., Niekamp, P., The Relationship Between In-Person Voting And COVID-19: Evidence From The Wisconsin Primary, *Contemporary Economic Policy*, Vol. 39, No. 4, 2021, page.760-777.

34 Bertoli, S., Guichard, L., & Marchetta, F., Turnout in The Municipal Elections Of March 2020 And Excess Mortality During The Covid-19 Epidemic In France, *IZA Discussion Paper*, No. 13335, 2020, Available at SSRN: <https://ssrn.com/abstract=3627035>.

35 Bach, L., Guillouzouic, A., Malgouyres, C., Does Holding Elections During A COVID-19 Pandemic Put The Lives Of Politicians At Risk?, *Journal of Health Economics*, Vol. 78, 2021, page.1-16, 2021

36 Sansonetti, P., Web Conférence: Covid-19 Ou La Chronique D'une Émergence Annoncée. Inserm-La Science Pour La Sant E, *Inserm (the National Institute of Health and Medical Research)*, 2020, Available online <https://www.inserm.fr/actualite/web-conference-covid-19-ou-chronique-emergence-annoncee/>

Therefore, when some countries give their people the right to decide their regional heads amid the pandemic, it is also mandatory to consider the capacity of healthcare utilization^{37, 38, 39, 40} for maintaining the safety and health of the voters against COVID-19 transmission.

2. Implications of the 2019 Coronavirus Disease toward the regional head elections program and democracy in Indonesia.

According to Ramlan Surbakti,⁴¹ a democratic country should have at least three pillars of a democratic political system associated with elections:

- a. Active participation of all citizens in political and social life (participatory democracy). Political participation influencing the making and implementation of public policies is the role of citizens in a democratic system.
- b. The system of selecting and replacing state administrators, both legislative and executive institutions, is carried out at the national and regional levels through direct, general, free, confidential, honest, fair, transparent, and accountable elections. Democracy is a political system that guarantees fair competition for power as the government belongs to the people. Since the highest power (sovereignty) is placed in the hands of the people, democracy is implemented by the people who are elected based on the principles of democratic elections for the benefit of the people.
- c. Democratic culture (civic culture), as the attitude and behavior of citizens, is characterized by high national commitment and obedience to the constitution and law. Political law must be done rationally (strive maximally based on the rules: respect the defeated one when the other wins, respect the winner if the other is defeated, and be willing to make compromises in making decisions).

In addition to the three pillars of democracy as mentioned above, several elements that need to be implemented so that democratic core values can be implemented are as follows:

- a. Responsible governance;
- b. The House of Representatives, having groups and interests in society, is elected by beyond free and secret elections, consisting of

37 Alé-Chilet, J., Atal, J.P., Dominguez-Rivera, P., Activity and the Incidence of Emergencies: Evidence From Daily Data at the Onset of A Pandemic, *PIER Working Paper*, 2020, page.2-16.

38 Atique, S., Bautista, J. R., Block, L. J., Lee, J. J. J., Lozada-Perezmitre, E., Nibber, R., O'Connor, S., Peltonen, L. M., Ronquillo, C., Tayaben, J., Thilo, F. J., A Nursing Informatics Response To COVID-19: Perspectives From Five Regions of The World, *Journal of Advanced Nursing*, Vol. 76, Vol. 10, 2020, page.2462-2468.

39 Ziedan, E., Simon, K. I., Wing, C. Effects Of State COVID-19 Closure Policy On Non-COVID-19 Health Care Utilization, *National Bureau of Economic Research*, No. w27621

40 Chatterji, P., Li, Y., Effects of the COVID-19 Pandemic on Outpatient Providers in the United States, *Medical Care*, Vol. 59, No. 1, 2021, page.58-61.

