

## The Political influence to the Distric Head election in Indonesia

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### **ABSTRACT**

The election of regional in Indonesia has not reached the objectives of the General Election as referred to in the Constitution 1945. This is much influenced by political parties, therefore the issue raised is the political influence in the system of regional elections. Based on the results of the discussion that analyzed and drawn conclusions: Political influence in the system of regional election in Indonesia has an important position (status) and role in every democratic system. The Party plays role very strategic liaison between government processes and citizens. Even the political parties that determine democracy, so it is a pillar that important to strengthened its institutionalization In any democratic political system (the degree of institutionalization). A good party system determines the functioning of the state administration system based on the principle of in a broad sense "checks and balances". In contrast, the effective functioning of the state's institutional functions in accordance with the principles of checks and balances under the constitution also greatly determines the quality of party systems and the mechanisms of democracy developed in a country, so that political parties are just one of the forms of institutionalization as a form of expression of ideas , Free thoughts, views, and beliefs in democratic societies and political parties that act as intermediaries in the processes of state decision making, connecting citizens with state institutions.

**Keywords:** Political influence, electoral system, regional head.

### **INTRODUCTION**

Democracy in Indonesia after the New Orde era was almost discussed in relation with formation of a political system that reflecting the principles of representation, participation, and control. Democratic government presupposes the separation of powers in three institutional areas: the executive, the legislature and the judiciary. A government is said to be democratic if there are major indicators of representation, participation and control over governance by these three institutions. The principle of participation guarantees the aspect of people's participation in the regional development planning process; or the participation of the

people in the election process of the representative in political institutions; while the principle of control emphasizes the aspect of government accountability.

In democracy, the institutional aspect is the prominence process of democratic political practice, so that, there are political parties, general elections and free press. The characteristics of country that embraces constitutionalism (constitutional democracy) is its passive nature of government, which the government is only the executor of the various wishes of the people formulated by its representatives in parliament. The state has a smaller role than the people's role.

In relation to law, the constitutionalism democracy which gives a very limited roles to the state is called a formal (classical) legal state. Based on the neutrality and independence of the state, the concept of a formal legal state is called a state of pluralism, that is, a non self-reliant state acts as a filter of the various desires that exist within society. The wisdom issued is not an initiative arises from the independence of the country but it is born from the process of absorption of the full aspirations of society through parliament.<sup>1</sup>

In the future development of a democracy country, it is time to leave the pseudo democracy practices and replace by a real democracy, a democracy that places the people as the main determinant in the administration of the state both in government, politics, economy, and socio-culture. Therefore, democracy in essence can not be separated from "people" and "people's sovereignty."<sup>2</sup>

The sovereignty of a country is very important. The independent state means that it has sovereignty, because the independence is the right of every nation in the world and is the right of every human being in the world. The Indonesian nation condemned and anti-colonialism as stipulated in the Preamble to the 1945 Constitution in the first paragraph.

People's sovereignty implies that the best in society is that which is regarded as good by all who are the people. The notion of sovereignty itself is the supreme authority to legislate and implement it in all available ways. Therefore, the sovereignty of the people brings consequences, that the people as the holder of supreme power in the life of society and state.<sup>3</sup>

In this sense, democracy is a system of government where the majority of its members participate in politics through a representative method that ensures the government is responsible for its duties to society. In other words, contemporary constitutional states must

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<sup>1</sup>Noer, Deliar, *Op. cit.*, hlm. 135

<sup>2</sup>Juanda. (2004). The government law of tidal movements area and the relationship between regional house of representative and regional head. (Bandung), hlm. 19

<sup>3</sup>Some thoughts about the sovereignty and the power of sovereignty of the state after France revolutions, stated by Jean-Jacques Rousseau in His work *Du Contrat Social Ou Principes Du DroitPolitique* (social contract or the principles of political rights) devides the level of sovereignty into 2 *de facto* dan *de jure*.

be based on a representative democratic system which known as people's sovereignty.

The concept of democracy is to assume that the government are from, by and for the people. The most fundamental thing in democracy is the participation of the people, as well as collective agreements or consensus to achieve the goals that formulated together. The development of decentralization demands a democratic process not only at the central level but at the regional level, such as governor elections, district head elections and village head elections.

Indonesia as a democratic legal state, accommodated the principles of the rule of law and the principle of democracy. The Republic of Indonesia has expressly chosen the form of democracy with the proviso that it lies on people's sovereignty and shall be carried out in accordance with the provisions of the law. Thus, as a consequence, Indonesia must also be a state of law. This has been stated in the 1945 Constitution at the opening of the fourth paragraph.

Indonesia is a country that upholds the values of democratic law based on Pancasila and the 1945 Constitution of the Republic of Indonesia,<sup>4</sup>upholds human rights, protects the whole Indonesia nation and the entire Indonesian blood sphere, promotes the common prosperity, the intellectual life of the nation, and realizing social justice.<sup>5</sup>

By virtue of 1945 constitutions, Article 22E, stated that General Election shall be conducted directly, publicly, freely, secretly, honestly and fairly every five years, to elect members of the People's Legislative Assembly, Regional Representative Council, President and Vice President and House of Representatives The elections are organized by a national, permanent, and independent electoral commission. Then paragraph (6) of Article 22E explains that Further provisions on elections shall be regulated by constitutions.

