

Selecting Mechanism Of Legislative Members Democratized In Gorontalo District

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ABSTRACT: Elections can be seen as a mechanism for selecting government leaders as well as removing conflicts of interest from the community to representative bodies of the people. This study aims to analyze the mechanism of democratic legislative election in Gorontalo District. This research method uses a qualitative approach with descriptive research type, the main data source for capturing various data and information related to the research focus studied is through interview methods. The results show that there are several problems in the aspect of legal certainty, that is, there are often rule changes that are contrary to the above rules which only benefit unilaterally and violate the hierarchy of state administration. Set. In addition, the recommendations in this study are the professionalism of the election organizers not only owned by the KPU or Bawaslu but to the level of the citizens involved in the election.

Keywords: Mechanism, Election, Legislative, Democracy.

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I. INTRODUCTION

The process of democracy in a number of developing countries is widely seen as an order of rules and mechanisms, but has not fully realized a truly aspirational government and opened up space for participation for society (Horowitz, 1993). The democracy that has been successfully manifested is simply a mechanical democracy, has not reached substantive democracy, when democracy is seen only as a method, democracy is only seen as a mechanism. He is separated from the values and basic principles that underlie the birth and development of concepts and practices of democracy (Gaffar, 2013). Therefore, the remaining democratic practices become merely a mechanism to gain legitimacy of power, which is done by justifying all means, including actions that are contrary to the values and principles of democracy (Bohman, 1998; Stepan, 2000). Democracy is determined by the existence of these processes.

Looking at the development of concepts and practices, democracy requires more than just an institutional process, that is, what is called Alexis de Tocquaville as equality of democratic conditions actually requires political, social, and economic conditions for its survival (Tocqueville, 2010). Democracy is a multidimensional subject, which includes political, moral, sociological, economic, anthropological and psychological aspects (Briggs, 2008).

General elections are the main pillar of democracy. The 1945 Constitution of the Republic of Indonesia Article 1 paragraph 2 mandates that Sovereignty is in the hands of the people, and is fully implemented by the People's Consultative Assembly. Election is a way to determine people who represent the people in running the government.

Elections can be seen as a mechanism for selecting government leaders and alternative public policies as well as transferring conflicts of interest from the community to people's representative bodies through elected representatives (Blair, 2000). Elections are also a means of mobilizing mobilizing or mobilizing popular support for the State and government by participating in the political process.

Democracy from the people essentially makes the people a source of sovereignty that is channeled through election procedures. Democracy by the people requires that every political process, such as government policy making, must include the people and democracy for the people to be a benchmark by which the purpose of democracy is evaluated (Bingham et al, 2005).

Election as a means to form political representation through politics, the people can choose their representatives who are believed to articulate their aspirations and interests. The higher the quality of elections, the better the quality of the people's representatives who can be elected in the people's representative body (Connelly, 2010; Jahan, 2015). The assumption of democracy is that sovereignty lies in the hands of the people,

because the sovereign people can govern directly so that through the election the people can determine their representatives and the representatives of the people who will determine who will hold the government.

Election is a means to make constitutional leader changes. Elections can confirm the current government or to realize government reform through elections, the aspirational government will be trusted by the people to lead back and vice versa if the people do not believe this government will end and be replaced by a new government supported by the people (Marien&Hooghe, 2011) The process highlighted in this Election is in Gorontalo Regency because of the large diversity of ethnic groups reflected in the groupings based on religion and residential areas.

it seems quite real also its influence in the socio-political life of the people of Gorontalo Regency to elect representatives to sit in parliament and in the government structure. Therefore, this study aims to analyze the mechanism of democratic legislative election in Gorontalo District.

II. RESEARCH METHODS

This research was carried out in Gorontalo District because the location was feasible to be chosen for research because it contained substantive and theoretical problems. This study uses qualitative research which is a study that aims to observe a particular phenomenon or problem in depth. Qualitative research is intended to find, understand, and get a clear and in-depth picture of the problems that will be studied or investigated, so researchers use qualitative research, because it is considered more able to examine things that are phenomenon and logical and can be used to express and understand something behind the unknown phenomenon. The research method used is descriptive method as a procedure that is used, with the aim or describe the subject or objects of both individuals, organizations and facts that are visible. The main data source is to capture a variety of data and information related to the focus of the research studied through the interview method.

