

## **Neutrality of Village Heads and Village Officials in Pemilukada in Luwu Regency**

**Asbudi Dwi Saputra<sup>1</sup>**

### **Abstract**

*The leadership of a Village Head in each village must be able to be a good example and role model for the community. The involvement of the Tirowali village head in Luwu Regency in practical politics in the last 2018 regional head elections is of course contrary to the provisions stipulated in the Law, this is very contrary to his position as a government official who is expected to be neutral in politics. The strategic and significant role of the Election Supervisory Agency, namely how to avoid potential election violations arises by implementing optimal prevention strategies. This study aims to determine the role and function of Bawaslu in carrying out prevention and prosecution of violations of the neutrality of village heads and to determine the factors that affect the credibility of village heads in regional head elections. This study uses a normative legal research method with a case approach which is carried out by examining cases related to the issue of the neutrality of the village head in Luwu Regency, and has become a decision that has permanent legal force. The results of this study indicate that the need to strengthen regulations to give authority to election supervisory agencies to impose sanctions on violations of neutrality in regional head elections, the involvement of village heads in practical politics indicates that government bureaucrats can still be covered by political interests.*

**Keywords:** *Neutrality; Village Head Neutrality; Regional Head Elections*

### **1. Introduction**

The sovereignty of the people is the basis for the development of democracy. The people, in essence, have the highest power with the government from, by, and for the people. However, in the implementation of government it is impossible to actually be carried out by the people, so that the practice of representative democracy emerges. People are directly involved only in general elections. The sovereignty embraced by Indonesia based on the 1945 Constitution of the Republic of Indonesia (UUD 1945) is the sovereignty of the people, as referred to in Article 1 paragraph (2) of the 1945 Constitution which states "Sovereignty is in the hands of the people and is exercised according to the Constitution". The meaning of "sovereignty is in the hands of the people", namely that the people have the responsibility, right and obligation to democratically elect leaders who will form the government to manage and serve all levels of society, as well as elect people's representatives to oversee the running of the government.

### **Author's Information:**

<sup>1</sup>Faculty of Law, University of Andi Djemma Palopo, Indonesia

E-mail:

[\(asbudidwi08@gmail.com\)](mailto:asbudidwi08@gmail.com)

### **Article's Information:**

DOI:

<https://doi.org/10.35326/volkgeist.v5i1.898>

The freedom to vote or vote is a basic right of every citizen which must be guaranteed to be fulfilled by the State. The political rights of every citizen are constitutional rights which are part of human rights which are stipulated in the 1945 Constitution, that the State guarantees the freedom of its citizens to participate in celebrating democratic parties both in general elections and in regional head elections.

The participation of citizens in general elections is an expression of the efforts to exercise people's sovereignty and in the context of implementing the basic rights of citizens. (Moh. Kusnardi, 1983) General elections cannot be separated by politics, because elections are a means of power to achieve common goals, where this election is expected to produce leaders who are truly elected by the people, come from the people and will work for the interests of the people as well as the president and vice president. .

According to Hasmin Tamsah, one of the most important goals in direct regional elections is to select qualified leaders who can actually be measured by various instruments, such as education level and competence. However, as political officials, the elected regional heads must be generally accepted people in which they will lead so that broad support is deemed necessary. Not only public support, but support from all parties including the political elite at the national and central government levels. A quality leader is the dream of all parties, including the general public who longs for quality leaders who are expected to uplift their dignity.(Tamsah, 2020)

Political participation is an important part of the running of a democracy, where democracy can be measured by the high or low level of public participation in its participation in celebrating the democratic party. Political participation greatly influences the legitimacy of society for the elected candidate or pair of candidates, and also serves as an evaluation and control of the community towards leaders or governments.

In organizing regional head elections from year to year there are no problems. Of the various problems, the most crucial which occurred before the implementation of the pilkada were related to the neutrality of the village head and village officials. Often there are village heads and village officials who are involved in practical politics, where they play a role as a political mobilizer for the community to win one candidate pair in the regional head general election.