At the level of its implementation, the performances of elections, especially the election of Regional Heads regulated by law<sup>6</sup>in the Indonesian constitutional system<sup>7</sup>, is always changing. The law on local governance governing the election of regional heads, prior to the amendment of the 1945 Constitution for the first time Law no. 1 year 1945 known as the

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<sup>4</sup>PadmoWahjono. (1982) Indonesia is based on the law, Ghalia Indonesia, Jakarta. page 7-32; see also Philipus M. Hadjon, Law protection for Indonesian citizens. Surabaya : Bina Ilmu. page 83, 90 and 208; compare also with Sjachran Basah. (1987). The existensi and parameter of administration justice organization in Indonesia. Bandung: Alumni. page 11-15 and page 147-153 ;

<sup>5</sup>See the alinea 4 of opening constitutions Republic Indonesia 1945.

<sup>6</sup>Carl J. Friedrich. In Moh. Kusnardi and Harmaily Ibrahim. (1980). *Indonesia system law*. Jakarta : Pusat Studi HTN – UI. hlm 160. : system is a comprehensiveness, it consists of some parts which has fungsional relationship both a part or the whole parts, so the relationship create an addictive among others and finally if one part doesn't work, it will destroy the whole parts.

<sup>7</sup>Wirjono Prodjodikoro. (1989). We enter the law system, if we discuss the norms of law which control the the relationship between subject person of law and not a person with a group of people or not a group of people with law organization which means a state or a part of the state. The essences f law system in Indonesia, Jakarta : Dian Rakyat. Hlm 2

National Committee of the Region, until the Law on Local Government. 22 of 1999, and subsequent Law on Local Government no. 32 of 2004, which is compounded by the Law on Regional Government no. 12. After the amendment of the 1945 Constitution, both before and after the amendment of the 1945 Constitution, this law is always changing, both before and after the amendment of the 1945 Constitution.

The Law on Regional Government prior to the amendment of the 1945 Constitution, regulated by Law Number 1 Year 1945 on Regional Government, this Law has not regulated the Regional Head Election. Subsequently, the Law on Regional Government, relating to the Election of Regional Head, is regulated by Law Number 22 Year 1948, Law Number 1 Year 1957, Presidential Decree No. 6 Year 1959, Law Number 18 Year 1965, Law Number 5 Year 1974 and Law Number 22 Year 1999.

Law Number 22 Year 1948 on Regional Government, acceptable on 17 August 1945 until the Constitution of RIS 1949, previously Law No. 1 of 1945 on the Regional Committee. This law has not regulated the election of regional heads. Presidential Decree No. 6 of 1959 on Regional Government took place in the period of 1959 until 1967, including in Law No. 18 of 1965 on Regional Government. Law Number 5 Year 1974 concerning regional government applied in period of 1967 until 1998 and period of reform of 1999 apply Law Number 22 Year 1999, about regional government.

The Law on Regional Government after the amendment of the 1945 Constitution,<sup>8</sup>are regulated by Law no. 32 of 2004 on Regional Government and underwent a second amendment with Law no. 12 Year 2008. As we know that, the amendment of the 1945 Constitution, through 4 (four) stages, began to change: *First* date. 12-19 October 1999, *Second* date. August 18, 2000. *Third* date. November 9, 2001, and the *Fourth* date change. August 10, 2002, among the four changes, the Second amendment covers 27 (twenty seven) articles, and spread in 7 (seven) Chapters, among them Chapter VI on *Regional Government*.

Specific legislation regarding the election of regional head is now specifically addressed in the Law of the Republic of Indonesia No. 8 year 2015 on Amendment to Law Number 1 Year 2015 On Stipulation of Government Regulation in Lieu of Law No. 1 Year 2014 on the Election of Governors, Regents, and Mayors Become Constitutions.

This is regardless of the laws of the local government namely the Law of the Republic of Indonesia No 2 Year 2015 About the appointment of Government Regulation in Lieu of

<sup>8</sup>The changing of 1945 constitutions through 4 steps, start from: *First*, 12-19 October 1999, *Second* 18 August 2000, *Third* tanggal 9 Nopember 2001, and *fourth* 10 August 2002, between the fourth changing, on the second changing covers 27 (twenty seven) articles, and spread into 7 (seven) chapters, the example is Chapter VI about *Regional Government*.

Law Number 2 Year 2014 About Amendment To Law Number 23 Year 2014 About Regional Government Becomes constitutions.

As known, after the amendment of the 1945 Constitution into the 1945 Constitution of the Republic of Indonesia, particularly Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia stated that the Governors, Regents and Mayors respectively as provincial, district and municipal government heads are elected democratically. The formulation of "democratically elected" in the provisions of Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia is then interpreted by the government and Parliament, to be "directly elected". This can be seen from the provisions of Article 56 Paragraph (1) of Law Number 32 Year 2004 regarding Regional Government. Law Number 32 Year 2004 is a substitute of Law Number 22 Year 1999, regarding Regional Government which has been revised in a limited manner with Law Number 12 Year 2008, after the determination of the Constitutional Court decree, that the Governors, Regents and Mayors respectively as provincial, district and municipal government heads are elected in a candidate pairs made democratically on the basis of direct, public, free, secret, honest and fair .

Therefore, the election is then categorized as part of the legal aspect of the election, especially after the enactment of Law Number 22 Year 2007 regarding the General Election Commission (KPU), which was later amended into Law Number 15 Year 2011 on Election Organizer. Technically, the electoral arrangements will refer to the provisions of legislation on elections and are consequently in the realm of electoral law and are no longer within the domain of regional government.

The implementation of the head election itself in Indonesia is still a debate among the public. There is a pro and there is a direct opposition to the elections, since the onset of direct elections (starting last June 2005).<sup>9</sup>The pros and cons because of the many problems that arise and have a negative impact in the head election. These issues range from the planning of election activities, to the voting. The most concern to the public, especially the academics, is the lack of clarity of the legal basis of election.