41 Kemitraan, *Configuring a Democratic Political System*, Jakarta, Partnership for Governance Reform, 2011, page.4-7.

- at least two candidates for each seat. The House of Representatives provides the control, allowing constructive opposition to be formed and providing a continuous assessment toward government policies;
- c. An organization that includes one or more political parties (dual party or multi-party system) maintains a continuous relationship between the general public and their leaders;
 - d. The press and mass media are free to express opinions; and
 - e. Free judicial system to guarantee the rights of speeches and maintain justice.⁴²

The regional head election with a direct election system allows citizens to choose their representatives for the legislative and executive institutions. This electoral system is vital in a representative democratic government system because:⁴³

- a. The electoral system has importance to the proportionality level of election results;
- b. The electoral system affects the configuration of the formed cabinet;
- c. The electoral system determines a party system, which is related to the number of political parties in the electorate system;
- d. The government system affects the accountability of government, in particular, the accountability of representatives to their electorate;
- e. The electoral system has an impact on the level of political party cohesion;
- f. The electoral system affects the form and level of citizens' political participation;
- g. The electoral system is a democratic element that can be easily manipulated compared to other elements of democracy. Therefore, if a country intends to change the shape or feature of its democracy, it can be done quickly through changes to the electoral system; and
- h. The electoral system can also be manipulated through various non-democratic regulations at the implementation level.⁴⁴

In most countries with a democratic system, elections are the epitome and benchmark of a democratic policy. Elections are also held with the characteristic of openness, where freedom of expression and association becomes the most authentic reflection of people's participation and aspirations. Elections as part of democratic activities are not merely the criterion of the success of a democratic government. Therefore, other sustainable pursuits, such as participation in political activities and lobbying, complement a democratic state. Furthermore, direct regional head elections always perceive the legitimacy and

42 *Ibid*, 64.

43 Muhammad Asfar, *Elections and Voting Behavior 1955 – 2004*, Surabaya: Center for Democracy and Human Rights Studies (PusDeHAM, 2006), page.4-5.

44 Luki Sandra Amalia, Syamsudin Haris, Sri Nur Yanti, Lili Romli, Devi Darmawan, 2014 *Legislative Election Evaluation: Analysis of its Process and Outcome*, Yogyakarta, Pustaka Pelajar Press, 2016), page.8.

efficiency aspects as matters that cannot be separated from trade-offs.⁴⁵ This circumstance means that democratic activities determining a system with high legitimacy always have inefficient consequences. On the other hand, a democracy that only prioritizes efficiency will suffer from low legitimacy elections.

Although it seems that most citizens are fully willing to obey societal decisions of the state for the sake of mass health, the study by Arceneaux et al.²⁶ in the United States (U.S.) and the United Kingdom (U.K.) in the spring and summer of 2020 found that citizens oppose the adoption of illiberal policies such as postponing elections without concrete timelines even if supported by health experts. This finding is also supported by Levitsky & Ziblatt⁴⁶ who stated that public trust can be relinquished if there is a delay until the cancellation of democratic parties because general elections facilitate people to meet as democratic people. Still, according to Arceneaux et al.²⁶ through four experiments, they found that people have demanded that their democratic rights be fulfilled. Moreover, when the postponement or cancellation of elections is decided without an exact time, only a small proportion of people agree with the above decision even though the policy is issued by the political party they support.

The study by Cotti et al.³⁰ collaborating with the Wisconsin Department of Health Services on the relationship between the spread of COVID-19 and in-person voting, found a large increase in COVID-19 cases in the following weeks where an election has a large number of in-person votes. On the other hand, there has been a decline in new positive COVID-19 cases in areas with low in-person elections (relative absence) in the one to three weeks following the election. Interestingly, the study by Haute et al.⁴⁷ found that the decline in voter turnout occurred across all age categories, and the most significant decline occurred among senior citizens because some of them, as the most vulnerable group affected, decided to stop participating. Furthermore, Bertoni et al.⁴⁸ stated that senior citizens tend to be ignorant of government advice, such as washing hands, using sanitizers, and covering their mouths when coughing, which has increasingly led to their position as the most vulnerable group. Therefore, the difference in the number of cases based on the type of direct voting later becomes a reference for other regions in the world in anticipating and fighting COVID-19.