The siding of the village head and village officials to one of the candidate pairs is of course contrary to the provisions stipulated in the law. Based on Law Number 6 of 2014 concerning Villages in Article 29 and article 51 letters g and j "Village Heads and Village Officials are prohibited from becoming administrators of political parties and participating and / or being involved in general election campaigns and / or Regional Head Elections. And in addition to that Article 280 paragraph (2) letter h, letter i and letter j Law of the Republic of Indonesia number 7 of 2017 concerning general elections emphasizes that "Village Heads, Village Officials and BPD members are prohibited from participating in the campaign.

The non-neutrality of village heads and village officials in regional head elections is in sharp contrast to their positions as government officials who are expected to be neutral in politics. This will raise a question in the community, can the village head and

village officials get involved in practical politics? Where the law has confirmed that village heads and village officials are prohibited from participating in practical politics. In addition, the administering power is so strong and very dominant without being able to be corrected by any agency or court is also the cause of this neutrality. (Leo, 2009)

Departing from the facts and main problems above, the researcher will raise the problems that have occurred in Luwu Regency related to the participation of several village heads and village officials in practical politics where this case has received a permanent legal decision from the Palopo District Court. For this reason, the author will review and analyze the legal issues of the problem to be studied, both from the election organizers, in this case the role of the Election Supervisory Body in carrying out prevention and prosecution functions for village heads and village officials who are involved in practical politics and the factors that affect the head villages are involved in practical politics.

## **2. Method**

**Location** This research was conducted in the area of Luwu Regency in accordance with the location of the object of the problem under study. This type of research in this paper uses normative legal research methods. According to Peter Mahmud Marzuki that normative legal research is "a step to find a rule of law, legal principles, and legal doctrines in order to answer the legal issues faced" (Marzuki, 2005)

## **3. Results**

### **3.1. Implementation of the Functions of the Election Supervisory Body in Efforts to Prevent and Enforce the Neutrality of Village Heads In Regional Head Elections.**

The law regarding elections, be it General Election or Regional Head Election, is the law that is recorded to have changed the most frequently. Almost every time an election is held in Indonesia, it is certain that there will be a new law governing the process of holding the election. In fact, there is an adage that states that the law which is frequently changed has ceased to be law. Such a statement would like to say that the law should not be changed frequently because it will reduce its quality as law, which Lon Fuller calls "fail to make law". One of the failures in making laws is when the regulations are frequently changed so that "the subject can not orient his action by them". (Rahardjo, 2007)

In the process of Regional Head Election in Indonesia, it cannot be denied that there are still many violations that have occurred and do not appear on the surface. This is because First, competition between pairs of candidates does not result in tight control between pairs of candidates, on the contrary creates duplication of violations. This means that if one pair of candidates and the campaign team violate the election regulations, the other candidate pairs and campaign teams do not question and report the violation to the Pilkada Supervisory Committee, but instead imitate the violation. This happens because no candidate pair has the confidence to appear as a clean candidate pair. In addition, candidate pairs are also not supported by a campaign team that has integrity and experience and skills in managing elections. (Supriyanto, 2013)

As a law-based democracy and a democratic constitutional state (demokratische rechtstaat), of course it must provide a legal mechanism to resolve possible election violations so that the election remains legitimate. (Fajar, 2009) This shows that the

election process and regional head elections as a political process are not without problems. Violations are very possible, whether intentional or unintentional. Therefore, there needs to be a legal mechanism that is clearly and firmly regulated in the administration of elections to resolve various violations of elections and general elections for regional heads.