This is very contrary to the spirit of reform ideas to establish the region with its decentralization system mandated by Article 18 of the 1945 Constitution of the Republic of Indonesia, the concept of head election is philosophical, juridical and sociological should be synergistic with the spirit of regional autonomy in accommodating the values of local wisdom based on the principle of Republic Indonesia. Some regions in Indonesia still use traditional

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<sup>9</sup>Joko J. Prihatmoko. (2005). *Direct Regional Head Election, philosophy, system, and the problems of its implementation in Indonesia*, Research, development and devotion to society Organization (LP3M) Universitas Wahid Hasyim Yogyakarta : PustakaPelajar. hlm. 10.

culture in democracy such as: (1) in Aceh the organizer of regional head election is not general election commission or regional general election commission which is national and independent, but KPID based on local wisdom (2) in Papua where voting rights can be represented to their respective heads of election in both general election and regional head election. See the Constitutional Court's decision on the dispute over the Yahukimo district election. (3) the settlement of the governor of Yogyakarta Special Region (DIY). The above pilkada methods are contrary to the principle of elections, direct, general, free, honest, confidential and fair.

Another opinion also suggests that the second amendment of the 1945 Constitution the provisions of Article 18 Paragraph (4) of the 1945 Constitution of the Republic of Indonesia are the Governors, Regents and Mayors respectively as provincial, district and municipal government heads elected democratically. The use of the word "democratically elected" is flexible and has two meanings: either direct election or through the Regional House of Representatives, both democratic.<sup>10</sup>

Therefore, the people perceive elections in a democratic manner (direct, general, free, honest, secret and fair) is the principle of elections that make elections part of the electoral provisions. As a result, the government and the House of Representatives agree with the meaning of head election which is the general election, so that the laws and regulations made are not directed towards the real purpose of the objective of Article 18 Paragraph (4) of the 1945 Constitution of the Republic of Indonesia

The regulation on regional head election in Law Number 32 Year 2004 regarding Regional Government is based on the provision of Article 22E Paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Therefore, the head election is categorized as the provision of Article 22E of the 1945 Constitution of the Republic of Indonesia Year 1945 is that the general election shall be conducted directly, secret, honest and fair every five years.<sup>11</sup>

Head election is an election provision after the second amendment of Law Number 32 Year 2004 to Law Number 12 Year 2008 regarding Regional Government regarding the delegation of dispute resolution authority from the Supreme Court (MA) to the Constitutional Court (MK).<sup>12</sup>

Meanwhile, in the provision of Article 24C Paragraph (1) of the 1945 Constitution of the Republic of Indonesia on the authority of the Constitutional Court, the provision of Article

<sup>10</sup> A. MukthieFadjardkk. (2010). *Democracy Constitutionalism; a discourse about Regional Autonomus General Election and Constitutional Court*. Malang :InTransPublishing. hlm.212.

<sup>11</sup>RamlanSurbakti. (2015) Regional Head Election is a General Election, *Kompas*. Page 4

<sup>12</sup> Mustafa Lutfi. (2010). Conflict law of regional head election in Indonesia, *constitutional spreadness ideas pf Constitutional Court*. Jogjakarta : UII Press. Page. 151

24C Paragraph (1) of the 1945 Constitution of 1945 is: "The Constitutional Court has the authority to adjudicate at the first and the last which decision is final to examine the constitutions, decide upon the dispute over the authority of state institutions whose authorities are granted by the Constitution to decide the dissolution of political parties and to decide upon the election outcomes. "It does not contain the provisions on the resolution of head election disputes.

These arises the problems, because if it is seen based on the provisions in the Constitution of the Republic of Indonesia Article 22E Paragraph (2) of the 1945 Constitution of the Republic of Indonesia, then: "Elections are held to elect members of Local House Representative, Regional House of Representative, President and Vice President and Regional House of Representative". However, the provision only regulated the election to elect members of House of Representative, Local House of Representative and Indonesia House of Representative and President and Vice President, so that at the level of implementation of regional elections in the territory of Indonesia with the assumption of permissibility and propriety as well as habits carried on hereditary by the community as in Papua. With the existence of the phenomenon of direct election system shift to be none, the cancellation of direct election law using the laws which changes the constitutions, the enforcement of noken system in the election of regional head.

Therefore, there are several problems related to the problem of the shift of the regional head election system, such as:

- a. Philosophical problematic, that the process of electing the head of the region related to the delivering of vision, mission and program, held without dialogue means the abolition of democratic rights, the elimination of values of empowerment and the intellectual life of the nation.
- b. Juridical problematics, in the election of regional heads in relation to democratically elected, as well as relating to the delivering of vision, missions and programs there are blurred norms, and norms of conflict.
- c. Theoretical problems, in the election of regional heads there are inconsistencies, among others, the purpose of democratic regional head elections for the benefit of society in the nation and state, its interests only for some people and rulers.
- d. Sociological Problematics, the implementation of the election of existing regional heads, according to the Law on Regional Government as the ever-changing legal foundation and inconsistent in the Indonesian state administration system, makes

people dont trust in law and government in general and regional government in particular.

The election of regional head is complicated, unique and exhausting work within the Unitary State of the Republic of Indonesia, since the implementation of the election of regional heads can not be seen only from the electoral system, but it is also important to ensure the harmonization of President (government) relations with the regional head. In the system of the 1945 Constitution the identity of Unitary State of the Republic of Indonesia lies in Article 4 paragraph (1), : "*The President of the Republic of Indonesia holds the power of government according to the Constitution*". No state institutions other than the president is assigned to organize the government. The President holds government control from up to down.

