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Impact of the Regional Election in South Nias Regency During the Covid-19 Pandemic: Juridical Review of Law Number 2 of 2020 on State Financial Policy and Financial System Stability for Handling the Covid-19 Pandemic

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ABSTRACT

Simultaneous regional head election (Pilkada) amid the pandemic raises legal problems in relation to aspects of health and democracy. The problem is the extent to which the Government considers the choice between protecting public health in the South Nias Regency area with the replacement of the Pilkada in the South Nias Regency area and how the impact of the Pilkada in South Nias Regency during the Covid-19 pandemic be. The research method used is a normative legal research method. The results of the study indicate that in the implementation of the 2020 Pilkada in the midst of the Covid-19 pandemic in South Nias Regency, the Government always considers aspects of health protection for the community by always adhering to health protocols. Pilkada should not ignore public health and safety, which are far more important than democratic parties in the context of changing regional head elections. The impact of the Pilkada in South Nias Regency during the Covid-19 pandemic includes the mandate of regulations that are in effect still being implemented, the constitutional rights of Pilkada participants and the community are still fulfilled, reducing the practice of local government leadership which is led by too many temporary officials, preventing budget swelling, while the negative is the risk of COVID-19 transmission is higher, the potential for fraudulent practices is increasingly vulnerable, the refusal of the Regional Head Election has the potential to increase the number of abstentions.

Keywords: Impact, Regional Head Election, South Nias, Covid-19-Treatment.

1. INTRODUCTION

The World Health Organization (WHO) has been declaring Corona Virus Disease 2019 (Covid-19) as a pandemic. The virus has spread to various countries in the world, including Indonesia. The world started to be concerned by the Covid-19 virus after January 20, 2020, when the health authority in Wuhan City, Hubei Province, China, said pneumonia caused by Covid-19 killed three people in Wuhan. [1]

According to WHO data, Covid-19 has caused many casualties. As of November 13, 2020, at 05.15 West Indonesia Time (WIB), the corona virus has infected 53,003,790 people worldwide. Out of the total cases, 36,922,736 people recovered from the SARS-CoV-2 virus infection. Meanwhile, this new type of corona virus has killed 1,297,476 people globally.

According to government data, as of January 8, 2021 there were 797,723 confirmed cases in Indonesia, including 114,766 active cases, 659,437 people who recovered from the virus and 23,520 people who was killed by the virus. [2] In addition, as of January 5, 2021 more than 4 million new cases were reported globally and the death toll increased by 3% to 76,000. This figure makes up the cumulative number of more than 83 million reported cases and more than 1.8 million deaths globally since the start of the pandemic. [3]

As of January 7, 2021, the government's Covid-19 Task Force reported an additional 9,321 cases, meaning that the total confirmed patients have now reached 797,723 cases since the corona virus was endemic in Indonesia. President Joko Widodo signed Law No. 2/2020 on State Financial Policy and Financial System Stability for Handling the Covid-19 Pandemic also regulates the schedule change for the simultaneous regional elections (pilkada). The schedule change that was decided on

December 2020 created uncertainty in organizing the Pilkada. Article 201A paragraph (3) of the law states that "the simultaneous administration of Pilkada will be postponed again if the Covid-19 pandemic is still not resolved by December 2020". [4]

Pilkada can be implemented without compromising health protocols and sovereignty, which must be upheld and carried out by citizens and state instruments. [5] State instruments include juridical instruments, material instruments, personnel/staffing instruments and state financial instruments. Therefore, Pilkada can go on without feeling hesitant or afraid of getting Covid-19.

The pilkada was held simultaneously to optimize budget effectiveness and efficiency. [6] The simultaneous Pilkada made the regional head election process effective. Thus, the Pilkada created a conditional situation, where the principle of legal certainty refers to the applicable laws and regulations. The legal certainty is also not based on society's propriety, which violates the principle of justice. [7]

Pilkada's legal certainty is seen from the efficient state budget uses. Even for areas with low fiscal capacity, the obligation to finance Pilkada reduces public spending, such as funding for education and health affairs. On the other hand, in regards to budget politicization, many areas had not yet allocated the budget for organizing pilkada when Pilkada began.