III. RESULTS AND DISCUSSION

This study describes the mechanism for the implementation of legislative Member elections conducted by the General Election Commission of Gorontalo Regency and even nationally has several instruments, which include legal certainty, professionalism, openness and independence.

3.1 Legal Certainty

Legal certainty requires an internal legal regulation effort legislation made by an authorized and authoritative party, so that the rules have juridical aspects that can guarantee the certainty that the law serves as a rule that must be obeyed. Democratic principles that must be elaborated in the Election Law. First, equality between citizens in elections both in representation and voting and counting votes. Second, free and fair competition between election participants. Third, the participation of all elements of society in the implementation of elections. Fourth, the election organizers are independent and professional. Fifth, voting and counting as well as recapitulation of vote counting results based on democratic election principles. Sixth, solving fair and timely election disputes.

Legal certainty in electoral arrangements will be realized if (1) all aspects of elections are regulated comprehensively so that there is no legal vacuum; (2) all provisions governing elections are consistent with each other so that there is no contradiction between provisions; (3) all provisions contain a clear and single meaning so that there are no interpretive provisions; and (4) all provisions can be implemented.

Law No. 8/2012 concerning the Election of Members of DPR, DPD, and DPRD has not fully fulfilled fair and integrity election parameters, but it is better than the law that regulates the implementation of the 2009 Election (Law No. 10/2008 concerning Election of Members of DPR, DPD, and DPRD). Most of the election parameters that are just and have integrity are regulated in the Election Law, but their contents have not been fully charged with justice and integrity.

Legal certainty is a definite subject, provision or provision. Essential law must be sure and fair. Certainly, as a guide to behavior and fairness because the guidelines for behavior must support an assessed order reasonable. Just because it is fair and implemented with certainty the law can carry out its functions. According to him, certainty and justice are not just moral demands, but factually characterize the law. Law that is uncertain and does not want to be fair is not just a bad law, but not a law at all. Both characteristics include the law itself (*den begriff des Rechts*). Law is a collection of rules or rules in a common life, the entire rule of behavior that applies in a common life, which can be enforced with a sanction Legal certainty, is an inherent characteristic of law, especially for written legal norms.

The law enforced by law enforcement agencies that are tasked with it, must guarantee "legal certainty" for the sake of upholding order and justice in people's lives. Legal uncertainty, will cause chaos in people's lives, and will do each other as they please and act vigilantly.

Circumstances like this makes life in a social disorganization or social chaos.

The issue of legal certainty in relation to the implementation of the law, in fact cannot be completely released from human behavior. Legal certainty does not follow the principle of "push the button" (automatic subsumption), but rather something that is quite complicated, many of which relate to factors outside the law itself. Speaking of certainty, then as Radbruch said, what is more correct is the certainty of the existence of the regulation itself or the certainty of regulations (*sicherheit des Rechts*).

Many DPR products illustrate that law in a beloved country is a law that does not guarantee a certainty. For example is the 1945 Constitution amendments to Article 28D paragraph (1) which states that every person has the right to a justification, protection and fair legal certainty and equal treatment before the law. On the other hand, in Law Number 8 of 1981 concerning Criminal Procedure Law Article 14 point b, which reads to pre-prosecute if there is a lack of investigation by taking into account the provisions of Article 110 paragraph (3) and paragraph (4), by giving instructions in the framework improvement of investigations from investigators. In Law Number 8 of 1981 concerning Criminal Procedure Law article 14 point b, there is a term of pre-prosecution but in Chapter I of General Provisions Article 1 and General Explanation of this Law are not explained or there is a term of Pre-prosecution. Here there is uncertainty about what is called *Prapenuntutan*. Is this what is proud of as the Great Child of the Nation Act that was made in 1981 and is valid until now it does not guarantee a certainty. Why it is still applied and used and why do laws that guarantee more certainty and fairness not replace it. This is a product that is based on an interest and in the end it is the people who bear all the consequences and the people who suffer from the arbitrary actions.