Managing of the Governance is not interrupted but hierarchy. However, in the implementation of governance based on the 1945 Constitution, it determines the principle of decentralization which gives birth to an autonomous region. The debate arise later in the framework of regional autonomy whether the president has an authority in determining laws or not at all, except only the administrative function. This is never consistent in any laws governing regional autonomy.

The problem of elections is how to choose the right system to maintain a balance between the interests of harmony between the president and the head of the region, and to keep the interests of regional participation in the framework of regional autonomy. These problems are the consequence of material content of the constitution namely the 1945 Constitution. Before the 1945 Constitution was amended, it did not regulated the election. General elections are held by the government (as there is no state institution assigned to organize them) by interpreting the provisions of Article 1 paragraph (2) of the 1945 Constitution which expressly adheres to the people's sovereignty and then based on Articles 2 and 19. Its manifestation is done through representative institutions whose membership is commonly made through the General Election.

The election of regional heads during the use of the 1945 Constitution prior to amendment, the arrangement was submitted to the law, which at that time still happening the hegemony of the president's power over the Indonesian House of Representative. The election of regional heads is placed as part of government activities. as a result of too long hegemony and the weakening of democratization, it caused dissatisfaction and a willingness to change it

through amendments to the Constitution. Unfortunately, the amendment is done partially or not comprehensively. The Constitution is amended by not having a full constitutional design as a state building that wants to be drafted.

For instances, the juridical problems of description above is clearly that the Law on Regional Government governing the Election of Regional Head, in the Indonesian Constitutional System always and always changing, either before the amendment of the 1945 Constitution, with the Law on Regional Government Number 22 Year 1948, Law Number 1 Year 1957, Presidential Decree No. 6 of 1959, Law Number 18 Year 1965, Law Number 5 Year 1974 and Law Number 22 Year 1999. Similarly after the 1945 Constitution of the Republic of Indonesia, the existing amendments regarding the Law on Regional Government, namely Law Number 32 Year 2004 which underwent a second amendment with Law Number 12 Year 2008, in essence that the candidate pair of regional head is not only the authority of a political party or a coalition of political parties, but individual candidate pairs can be displayed.

The regulations of the regional head election in Law Number 32 Year 2004 makes Indonesia has no national election standard and subsequently failed to institutionalize the regional head general election system as referred to the 1945 Constitution. This complexity is resolved by the decision of the Constitutional Court (MK) which no longer puts the General Election Commission Regional (KPUD) is responsible to the Regional People's Legislative Assembly (DPRD) and Law Number 22 Year 2007 which places the election of Regional Head as part of General Election and through the decision of the Constitutional Court as well as the candidate of regional head may come from individuals.

In addition to Law No. 8 of 2015 on Amendment to Law No. 1 of 2015 on the Stipulation of Government Regulation in Lieu of Law No. 1 of 2014 on the Election of Governors, Regents and Mayors Becoming Law on General Election there is a complex of norms, the void of norms, the blurring of the norm.

The norm conflict is seen in Article 109 of Law Number 8 Year 2015 on General Election conflict with Article 11 general election commission regulation No. 3 of 2016 and in Article 57 (3) of Law Number 8 Year 2015 on General Election conflict with Law Number 42/2008 concerning Presidential Election and Law Number 8 Year 2012 regarding legislative election, and Article 27 (1) of the 1945 Constitution, as well as Article 7 paragraph (2) letter g conflict with the letter i of Law Number 10 Year 2016 regarding the regional head election.

Meanwhile, the void of norms in the election law is found to have no criminal sanctions stipulating against any person who will give money or promise an affiliate to

influence voters and in Article 109 paragraph (1) and paragraph (2) of Law Number 8 Year 2015 contains the element of the void of the norm, whereby if there were equal votes and equally uniform voter support which must be taken as the winner, it is necessary to be regulated in the law.

While the obscurity of the norms seen in Article 7 paragraph (2) the letter "g" and the letter "I" Law Number 10 Year 2016 about the regional head election contains the blurring of the norms where former prisoners may become a candidate provided honest and openly told the public that the prisoners concerned but in the letter "i" stipulates that the candidates may be those who have never committed a disgraceful act proven by the Police Note Certificate (SKCK). It is a blurring of the norm and even the conflict of norms.

Thus based on the descriptions above, the author is interested to examine the development of regulations of regional head elections in the democratic system in Indonesia, it is important to be studied and analyzed with various problems that arise in particular to the shift of democratic values, from the stage of registration to the determination of the results the election turns much to the court.

Based on the ideas outlined above, it can be raised the question of what is the political influence in the regional head elections system in Indonesia?

## ANALYSIS AND DISCUSSION

### The Role of Political Parties in the Election of Regional Head

#### The Role of Political Parties and Institutionalization of Democracy

Political participation by Samuel P. Huntington and Joan M. Nelson is "*activity by private citizens designed to influence government decision-making.*"<sup>13</sup>With the translation "activities of citizenship aimed to influence government's policy." While political participation by Herbert McClosky is:<sup>14</sup>

Political participation is "the term political participation will refer to those voluntary activities by which members of a society share in the selection of rulers and, directly or indirectly, in the formation of public policy." With the translation: voluntary activities of the citizens through which they take part in the election process of the authorities, and directly or indirectly, in the process of forming public policies.