The author has set the South Nias District located on the west of the Sumatra Island as the research setting. The South Nias Regency has budgeted Rp 57 billion for the overall pilkada administration, security and supervision costs. [8] The reason for this budget size is because, among others, the region does not have an additional budget to finance pilkada. In addition, many regions have yet to allocate its regional budget (APBD) for Pilkada. [9] This certainly has legal consequences related to the simultaneous stages of the 2020 Pilkada, both from the budget and equipment aspects of the Pilkada's Personal Protection Equipment (PPE) for the election officials in order to adhere to health protocols.

The first data on Covid-19 distribution in the South Nias Regency region took place on July 10, 2020. To date, 33 people have been exposed to Covid-19. [10] To avoid the Covid-19 spread in the South Nias Regency region, the South Nias Regency Government closed access to and from the South Nias Regency.

The author chose the Nias Islands and South Nias Regency as the research setting because the regions saw an increase of 128 confirmed Covid-19 cases, which is significant. The significant increase therefore raised the questions of whether or not the Pilkada implementation in the region had been anticipated in a planned and comprehensive manner in order to prevent any setbacks such as financial problems, given Indonesia's declining economic condition, including in the South Nias Regency. Meanwhile, strict health protocols swelled up Pilkada's costs, whether they are for sanitation equipment, masks or facilities used to set adequate distance among voters as they queue.

Based on this description, the author raised the question: to what extent had the Government considered the choice between protecting public health in the South Nias Regency region and replacing the region's regional head? And what was the impact of Pilkada's implementation in South Nias Regency during the Covid-19 pandemic, considering the juridical review of Law No. 2/2020 on State Financial Policy and Financial System Stability for Handling the Covid-19 Pandemic?

2. METHODOLOGY

The author used a normative legal research method, including by reviewing the law used as society's norm and reference for their behavior.

The author used data from literature as the primary and secondary data. The primary data includes Indonesia's 1945 Constitution (UUD 1945), the Election Organizer Law (Law No.15/2011) and Law No.2/2020. Secondary data include, among others, official documents, books and research results that are tangible, including reports, diaries and so on.

The author used literature studies (library research) as the data collection technique. The data is then collected and reviewed to determine its relevance to the needs and the problem formulation.

Data processing is carried out qualitatively by interpreting information related to the Pilkada implementation in South Nias Regency during the Covid-19 pandemic, using Law No. 2/2020 on State Financial Policy and Financial System Stability for Handling Covid-19 Pandemic as its basis.

In addition, the author used qualitative descriptive to analyse the data, which is done by describing and explaining the problems and translating them into sentences instead of numbers in order to provide more value.

3. DISCUSSION

3.1. The Choice Between Community Health Protection and the Election of Regional Heads in the South Nias Regency Region

Aside from the needs of electing new regional heads, public health factors are also the government's priorities and considerations when implementing the 2020 Simultaneous Pilkada. On the other hand, electing a leader who is able to meet the demands and desires of the community cannot be ignored. However, in order for the implementation to be in line with the government's expectations, health protocols must be enforced, including social distancing, mask-wearing and crowd-reducing. The government expects the health protocol compliance to have a positive impact on the decline of Covid-19 cases, including amid the pilkada. [11]

The pilkada last year is different from previous pilkada because the election was held in the midst of the Covid-19 pandemic. Due to this extraordinary circumstance, the government needs to swiftly and appropriately anticipate potential disruptions so that Pilkada could go on as planned. [12]

Pilkada must not neglect public health and safety, which is far more important. It is impossible to risk the health and safety of society in the name of democracy. Democracy itself is for good and welfare of society. Democracy means that the government is from the people, by the people and for the people. Therefore, any policy is for the good and benefit of the society. The implementation of democracy is important but public health and safety are also important.

Based on these various considerations, it can be understood that the government hopes that both aspects of democracy and public health can be equally achievable and none is at stake. It hopes that pilkada can run smoothly, community participation remains high and the community remains safe from Covid-19. For this reason, crisis management is needed to seek opportunity and capitalize on momentums to achieve progress amid the crisis.