The law must be certain because with definite things can be used as a measure of truth and in order to achieve legal objectives that demand peace, tranquility, prosperity and order in society and legal certainty must be a guarantee of public welfare and a guarantee of justice for society. Certainty of losing identity and meaning, because it can no longer be used as a guideline for everyone's behavior. Self-assurance is essentially the main purpose of the law. When viewed historically, there are many conversations that have been made regarding the law since Montesquieu issuing ideas about the separation of powers. Regularity of society is closely related to certainty in law, because order is the core of certainty itself. From regularity will cause a person to live certainty in carrying out activities that are needed in people's lives.

Based on the results of interviews and according to experts, the authors argue that: the mechanism of the Legislative Member General Election in Gorontalo District in 2014, has not been maximized in the application of this rule due to frequent changes in rules that are contrary to the above rules that only benefit unilaterally and violate the hierarchy of the constitution. the limited human resources of the special providers at the lower levels such as PPS and KPPS in understanding and describing the rules that have been set, and there is still interference from the political party officials or prospective Legislative members, including the interference of the Regional head who concurrently serves as Party administrator.

Allocation of the formation of electoral districts (electoral districts) that ensures equality between citizens has not been fully regulated. Allocation of seats and electoral districts is justified by the legislator and made as an attachment to the Law without clear criteria and processes. It is not surprising that the "price" of the most expensive and cheapest seats is to be calculated equally "rather than voting for one party. Various aspects to ensure free and fair competition between election participants have been regulated, but have not been fully regulated. Campaign funding arrangements, for example, are not only not fully regulated, but also have not led to efforts to ensure fair competition. The participation of various elements of the community in the implementation of elections has been regulated in the Election Law even though it is not yet systematic.

Monitoring of elections, for example, is not placed in the chapter on community participation in holding elections. However, survey institutions have been placed in the chapter on community participation. There is an injustice in the regulation of sanctions. The elements of the community that violate the provisions are subject to sanctions, but other parties who exert access to elements of the community participate are not subject to sanctions.

Independent and professional election organizers have been regulated in separate laws. The selection and details of the ad hoc voting committee implementation tasks (KPPS, PPS, and PPK) have been arranged, but the requirements and selection have not fully described independence and professionalism. Fair and timely electoral dispute resolution has also been arranged in a relatively complete manner although it still needs to be refined.

The integrity of polling and counting of votes and the recapitulation of the results of vote counting in general have been arranged based on the principles of the election, but there are still a number of important aspects that have not been regulated. One aspect that has not been regulated is the effort to guarantee equality in the use of voting rights. For example, the opportunity to vote for voters who have been registered for some reason cannot vote on polling day; students and workers who have registered in the area of origin but are studying or working in other areas; disabled voters who have registered; and voters living in the interior who are far from the center of activity.

In terms of legal certainty, Law No. 8/2012 is also better than Law No. 10/2008. Any aspects that have not been regulated in the Election Law have been stated above. Therefore, in terms of legal coverage, the

Election Law still contains a legal vacuum. Criteria for allocation of DPR seats to the Regency, requirements and formation of electoral districts, control of campaign funds, and sanctions administrative for violations of election administration provisions (parties are obliged to keep donations of funds in and finance campaign activities from funds held in special accounts of campaign funds, but without any sanctions for parties that do not comply) are four aspects that still contain legal vacuum.

In terms of consistency between provisions, the Election Law also contains a number of contradictions. As an illustration, two examples are given. Campaigners, campaign officers, and campaign participants are prohibited from carrying out one to ten actions categorized as criminal acts (Article 86 Paragraph (1) Letter a to Letter j). However, in Article 301, only the executor of the campaign will be legally processed if proven to violate the provisions of Article 86 Paragraph (1).

Therefore, the question arises whether the campaign participants or campaign officers who are proven to violate the provisions stipulated in Article 86 Paragraph (1) will be processed legally? Some parties who depart from the perspective of justice view the deviation must be processed legally. However, those who depart from the perspective of textual law have the view that these irregularities cannot be legally processed.