In general, there are two reasons that influence voters in determining the use of their

<sup>13</sup> Samuel P.Huntington and Joan M.Nelson. (1976), *No easy choice: Political participation in developing countries*. England: Harvard University Press. hlm 3

<sup>14</sup>Miriam budiarjo. *op cit*, hlm 367.

right to vote, namely political awareness and trust to the government (political system).<sup>15</sup> Political awareness is understood as an awareness of rights and duties as citizens. This relates to a person's knowledge of the political and social environment that concerns one's interest and concern for the society and the political environment in which they live. While trust to the government is understood as one's judgment of the government. Whether the government is judged to be reliable and influenced or not. Political awareness and trust in government is not an independent factor. Both factors will remain influenced by other factors, such as social status and economic status, political affiliation and organizational experience. These variables are called influence variables or *independent variables*, while political awareness and trust in government are categorized as intermediate variables or *intervening variables*. While political participation itself is categorized as an influenced variable or *dependent variables*.<sup>16</sup>

General election is a democratic instrument to measure democratic processes. General election can illustrate how the legitimacy of succession of government leaders is gained through the political participation of citizens voting in elections. The quality of elections can be seen from the level of political participation. Political participation shows citizens understand the existing political problems and want to participate in electoral activities. Low participation shows citizens do not care about the problems facing the nation. In addition, Huntington says that the country's economic growth rate affects the level of political participation. The high state growth rate will create a social class over which the political participation level is higher than the lower social class.<sup>17</sup> More educated citizens tend to create the character of trust, satisfaction and competence to encourage citizen participation. Kelemahan Partai Politik

### Political Party Weakness

The existence of the organization, of course can be said also contains some weaknesses. For instances are party organizations tend to be oligarchic. Organizations and political party organizations also sometimes act loudly for and on behalf of the interests of the people, but in reality on the ground it is fighting for the benefit of its own board. As noted by Robert Michels as an iron law prevailing in the organization that <sup>18</sup>,

*"The organization creates to the domination of the elected person on the voters, between the mandate and the person who give mandate and between the recipient of power*

<sup>15</sup>Ramlan Surbakti.1992. Understanding Political Knowledge. Jakarta :Grasindo. hlm 144.

<sup>16</sup> Ibid. hlm 144

<sup>17</sup> Samuel P.Huntington. *op cit.* hlm 67-68.

<sup>18</sup>See preface Seymour Martin Lipset, dalam Robert Michels, *Ibid.*,hal. xxvii.

*and the giver. Anyone who talks about the organization, then actually he talks about the oligarchy".*

To overcome the various bad potentials of political parties as mentioned above, some supporting mechanisms are needed. First, the internal mechanisms that ensure democratization through the participation of political party members themselves in the decision-making process. The arrangement on this matter is very important formulated in writing in the based planning (*constitution of the party*) and the household budget of the political party concerned which is arranged in the framework of "*rule of law*".

In addition to the based budget and budget household, according to the demands of development, it is necessary to introduce a system of positive ethical codes which are outlined as "*Code of Ethics*" which is guaranteed upright through an effective council of honor. Thus, within the internal dynamics of the party organization, there are three documents at once, namely "*Code of Law*" contained in the budget household (*constitution of the political party*), "*Code of Conduct*" (*code of organizational good conduct*) contained in the budget household, and "*Code of Ethics*" in a separate document. Thus, legal norms, moral norms, and ethical norms are expected to function effectively to build the internal culture of every political party. The rules set forth on paper are also clearly enforced in practice, so the principle of '*rule of law*' and '*rule of ethics*' can actually be realized, from internal parties of political parties as a source of state leadership.

In the three normative codes are available various procedures of the management of the board and its relationship with members, arrangements on internal institutions, mechanisms of institutional relations, as well as elegant mechanisms of conflict resolution and can be used as a common ground. That way any disagreements can be well channeled and conflicts can be overcome in order not to lead to an undemocratic and usually uncivilized split (*uncivilized conflict*).

Secondly, the mechanism of party openness through which citizens outside the party can participate in the determination of policies to be fought for through and by political parties. Political parties should be made and become a means of struggle of the people in participating in determining the workings of the state system according to their aspirations. Therefore, administrators should serve as servants of aspirations and interests for their constituents. For that, it needs a paradigm shift in how to understand party and party activities. Being an administrator is not everything. More important is to become a representative of the people. However, if being a status as a determinant of whether or not a person becomes a representative of the people, then everyone will certainly be competing to

become administrators and even top leaders of political parties.

As a result, becoming a board is considered a necessity, and one day it can be a representative of the people. Both are capped at once, and for the rest of the political party will only serve as a vehicle for the individual members of the board to continue to maintain a position as a representative of the people or to achieve other public positions. The management of political parties in the future should be directed to be a professional manager who is separated and separated from the candidates for the people's representatives. It may be helpful to think that the management of political parties is divided into 3 (three) components, namely (i) components of the people's representatives, (ii) component of executive officers, and (iii) professional management components. All three are arranged in separate structures, and there can be no multiple positions and path choices. Recruitment and promotion patterns are required to follow the path specified in one of the three paths.

If a person is interested in becoming a member of the Regional Indonesian House of Representative, or, Indonesian House of Representative, then he/she is given the opportunity from the outset to become a member of the Party Representative Council or which may be called by another name, provided in isolation of his/her structure within the Party's stewardship. While the people who are interested in sitting in the executive branch not sitting in the House of Representatives, but sitting in the Cabinet Board or called by another name. Beyond these two structures, it is the ordinary stewardship structure held by professionals paid by the party and not intended to be recruited to representatives of the people or to be promoted to positions in government.