45 Agus Pramusinto, Regional Autonomy and Regional Head Elections by Observing the 2004 Election Results, *CSIS Analysis Journal*, Vol. 33, No. 2, June 2004, page. 240.

46 Levitsky, S., & Ziblatt, D., *How Democracies Die*, Crown Publishing Group, New York, the USA, 2019

47 Haute, T., Kelbel, C., Briatte, F., Sandri, G., Down With Covid: Patterns Of Electoral Turnout In The 2020 French Local Elections, *Journal of Elections, Public Opinion and Parties*, Vol. 31, No. 1, page.69-81, 2021

48 Bertoni, M., Celidoni, M., Dal Bianco, C., Weber, G., How Did European Retirees Respond To The COVID-19 Pandemic?, *Economics Letters*, Vol. 203, 2021, page.1-3.

The regional head election system significantly influences the fundamental nature and competitive character of regional head candidates. The character and quality of the competition are prominent personalities when competition in the general election begins. Furthermore, it is also intentionally designed to facilitate specific political behavior since the electoral system can be easily manipulated.⁴⁹ As described above, the 2020 regional head elections in unison were done in December, delayed from the initial schedule in September 2020 with the issuance of Act No. 6/2020. The delayed general elections in unison have generated many opinions.

According to Cepaluni et al.¹ in their study on political regimes and deaths in the early stages of the COVID-19 pandemic, the responses of various countries varied when COVID-19 spread. Several countries faced a difficult choice between providing civil liberties or minimizing the risk of death and infection from COVID-19. Decision-making greatly influences the response of society to the dilemma faced by a country. According to Schwartz,⁵⁰ centralized decision-making is better in responding to a pandemic because the lines of control appear clearer from the national level to the regional level and can minimize situations where decisions and policy implementation by the central government are sometimes ignored.

Although some countries with clear central control have advantages in political and health management, some countries face complicated bureaucracy affecting miscommunication between the center and the epidemic control center, which causes political and health coordination and management mechanisms to be suboptimal. At the community level, COVID-19 has changed and torn apart social lifestyles. Some people have the privilege of not leaving their homes, but some individuals experience more serious suffering because their activities require direct contact outdoors¹⁹.

These different activities are then believed to cause differences in trust in the government, and distrust is a strong driver causing a group of people to be ignorant of government suggestions and instructions⁵¹. For those who are pro, restrictions on outdoor activities, such as holding general elections, are seen as more flexible because the majority of individuals want to stay outdoors because restrictions on activities are actually not enjoyed by anyone, especially for those who depend on work that requires mobilization. Some opinions supporting the decision of the regional head elections to progress amid the COVID-19 pandemic are:

49 Joko J. Prihatmoko, *Direct Regional Head Election*, Yogyakarta, Pustaka Pelajar Press, 2005, 115.

50 Schwartz, J., Compensating for the 'Authoritarian Advantage' In Crisis Response: A Comparative Case Study Of SARS Pandemic Responses In China And Taiwan, *Journal of Chinese Political Science*, Vol. 17, No. 3, 2012, page.313–31

51 Citrin, J., Stoker, L., Political Trust In A Cynical Age, *Annual Review of Political Science*, Vol. 21, No. 1, 2018, page.49–70.

- a. The expected end date of the COVID-19 pandemic is uncertain. The regional head's tenure that has expired requires a replacement, and a temporary office with limited authority is needed. This situation forced the government to issue limited strategic policies. On the other hand, the government should issue many strategic policies amid the COVID-19 pandemic, and regional heads should decide on those policies. Therefore, those who are pro to the implementation of regional head elections consider that democratic revelries must continue to be implemented by performing strict health protocols so as not to harm the crowds during regional head elections.
- b. Several countries that have held general elections amid the COVID-19 pandemic have shown triumphant public support, which is characterized by the excellent enthusiasm of the people in fulfilling their rights. For example, South Korean public participation in general elections amid the COVID-19 pandemic increased to 66.21% from the previous 58.03%. The same circumstance happened in Poland, where the number of voters using their voices during the COVID-19 pandemic rose to 68.18% from only 55.34% in the previous election.