In holding regional head elections, government officials must have an attitude that is not detrimental to any party, especially detrimental to those who will run for regional head elections, but in its implementation in the field, the election process has found many violations. Like the case that occurred in the 2018 regional head election in Luwu Regency, which was the finding of the Luwu Regency Election Supervisory Agency, where a Tirowali Village Head was involved in practical politics. Based on the findings of the Luwu Regency Panwaslu, the village head was also present in the dialogue campaign carried out by one of the candidate pairs. The presence of the village head at the campaign activity has hinted at siding with one of the candidate pairs, this is reinforced by the attributes and symbols used when participating in campaign activities, where the village head has openly used his private vehicle which has been compared to a sticker of one of the pairs candidate as well as a photo with the pair of candidates posing as a symbol of the candidate pair. The demand for the Village Head and his apparatus to be neutral is a mandate of the applicable law. As stipulated in the provisions of Law no. 6 of 2014 concerning villages, it states that the village head is prohibited from making decisions that benefit himself, family members, other parties or certain groups. The Village Head is also prohibited from becoming a political party administrator and participating or being involved in the election or regional election campaign. Then in the provisions of Law No. 10 of 2016 concerning the Second Amendment to Law No. 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law No. 1 of 2014 concerning the Election of Governors, Regents and Mayors into Law, states in Article 71 which states that state officials, regional officials, State Civil Apparatus officials, members of the TNI / POLRI, and village heads or other designations / lurah are prohibited from making decisions and / or actions that benefit or disadvantage a pair of candidates.

In the current regulations, Bawaslu has duties, one of which is to oversee the implementation of the General Election and Pemilukada in order to prevent violations. Law Number 7 of 2017 and Law Number 10 of 2016 are the main legal basis for handling repressively violations of elections and regional head elections. To prevent the occurrence of non-neutrality of village heads in elections and regional head elections. The role of Bawaslu is very decisive, in carrying out the function of prevention and enforcement. Bawaslu and all levels are expected to be more optimal and play an active role in conducting supervision. There is a strategic and significant function of Bawaslu, namely how to avoid potential electoral violations by implementing optimal prevention strategies. Bawaslu is also expected to be able to take firm, effective action and become a fair election judge. (<https://nasional.kompas.com/read/2018/03/13/08160081/peran-bawaslu-dan-pemilu-yang-berintegritas?page=all>)

Bawaslu should be a solution to various demands to supervise and take action against various election violations committed by anyone. This will happen if it is accompanied by strict sanctions against every election violator, and vice versa if the

threat that threatens is only a written warning, of course the sanction will not have a preventive or deterrent effect. The role of Bawaslu in carrying out the function of prevention and prosecution of the Village Head and its apparatus must involve all elements, both elements of society and stakeholders. One very important aspect in enforcing the neutrality of the village head and village officials is the aspect of supervision.

### 3.2. Factors Affecting The Non-Neutrality Of The Village Head in Pemilukada.

Leadership is part of power, but not the other way around. As with power, leadership is a relationship between parties who have influence and people who are influenced and is also the ability to use sources of influence effectively. In contrast, leadership power places more emphasis on the ability to use persuasion to influence followers. Leadership is a relationship where a person (leader) influences others to be willing to work together to carry out interrelated tasks in order to achieve the common goals desired by the leader and his subordinates. (Amirullah, 2004)

The main task of the apparatus is as a servant of the state and a servant of society. It is clearly outlined in the fourth paragraph of the 1945 Constitution, which includes 4 (four) aspects of the apparatus' main service to society, namely protecting the entire Indonesian nation and all Indonesian bloodshed, advancing public welfare, educating the nation's life and implementing world order based on independence, eternal peace and social justice.

The village head is a bureaucrat who has the highest power at the village level, where the village head plays an important role in the process of running the village government towards community welfare. The figure of the village head is a person who is highly respected in the community. Apart from being the village leader, the village head is also a local elite who is very influential for the community. The magnitude of the influence of the position of the village head on the community, often makes him a role model for the community

So far, the democratic process has not fully illustrated the community's understanding of the meaning of democracy. Village communities, who on average are still low-educated, understand politics only to the extent of a people's party which is held every five years, and the political participation that is carried out by the community is still influenced by the movements of the powerful parties, including the village head. Being neutral ahead of the democratic regional head election, of course, is not aimed solely at officials planning to re-nominate or in other terms the incumbent. But one thing that needs to be understood is that a village head must be able to position himself as a public servant, not serve the personal interests of individuals and / or certain candidates.