The three groups of management should not be mixed or too easy to move positions and paths. Even if there are people who want to move paths for rational reasons, then it can be possible to meet certain conditions, so it is not exactly a '*stimulus*' for the '*opportunists*' that will undermine the rationality of the democratic culture and the rule of law in the party. To encourage the mechanism of stewardship and management of the party to become better, the regulation needs to be set forth in the laws and regulations of other legislation. It is not enough to be stipulated only in the based budget and household budget the party concerned.

The first and second mechanisms mentioned above relate to the internal aspects of the organization of political parties. In addition, external climate support is also reflected in: Third, good state governance with the increasing quality of public services, as well as openness and accountability of power organizations in the implementation of the state. With good public services accompanied by openness and accountability of government and other state organizers, the political climate will naturally grow healthy and will also become a

fertile ground for political parties to thrive in a healthy manner as well.

Fourth, the development of free press is increasingly professional and educational. Press media is a mass communication channel that reaches a very broad target. Its role in democracy is crucial. Therefore, the press is regarded as "*the fourth estate of democracy*", or to complete the term "*trias politica*" from Montesquieu, also called "*quadru politica*".

Fifth, the strong freedom of thought(), freedom of expression (), and freedom of peaceful assembly and association (). In essence, the freedom in the life of the human race is the origin of freedom of thought (). From freedom of thought it is further developed the principles of "*freedom of belief*", "*freedom of expression*", "*freedom of assembly*", "*freedom of association*", "*freedom of the press*", and so on and so on. Therefore, the climate or conditions that are necessary for the dynamics of growth and development of political parties in a country, is a climate of freedom of thought. That is, a good political party requires social land to grow, namely the freedom of thought among fellow citizens who will channel their political aspirations through one of the main channels, namely political parties.

In the '*representative democracy*' system, it is commonly understood that sovereign people's participation is mainly channeled through popular vote to establish representative institutions. This representative mechanism is considered by itself to be effective for the purpose of ensuring the representation of the aspirations or the interests of the people. Therefore, in the representative system, the position and role of political parties are considered very dominant<sup>19</sup>.

### **The Influence of Political Configuration on Pattern of Regional Head election**

Political configuration is defined as the composition or constellation of political forces which are dichotomically divided into two diametrically opposed concepts, namely democratic political configuration and authoritarian political configuration<sup>20</sup>Democratic political configuration is the structure of a political system that opened opportunities for full participation of the people to actively participate in the determination of public policy. This participation is determined on the basis of a majority by the people's representatives in periodic elections based on the principle of political equality and held in an atmosphere of political freedom. Democratic political configuration tends to produce legal products that are responsive/populistic.

The authoritarian political configuration is the structure of the political system that

<sup>19</sup> Dawn Oliver. (2003). *Constitutional Reform in the UK*. London : Oxford University Press. hlm. 35.

<sup>20</sup>Moh. Mahfud MD. (2011). *Law Political in Indonesia*. Jakarta :Rajawali Pers. hlm. 30

allows the state to play a very active role and take almost all initiatives in the making of state policy. The authoritarian political configuration tends to give birth to a conservative/orthodox/elitist legal product.

Based on a study conducted by Moh. Mahfud MD to the political configuration of the legal product character, that there are variations in the influence of political configuration on the character of legal products. This means that the degree of influence of certain political configurations to bear the character of certain legal products is not always the same or not absolute. It is explained that the orthodox character of a legal product born out of an authoritarian political configuration for instance, can be different from the orthodox level of another legal product of the same political configuration. The difference in the degree of influence or variation is determined by the "intermediate variable" of power relations. The conclusion of the study that certain political configurations will bear the character of certain legal products will be increasingly significant for legal products governing power relations or gezagsverhouding.

Based on the configuration presented by Moh. Mahfud MD above, the author tries to analyze the influence of political configuration on the pattern of regulation of regional head election.

### **Period 1945-1959 (Liberal Democracy)**

The constitutions that prevail in this period is Law Number 1 Year 1945 about Position of National Committee of Region which adheres to the dualism of government in region because occupied head of region as organ of autonomous region as well as central tool in region. Law Number 1 Year 1945 on the position of the National Committee of the Region adheres to the principle of formal autonomy, where the law does not regulate the affairs included in the regional households because it only determines the KNID as the Regional Indonesian House of Representative with the regional head organize and manage the regional households as long as it does not conflict with regulations higher area.

Law Number 22 Year 1948 that local government consists of Regional Indonesian House of Representative and Council of Local Government which chaired by Head of Region. The regional administration is conducted in a collegial manner and the regional head is not a separate unit of operators because it is included in the DPD structure as the chairman concurrently member. Although the appointment of regional heads is carried out by the central or higher government, but Law Number 22 Year 1948 is much more democratic and responsive because the Regional Indonesian House of Representative is given the role of

nominating regional heads and proposing dismissal. In addition, the Local House of Representative is responsible to the Indonesian House of Representative.