Election criminal provisions are formulated as criminal offenses and / or election crimes (Article 260). However, the details of the article in the Election Criminal Provisions Chapter are only divided into two parts, namely the articles concerning election crimes that fall into the category of violations and the articles concerning election crimes that fall into the category of crimes. There are no articles on election crimes that fall into the category of violations and crimes at once. Article 260 should not use the word "or" and slash mark (/).

The Election Law also contains a number of provisions that cannot be implemented. The provisions cannot be implemented, especially in the Criminal Provisions Section of the Election, especially those that set a time limit for the Election Supervisory Body, the National Police, the Attorney General's Office, and the Court to carry out their respective duties. The time limit setting for each party to complete its task is indeed important to be arranged in order to meet the timely completion parameters. However, the time limit specified in the Act is very unrealistic for all parties involved in this law enforcement process.

Legal certainty itself is essentially the main objective of the law. Historically, many conversations have been made about the law, while Montesquieu issued the idea of the separation of powers. Regularity of society is closely related to certainty in law, because order is the core of certainty itself. From regularity will cause a person to live certainty in carrying out activities that are needed in people's lives.

The principle in the electoral mechanism that needs to be considered is the principles of democratic elections, the rights of citizens relating to elections, elections with integrity, and fairness of elections. Negative legal certainty can be formulated as follows: there is no legal vacuum (all aspects of the election are regulated), one provision does not conflict with other provisions (consistent with one another), there is no provision that has multiple or multiple interpretations, and all provisions can be implemented in practice. Four laws that regulate elections in Indonesia have not fulfilled these two conditions. In order to guarantee electoral arrangements that fulfill both conditions, it is necessary to codify four laws regarding the election into one Election Law Book based on certain principles, objectives, parameters, and systematics. Considering the scope of the fourth coverage of the Act concerning elections is so broad, can the four be integrated into one Election Law Book? The answer: positive the four Election Laws have the same six aspects and four different aspects. The same six aspects are the principle of elections, voter list, the process of holding electoral stages, political parties participating in elections, election organizers, patterns of citizen political participation, and law enforcement systems and resolution of electoral disputes.

The four different elements are the administrators of the chosen country, the type of election participants, the electoral system used, and a number of special provisions that only apply in some regions. Why is the codification or Election Law Book needed? First, the regulation of each type of election with its own law creates legal uncertainty both in the form of contradictions and duplications between laws and the formulation of various aspects of the electoral implementation process without standardization in the nomenclature and scope of understanding. Who is a voter, and what is the stage, for example, has not been uniform between the three Election Laws. Election is a procedure for converting voters' votes into seats for state administrators. Procedures are regulated by law. One indicator of democratic elections is predictable procedures and unpredictable results (procedure certainty, but no one knows the election results).

Procedural certainty is guaranteed through legal certainty. Legal certainty in electoral arrangements will be guaranteed if the Legislative Election Law, the Election Law for the President and Vice President, the Regional Head Election Law, and Election Organizing Law are integrated into one Election Law named after the Election Law Book. Secondly, the process of organizing elections as a process of changing voters' votes into seats in the administration of the state in the four new Election Laws is formulated based on two principles of democratic elections, namely the principles of elections and citizens' rights countries related to elections.

3.2 Professionalism

Professionalism is an activity or action carried out by someone in the world of work that aims to provide a role in the community environment. Professionalism is an activity or work that is carried out seriously in order to get satisfactory results. Outline of professionalism is an adjective that means the character of one's work in pursuing his profession or also the ability to act professionally. Professionalism also concerns the subject of profession or professionalism which concerns the quality of the attitude of the position of the profession and the degree of knowledge and expertise they have to be able to carry out their duties. Professionalism in election administration is not only owned by the KPU or Bawaslubut to the level of citizens, citizens are very influential on political attitudes and behaviors. In the end, the maturity level of democratic behavior is the higher the level of political professionalism of the community, the more mature the behavior and responsibilities in democracy, and on the contrary, in other words, the face of a country's democracy is partly determined by the level of political behavior of the citizens.