Crisis management needs to be carried out in organizing the 2020 Pilkada. Amid the current pandemic, Crisis management can simply be implied as a pilkada with the *new normal* concept, meaning that the pilkada implements strict health protocols. Every activity, process and stages of the pilkada must be in accordance with the health protocol, including when voters exercise their voting rights at the polling station on December 9, 2020. [13]

In general, the Pilkada in South Nias Regency had gone pretty well in regards to its adherence with the health protocols. Still, when some residents came to the polling stations (TPS) to exercise their voting rights, a number of residents claimed to be anxious about the risk of Covid-19 transmission amid high increase of Covid-19 cases. However, after the election committee had educated the voters, the public had increasingly understood that the most important thing was to follow the health protocols.

Despite the Covid-19 situation, the South Nias Regency Election Commission (KPU) still recorded a 71.33 voter turnout in the regency's 32 sub-districts, only 6 percent less than the national target of 77.5 percent. The KPU had raised awareness of the election, both directly and indirectly, while implementing health protocols.

Last year's voter turnout in the regency was higher than that of 2015, which only reached 63.11 percent, and higher than the North Sumatra Gubernatorial Election in 2018, which only reached 53.02 percent. This success implies that the 2020 Pilkada implementation can work thanks to the support of all parties as well as community compliance towards health protocols when they voted. [14]

Since the election on December 9, 2020, there have been no additional Covid-19 cases. Previously, the number of cases of people exposed to the corona virus in South Nias Regency was 82 people. As many as 80 of them had

recovered from the virus and 2 more were still undergoing isolation. [15]

Based on these pieces of information, it can be implied that the implementation of the 2020 Pilkada had no impact on the spread of Covid 19 in the area, considering that no new COVID-19 clusters had emerged. Compliance with health protocols during the voting process in a number of areas is in the range of 89 percent to 96 percent. The government was also certain there would be no new clusters of corona viruses as the pilkada was not a major factor in Covid-19 transmission. Instead, the factor is at the level of community compliance towards the health protocol. [16]

Article 28 A of the 1945 Constitution states that "Every person shall have the right to live and to defend his/her life and existence". It is further reaffirmed in Article 28H paragraph (1) that states "Every person shall have the right to live in physical and spiritual prosperity, to have a home and to enjoy a good and healthy environment, and shall have the right to obtain medical care.". Why do we need to reinforce these provisions again ahead of the 2020 Pilkada's selection day? This is because last year's pilkada was very different as it was held when the Covid-19 spread was still high. Therefore, the state has the responsibility to fulfill the right to health.

The success of the Pilkada on 9 December 2020 is determined by the health protocol enforcement so that there is no Covid-19 transmission. This enforcement is the primary responsibility of the election organizer and all candidate pairs as to ensure that the election can run smoothly and safely in the middle of the Covid-19 pandemic. [17]

During the implementation of the 2020 Pilkada, the South Nias Regency Elections Supervisory Agency (Bawaslu) saw the potential of the Covid-19 spread. Therefore, it recommended the KPU to do several things:

1. Establish technical mechanisms for the election, which involves direct contact and physical encounters between the election organizers and the public.
2. Anticipate election problems that could be caused by the Covid-19 situation and government policies.
3. Provide legal certainty to election supervisors, political parties, and individual candidates for conducting elections during the "national disaster" situation, which was previously declared by the central government.

The Pilkada in the South Nias Regency went smoothly with the number of voter data totaling 250,174. [18] Meanwhile, there were 71,000 voters who were not included in the voter list in accordance with criteria stipulated on Article 10 and Article 11 in the KPU Regulation No. 19/2019. This means that the real turnout is 178,966. Compared to DPT (permanent voter list) at the 2019 General Election, the South Nias DPT reached 191,729, or 12,763 voters more than the 2020 Pilkada. The data during the matching and research (coklit) process vary depending on whether the voter had died, moved to another region, married or other reasons.