History records that Indonesia has changed its constitution up to two times, namely the Constitution of RIS 1949 and UUDS 1950. UUDS 1950 adheres to the parliamentary system, the Indonesian people can channel their aspirations freely through the parties. The parties will fight for it freely also through the representative body of the people. Thus the political configuration of this period shows increasingly responsive. What is often called liberal democracy leads to excesses of continuous social conflicts. Political stability is almost nonexistent, so the cabinet can barely function.<sup>21</sup>If this is viewed from the point of work of the pillars of democracy, it will be seen: First, the role of parties through parliament is very dominant. Second, the role of the executive or cabinet is so weak that it can be said to be almost non-functioning, and Third, the life of the press is relatively more free. Where the party's life in this period remains based on the Government's Notes dated November 3, 1945 which embraces the multi-party system which is then reflected from the strength that is in the parliament (DPR). However, the change of Indonesian constitution becomes one of the causes of Law Number 22 Year 1948 can not be implemented thoroughly which ultimately the government wants the amendment of Law Number 22 Year 1948 for the implementation of decentralization so that then produce Law -Dial No. 1 of 1957 on the Principles of Regional Government.

In the constitutions No. 1 of 1957 on the Principles of Regional Government, the regional head is elected in accordance with the provisions of Article 23 which is directly elected by the people of those close to and known by the people, but before the law of the Regional Head Election is present, conducted by the DPRD. So the central government does not intervene in the appointment of regional heads because in principle the regional head is a fully autonomous regional tool, the regional head is not a central tool and his position is independent of the center. In the case of the determination of the head of a region that shows the political configuration at this time has a responsive / populist character.

### **Period from 1959-1967 (Guided Democracy)**

The political configuration of the era of guided democracy is the tug of war between the three main political forces. The three main political powers are: Soekarno, Army, and PKI who are among the three simultaneously mutually utilizing each other. Soekarno needed the

<sup>21</sup>MoeljartoTjokrowinoto. (1968). Some points about the parties system in Indonesia. Yogyakarta: SeksiPenerbitanFakultasSospol UGM. hlm.8

PKI to face the army's ardent forces, the PKI required Sukarno to secure protection from the President against the Army, while the Army needed Sukarno to gain legitimacy for his involvement in politics.<sup>22</sup>From the tug of war the position of Sukarno is politically the strongest so that in the guided democracy Soekarno can manifest himself to be an authoritarian leader. Along with these conditions and in the framework of arranging the administration of the daeran, then this is marked by the issuing of Presidential Decree Number 6 of 1959 on Regional Government based on centralization of power in the hands of the center. The regional head is appointed by the center, without having to be tied to candidates nominated by the DPRD. This means that if candidates submitted by the DPRD are not acceptable then the center may appoint others outside candidates submitted by the DPRD (in Article 14 paragraph (1) of Presidential Decree No. 6 of 1959 on Regional Government). Therefore, this Presidential Decree creates a dual function, namely: First, the regional head as a central tool to supervise the running of the government in the area in addition to the DPRD in carrying out its duties assisted by the Government Agency Daily (BPH). Secondly, the regional head in his capacity as a stand-alone regional apparatus is not accountable to the DPRD and can not be dismissed by the DPRD.

Law Number 18 Year 1965 on the Principles of Regional Government as a substitute for Presidential Decree No. 6 of 1959 on Regional Government can be said to continue the Presidential Decree No. 6 of 1959 on Regional Government. The system of government remains centralized, although there is a change in terms of the relation between heads of regions and DPRD. If according to Presidential Decree No. 6 of 1959 on Regional Government of the regional head, since his position is the chairman of the DPRD, then according to Law No. 18 of 1965 on the Principles of Regional Government, the regional head no longer becomes chairman of the DPRD, even though the DPRD leadership must be held accountable his duty to the regional head. Thus, central control of the region through the regional head as a central extension becomes stronger.

With centralization of power in the hands of the center, both Presidential Decree No. 6 of 1959 on Regional Government and Law No. 18 of 1965 on the Principles of Regional Government, the character of its legal products can be qualified as a conservative or orthodox / elitist law.

### **Period 1966-1998 (New Order)**

<sup>22</sup> Rex Mortimer (1974) *Indonesia Communism under sukarno: ideology and politics*. Ithaca, cornell University press. hlm. 366-367. See also in MohtarMas'oed. (1989). *Economical and political structure or new orde1966-1971*. Jakarta: LP3ES.hlm.30.

The Election of Heads in Period 1966-1998 (New Order) Region based on Law Number 5 Year 1974 on Principles of Government in Region which in principle regulate that the head of region appointed by President for Dati I and by Minister of Interior for Dati II from minimum two candidates elected by the DPRD. In determining one of these candidates, the President and the Minister of Home Affairs are not tied to the votes of support in each DPRD. That is, the most votes do not have to be lifted, because in the final stages of its determination is the prerogative right of the President (which for the head of the Second Level Region conducted by the Minister of Home Affairs).<sup>23</sup>

Law Number 5 Year 1974 on the Principles of Governance in the Region is prepared and maintained effectively by the government, so that substantive does not absorb participation proportionally, by itself the process of making such a law is not aspirational because the process of discussion does not provide opportunities that are quite proportional to aspirations that develop beyond the executive. Thus it can be said that the legal product of this period is conservative / orthodox / elitist.

### Period of the Reform Order

In this period of reformation, the dominance of DPRD authority shown in Article 18 and Article 34 of Law Number 22 Year 1999 regarding Regional Government and Government Regulation Number 151 of 2000 on Procedure for Election, Legalization, Appointment and Dismissal of Regional Head is not pro people, more reflection partiality to DPRD members. They seem to be permitted by and in the name of the law, not to capture the aspirations of the people, especially about the figure of the regional head desired by the community.<sup>24</sup>

People, especially about the figure of the regional head desired by the community. Therefore, the political configuration of this period can be said to give birth to a conservative / orthodox / elitist legal product. Thus, through the 1999-2002 constitutional amendments, the development of political configuration with a democratic political system created an increasingly responsive legal product, which can be seen through the direct election mechanism of the regional head. So from the exposure it appears that the changes that occur to the electoral system of the regional head is strongly influenced by the regime in power.