According to Yamin, there are two main indicators of political neutrality, namely:

1. Not involved, meaning not being a successful team of candidate candidates during the campaign period or participating in the campaign either by using party attributes or civil servant attributes.

2. Not taking sides, in the sense of not helping in making decisions and / or actions that benefit one of the pairs of candidates, not holding activities that lead to taking sides with one of the pairs of candidates for Regional Head / Deputy Regional Head during the campaign period including meetings, invitations, appeals, calls for, or gives goods to civil servants within the scope of their work unit, family members and the community, and does not assist in using state facilities related to positions in the context of winning over one of the candidate pairs for Regional Head / Deputy Regional Head during the campaign period.

The role of the village head as the administrator of the village administration mandated by law is sometimes not implemented properly when the momentum of general elections or regional head elections approaches. The case of the head of the tirowali village in Luwu Regency who is entangled in practical politics indicates that in the holding of elections and regional head elections there are still many Village Heads who become supporters of certain candidates. The role of the village head and village officials is to guide the community, provide direction to the community, and collaborate with the community to create a culture and a democratic climate that is healthy and honest, but instead becomes a tool for the interests of certain candidate pairs which will ultimately cause harm to the community at large.

In regional head elections, the village head and village officials can be subject to criminal sanctions if they are proven to have committed a violation by making decisions such as activities and programs in the village and also carrying out actions or actions that lead to taking sides with one of the pairs of candidates or regional head candidates who are indicated to be detrimental other candidates, for example, participate in campaign activities. Likewise, regional head candidates involving village heads and village officials may be subject to criminal sanctions as candidates for regional head.

The existence of criminal sanctions against village heads and village officials who are involved in practical politics as regulated in the provisions of Law No.7 of 2017 in Article 521 are subject to imprisonment of up to 2 years and a maximum fine of 24 million, besides that in Article 189 of the Law Law No. 10 of 2016 Jo Law No. 1 of 2015 is subject to a maximum imprisonment of 6 months and a maximum fine of 6 million. However, the threat of criminal sanctions against the Village Head and Village Officials who violate the prohibition to engage in practical politics is apparently not enough to create fear and deterrence for those who have intentions to cheat.

The partiality or non-neutrality of the Village Head and village officials in the elections and regional head elections is influenced by several factors:

1. The existence of a primordial or kinship relationship between the Village Head and the regional head candidates certainly has a very strong effect on neutrality.
2. There is a lure or attractive offer from one of the candidate pairs for his position as Village Head.
3. The Village Head lacks understanding of regulations related to neutrality.
4. There was intimidation or pressure from one of the pairs of candidates
5. Sanctions for violations of neutrality do not create a deterrent effect

6. The level of awareness of the Village Head is still low on the importance of being neutral in administering government, development, and public services and considers taking sides as something normal.

In order to stem or minimize the involvement of the Village Head in practical politics, steps are not easy. The most important thing to pay attention to is political education related to neutrality in elections and regional head elections, so that in the future the village head has a better understanding of its main duties and functions as part of the government bureaucracy.

#### 4. Conclusion

The non-neutrality of the village head is still a crucial problem in the event of a democratic party, both in general elections and regional head elections, this cannot be separated from the lack of participation and synergy between stakeholders in supervision. To achieve democratic and quality elections, professional election organizers who have integrity, capability and accountability are required. So that the role and function of Bawaslu in carrying out the function of preventing and prosecuting violations as stipulated in Law No.7 of 2017 is to ensure that general elections are actually carried out based on the principles of general elections and in the corridor of laws and regulations.

The involvement of the village head and village officials in practical politics indicates that the bureaucracy can still be ridden by anyone's interests. Primordial or kinship relationships, transactional politics, weak sanctions, and low awareness of the Village Head of the importance of being neutral are factors that influence the neutrality of the village head and village officials in creating a culture and a democratic climate that is healthy and honest.

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