3.2 Impact of the South Nias Regency Pilkada Implementation during the Covid-19 Pandemic

Period: Juridical Review of Law No. 2/2020 On State Financial Policy and Financial System Stability for Handling Covid-19 Pandemic

The 2020 Pilkada in South Nias District certainly has a positive impact and also a negative impact. The positive impacts include: [19]

1. Applicable regulatory mandates were carried out
Actualizing the 2020 Pilkada means the state has implemented the mandate in Law No. 10/2016 on the Second Amendment to Law No. 1/2015. The latter law establishes Regulation in Lieu of Law (Perppu) No. 1/2014 on Gubernatorial, Regental, and Mayoral Election. Article 201 paragraph (6) of the Perppu, which had since become a law and been actualized as it states that "The Governor, Vice Governor, Regent, Vice Regent as well as Mayor and Vice Mayor voting result in 2015 will be done by September 2020". This means that Pilkada still needs to continue but it should be carried out with strict health protocols because the regional head's role and position is needed to synergize and collaborate with the central government in order to accelerate the handling of Covid-19 and the post-Covid-19 recovery process.
2. The constitutional rights of Pilkada participants and the community are still fulfilled
Holding an election is one of the indicators of implementing popular sovereignty. Given that Indonesia will hold its Pilkada in 2020, then the election must be carried out despite organizing it amid the Covid-19 pandemic, with regards to health protocols. This simultaneous Pilkada is one of the means of channeling citizen's principal rights and therefore, in the context of implementing the rights of citizens. The government should guarantee that the 2020 Pilkada should be carried out and prevent it from any delays. Holding an election stipulated in the 1945 Constitution is also the foundation of all Indonesian constitutions.
3. Prevents budget swelling
Another impact that needs to be considered should the 2020 Pilkada be postponed is cost overruns. The intended cost overruns, both from the government and from the pairs of prospective regional heads, have incurred many operational costs to awareness-raising purposes and other preparations for the Pilkada. Therefore, cancelling the election will waste the budget that has been allocated for 2020.

These positive impacts can only be achieved if the election continues to strictly adhere to health protocols. On the other hand, holding the Pilkada poses some concern as it could potentially have a negative impact, including:

1. Increasing risks of Covid-19 spread
By continuing the Pilkada, it is undeniable that the election could potentially cause crowds and therefore the potential for Covid-19 transmission is very high. Holding the Pilkada during a pandemic has a big risk. As seen during the first day of candidate registrations on September 4, 2020, many candidate pairs in various areas provoked a crowd and convoys, which had mostly ignored Covid-19's health protocol.
2. Potential for increasingly rampant fraudulent practices
With the Pilkada being held during the pandemic, the election will raise concerns about the potential fraudulent practices. For example, money politics have been increasingly rife amid the pandemic as a weakened economy has caused citizens to struggle in meeting their life needs.
3. Rejections against Pilkada may increase voting abstentions
The government's decisions to hold the Pilkada were protested by several communities. Thus, it was feared that the continuing the 2020 Pilkada could potentially push people to not exercise their rights to vote wisely, or are commonly referred as *Golongan Putih* (White Groups), because of health and safety concerns. Abstention could even be the most rational choice given that public health and safety are threatened amid the Covid-19 situation.

Of course, everyone hoped that both public health and democracy could be achieved and none is at stake. The election was expected to run smoothly and have a high level of community participation while staying safe from Covid-19. Several attempts were made to ensure that the Pilkada could run smoothly and effectively. The South Nias Regency Government made the following efforts: [20]

1. Improve health protocol supervision in a strict and organized manner
Efforts to prepare the 2020 Pilkada can improve the quality of democracy by complying with health protocols in order to prevent Covid-19 transmission. It is hoped that all stages of the election can adapt to the voting mechanisms and Covid-19 health protocols.
One way to ensure that the Pilkada would stay on track is by enforcing Article 11 of the KPU Regulation No.6/2020 on regional elections amid Covid-19:
 - (1) Every Election Organizer, Candidate Couple, Campaign Team, Liaison of Candidate Pairs as well as those involved in the Advanced Simultaneous Election are required to implement the Corona Virus Disease 2019 prevention and protocols as referred in Article 5 to Article 9, with at least the use of masks that cover the nose, mouth until the chin.
 - (2) Should there be any party that violates the obligations referred to in paragraph (1) Provincial KPU, Regency-level/City-level KPU, District Election Committee (PPK), or the Voting

Committee (PPS) reprimand the party to follow the provisions of the Corona Virus Disease 2019 prevention and protocols.