In contrast, several cons-groups against the 2020 regional elections amid the COVID-19 pandemic have reasons as follows:

- a. The purpose of the general election is to invite people to participate in selecting a leader since the leader's legitimacy is determined by the number of voters. Although some counties have successfully run their election program, some were still experiencing a decline in public participation amid the COVID-19 pandemic:
 - 1) In Queensland, Australia, public participation during elections amid the COVID-19 pandemic decreased from 83% to 77.3%;
 - 2) In France, people using their right to vote amid the COVID-19 pandemic decreased from 63% to 44.7%;
 - 3) In Iran, public participation before the pandemic was 60.09%, and the voting fell to 40% when the election was held amid the COVID-19 pandemic;
 - 4) In Serbia, public participation in exercising their right to vote when elections were held amid the COVID-19 pandemic decreased from 56.07% to 48.93%;
- b. The essence of "*Salus Populi Suprema Lex*" saying that the safety of the people is the highest law should become the absolute goal. In the current circumstance, there is extra attention that proceeding with the election will result in mass crowds, resulting in the speedup of COVID-19 spread.
- c. The election of regional heads is a political process that endeavors to achieve the benefit of the people. Therefore, accommodating general elections amid the pandemic is perceived to possibly generate many new victims as COVID-19 speed accelerates.

In light of the above fact that COVID-19 was accelerating, several countries were experiencing a decline in general election participation amid the COVID-19 pandemic. Furthermore, from February 2020 to July 2021, it was found that 78 countries postponed local and national elections, both executive and legislative, due to high cases of COVID-19. Despite the pros and cons concerning the election program, the General Elections Commission of Indonesia still took firm measures to conduct the regional head elections in December 2020. After all, it turns out that anxieties about the decline in public participation due to the COVID-19 pandemic have not been proven. Although regulations using strict health protocols vary from country to country, the management of the electoral process and ballot collection still considers proper practices and follows national institutional instructions⁵². Surprisingly, the regional head election held in December 2020 was managed successfully compared to previous years, as shown by the number of participating citizens increased: in 2015 with 69.35%; in 2017 rose to 74.89%; in 2020 progressed to 76.09%.

Therefore, this study agrees that the COVID-19 pandemic does not affect democracy in Indonesia because the regional head elections still have been carried out following the principles of direct, general, free, confidential, honest, fair, transparent, and accountable. In addition, people with the right to vote can maximize their votes freely as long as they comply with the strict health protocol set by the General Elections Commission of Indonesia.

D. CONCLUSIONS

Based on the results and discussion above, this study concludes that direct and regional head elections in unison held in December 2020 originated from Act No. 6/2020 and were used as the legal basis for implementing special regional head elections amid the COVID-19 pandemic. The decision to perform the regional head election was made by considering the urgency of impending leaders who have the authority to regulate and manage their regions, especially in making various strategic policies related to the COVID-19 pandemic. Implementing regional head elections in unison amid the COVID-19 pandemic does not have antagonistic implications against democracy in Indonesia, considering that the elections were carried out following the manner of direct, general, free, confidential, honest, fair, transparent, and accountable. In addition, public participation in regional head elections increased compared to previous years despite the happening COVID-19 pandemic: participation in 2015 was 69.35%; participation in 2017 progressed to 74.89%; participation in 2020 advanced again to 76.09%. Furthermore, in order to design comforting nuance during election programs, people aspiring to vote freely should comply with strict health

52 Noury, A., François, A., Gergaud, O., Garel, A., How does COVID-19 Affect Electoral Participation? Evidence from the French Municipal Elections, *PLoS One*, Vol. 16, No. 2, page.1-16

procedures in favor of avoiding too many crowds that can endanger the safety of all human beings.

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