<sup>23</sup>Ateng Syafrudin, (1985) Tidal Movement of Regional Autonomous. Jakarta :Binacipta. hlm. 36-37

<sup>24</sup>Nover Ali. (2003) guideline for citizens in general election, in *Satotodkk, general election in autonomous era* :BerlayarSambilMenambalLubang di Kapal, PK2G Jateng 2003-2008, Semarang : DPRD JatengkerjasamadenganCV. Aneka Ilmu. hlm. 178

## CONCLUSION

Based on the results of the discussion that have been analyzed on the issues raised, can be drawn conclusions, among others: political influence in the election system of regional heads in Indonesia has a position (status) and the role (role) is very important in every democratic system. The Party plays a very strategic liaison role between government processes and citizens. It is even the political party that determines democracy, so the party is a very important pillar to strengthen its degree of institutionalization in any democratic political system. A good party system will determine the functioning of the state administration system based on the principle of "checks and balances" in a broad sense. On the other hand, the effective functioning of the state's institutional functions in accordance with the principle of "checks and balances" under the constitution also greatly determines the quality of party systems and the mechanisms of democracy developed in a country, so that political parties are just one of the forms of institutionalization as a form of expression of ideas, free thoughts, views, and beliefs in democratic societies and political parties that act as intermediaries in the processes of state decision-making, connecting citizens with state institutions. Political configuration is defined as the composition or constellation of political forces which are dichotomically divided into two diametrically opposed concepts, namely democratic political configuration and authoritarian political configuration. Democratic political configuration is the structure of a political system that opens opportunities for full participation of the people to actively participate in the determination of public policy. This participation is determined on the basis of a majority by the people's representatives in periodic elections based on the principle of political equality and held in an atmosphere of political freedom. Democratic political configuration tends to produce legal products that are responsive / populist. The influence of the political configuration on the pattern of local elections can be seen from the period 1945-1959 (Liberal Democracy), Period from 1959-1967 (Guided Democracy), Period 1966-1998 (New Order) and Period of Reform Order.

## DAFTAR PUSTAKA

- A. Mukthie Fadjardkk.(2010).Democracy Constitutionalism; a discourse about regional autonomy of regional head election and constitutional court.Malang:InTransPublising.
- A. Mukthie Fadjar. (2003).Constitutionalism Reformation in Paradigmatik Transition. Malang: In-TRANS.

- Ateng Syafrudin. (1985). *Tidal Movements of Regional Autonomy*. Jakarta:Binacipta.
- Dawn Oliver. (2003). *Constitutional Reform in the UK*, London: Oxford University Press.
- Joko J. Prihatmoko.(2005). *Direct Regional Head Election, Phylosophy, System, and the problems of its implementation in Indonesia, Research Organization, Development and devotion to society(LP3M) Universitas Wahid Hasyim*. Yogyakarta:PustakaPelajar.
- Juanda (2004). *Tidal Movements of Regional Government's Law in relationship of the authority between Regional House of Representative and Head Regional*. Bandung.
- Miriam Budiardjo. (2000) *Pengantar Ilmu Politik*. Jakarta:Gramedia.
- MoeljartoTjokrowinoto. (1968). *Some points about the parties system in Indonesia*. Yogyakarta: Seksi Penerbitan Fakultas Sospol UGM.
- MohtarMas'oed. (1989). *Economics and political structure in new orde 1966-1971*. Jakarta: LP3ES.
- Moh.Kusnardi dan Harmaily Ibrahim (1980). *The laws in Indonesia*. Jakarta:PusatStudi HTN – UI.
- Moh. Mahfud MD. (2011). *Legal Political in Indonesia*. Jakarta:Rajawali Pers.
- Monica and Jean Charlot. (1985). 'Les Groupes Politiques dans leur Environnement' in J. Leca and M. Grawitz (eds.), *Traite de Science Politique*, iii. Paris: PUF.
- Mustafa Lutfi.(2010). *The dispute laws of Head Regional Election in Indonesia, ideas of spreading on constitutional of constitution court*. Yogyakarta:UIN Press.
- Padmo Wahjono. (1982). *Indonesia Country based on Laws*. Jakarta:Ghalia Indonesia.
- Philipus M. Hadjon. (1987). *Law Protections for Indonesian citizens*. Surabaya:BinaIlmu Surabaya.
- Ramlan Surbakti.(2015). *Regional Head Election is a General Election*. Jakarta:Kompas.
- (1992) *Understanding Political Knowledge*. Jakarta:Grasindo.
- Rex Mortimer. (1974) *Indonesia Communism under Sukarno: ideology and politics*. Ithaca:cornell University press.
- Robert Michels. (1984). *Political Party: Tendency of Oligarkyin Bureaucracy*, Jakarta:PenerbitRajawali.

- Samuel P.Huntington and Joan M.Nelson. (1976). No easy choice: Political participation in developing countries. England: Harvard University Press.
- Sjachran Basah. (1985).The Eksistensiand parameter of justice administrations in Indonesia. Bandung: Alumni.
- Wirjono Prodjodikoro. (1989). The essences of Law System in Indonesia. Jakarta: Dian Rakyat.
- Yves Meny and Andrew Knapp.(1998). Government and Politics in Western Europe: Britain, France, Italy, Germany, third edition. London: Oxford University Press.
- . (1998).Government and Politics in Western Europe: Britain, France, Italy, Germany, third edition.London: Oxford University Press.