Professionalism in an activity must be carried out comprehensively or thoroughly not only partially. Because in the successful implementation of the General Election not only determined unilaterally, but by several elements such as: KPU, Bawaslu, Election Contesting Political Parties and Voting Communities. And this requires professionals who have integrity. Moreover, political party administrators are organizations that are nonprofit and also without pay, professionalism is an adjective that means character

one's work in pursuing his profession or also the ability to act professionally. Professionalism also concerns the subject of profession or professionalism which concerns the quality of the attitude of the position of the position of the profession and the degree of knowledge and expertise they have to be able to carry out their duties.

3.3 Openness

In this study openness or transparency refers to actions that allow a problem to be clear, easy to understand and no doubt the truth. Openness in the life of the nation and state is related to news, statements and public policy information. Openness is defined as a condition that allows the availability of information that can be provided and obtained by the wider community. An open attitude is an attitude to be willing to tell and an attitude to be willing to accept knowledge or information from other parties.

Openness in organizing elections is needed to increase public trust, support and participation. The people are the holders of sovereignty, and it is natural to know the things that will be destined for him. An open society will easily accept change and allow progress. They can learn from other communities, and accept new things that are useful for society. Conversely, a closed society will find it difficult to develop and adapt to progress.

In addition to the dynamics in the internal sphere, an organization also cannot escape from external conditions that often have an adverse impact on the organization concerned. This means that the organization's ability to achieve its objectives. Will be greatly influenced by strategic environmental changes that occur outside the organization.

Changes that are so fast finally make organizational leaders aware that they are facing challenges that are confused and constantly happening. To deal with these challenges successfully, requires new methods, new skills, new structures or in other words new organizations. Therefore, to ensure the survival and effort of an organization, it is necessary to adjust the reforms. And or reviewing the organizational aspects, so that it can always accommodate any changes that occur. Openness in organizing the 2014 General Election in Gorontalo Regency as quoted in the vision and mission of the Gorontalo Regency Election Commission in 2014.

3.4 Independence

The independent word understood by the KPU is intended to release the KPU from the membership of political parties, this arises because of the experience of the 1999 elections. The 1999 election organizers consisting of representatives of political party members participating in the elections coupled with government representation led to many problems in the technical implementation of elections. The most basic thing, is a matter of different interests between the KPU's institutions and representatives of political parties who are also members of the KPU. As an EMB, the main thing that must be done is to facilitate voters fairly and democratically to be able to channel their choices to the people who will be their representatives. While the political parties participating in the election, it was judged to have an interest in winning the election.

This is a bad experience in the implementation of the 1999 elections. KPU members who come from representatives of political parties do not work to hold elections fairly and democratically, but are busy looking for ways in which political parties they can win in elections. The proof is that there were many meetings on the determination of the KPU's policies in the implementation of the 1999 Election, made non-quorum and deadlock by KPU members from representatives of political parties. this action was taken to inhibit policies that could potentially harm political parties in the 1999 election contestation.

KPU members as election organizers must be clean and have no political interests is one of the great mandates of reform. If they insist on allowing members of political parties to become members of the KPU, this is clearly a form of defiance of court decisions. If this happens, it must be a serious violation by members. Independence is an individual's ability to organize himself and not depend on others. The same thing was also expressed by Brawer in (Peck, 2001) explains that independence is a behavior found in someone who arises because of encouragement from within himself, not because of the influence of others.

IV. CONCLUSION

In the mechanism of implementation of Legislative Member Election in Gorontalo District, there were found several problems in the aspect of legal certainty, namely frequent rule changes that contradicted the above rules which only benefited unilaterally and violated the constitutional hierarchy, the limited human resources of the organizers especially at lower levels such as PPS and KPPS in understanding and describing the rules that have been set. In addition, the recommendations in this study are that the professionalism in election administration is not only owned by the KPU or Bawaslu but to the level of citizens, citizens are very influential on political attitudes and behaviors which are at the maturity level of democratic behavior. Openness in organizing elections is needed to increase public trust, support and participation.

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