- (3) Should there be any party that still do not implement health protocols for prevention and control health protocols (Covid-19) despite being given a reprimand as referred in paragraph (2), Provincial KPU, Regency-level/City-level KPU, District Election Committee (PPK) in coordination with the Provincial Bawaslu, Regency-level/City-level Bawaslu, the Subdistrict (Panwaslu), or the Village-level Panwaslu would impose sanctions in accordance with current provisions.
2. Upholding integrity during the Pilkada implementation.
Integrity is a must and a good character, both in humans and organization culture, is the driving force for the owner of integrity to actualize decisions and actions for the common good. Integrity plays a role in directing competencies to produce good and quality work.
3. There must be a commitment for both the Pilkada Participant and the executor
Health protocol discipline and enforcement is a priority given that Pilkada activities, especially campaigns, are election stages that involve the masses. This is a big challenge considering that the Pilkada was held amid the COVID-19 pandemic, given that health protocol violations still take place frequently. It should be realized that the Pilkada not only concerns political competition between candidates but also health concerns.
4. Community Discipline
The Pilkada must not neglect public health and safety, which is far more important. It is impossible to risk the health and safety of society in the name of democracy. Democracy itself is for the good and welfare of society. Democracy means that **the government is from the people, by the people and for the people**. Therefore, any policy is for the good and benefit of the society. The implementation of democracy is important but public health and safety are also important.

The 2020 Pilkada organizers, both KPU and Bawaslu must make a number of roadmaps to anticipate the various wrongdoings mentioned previously. The goal is clear: so that Pilkada 2020 would not be called the worst Pilkada or Pilkada with no integrity. Some things that the Pilkada organizers, especially South Nias Regency KPU and Bawaslu, need to anticipate include: [21]

1. The KPU needs to make regulations that further explains Perppu Number 2 of 2020, specifically on what grounds would be postponed or cancelled. Although postponement and cancellation can be considered an "anomaly", it is one of the anticipative measures that can be implemented. Coordination between KPU, Bawaslu, the House of Representatives Commission II and the Ministry of Home Affairs in

establishing an anticipative road map **8** in minimize unexpected possibilities caused by the Covid-19 pandemic during the implementation of the 2020 Pilkada.

2. Bawaslu can anticipate various potential Pilkada 2020 wrongdoings from the start, based on the 2020 Pilkada Insecurity Index, by coordinating with the KPU, specifically to create various innovative schemes in order to anticipate the 2020 Pilkada implementation bottlenecks. They can also anticipate them by discussing budget use, including possible budget diversion in the 2020 Pilkada implementation in case of an emergency situation.
3. In accordance to previous discourses, if KPU wants to design an electronic e-recapitulation to anticipate wrongdoing that may occur after votings take place, KPU must ensure that the security and clarity level of the e-recapitulation data would become the official data on Pilkada results. The controversial vote count information system (situng) experience in the 2019 Presidential Election should be a valuable lesson learned. Specifically, the electronic e-recapitulation as the official data Pilkada will be prone to lawsuits if officials would not ensure its security and sophistication level alongside a transparent and trusted e-recapitulation process.
4. It is important to ensure that voting data's accuracy as disputes over voting data have eroded the level of public trust in election organizers. Valid voting data can end the longwithstanding electoral problem that previously stemmed from chaotic voting data. The KPU must ensure that the voters' data is accurate. This can easily be done if voters who use Special Voter Data (DPK) are not too numerous.

Based on these provisions, there are certainly a number of things that must be considered, namely: first, the KPU must develop a technical mechanism for implementing electoral stages that involves direct contact and physical encounters between election organizers and the public. Second, KPU needs to be proactive when holding the elections, which are affected by the current Covid-19 situation and government regulations. Third, they need to provide legal certainty to election supervisors, political parties, and individual candidates for conducting elections during the "national disaster" situation, which was previously declared by the central government. Meanwhile, the three recommendations for Bawaslu are specific to the factverification stages and the matching and research (coklit) stages during the voters' data updating stage, campaign periods, and voting stages so that the Pilkada can run smoothly.

4. CONCLUSION

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Based on the description of the previous chapters, the author draws the following conclusions:

1. During the 2020 Pilkada implementation in South Nias Regency, the government always considered community health aspects, which can be done by obeying health protocols. This includes wearing masks, using hand sanitizers, diligently washing your hands, implementing physical distancing and avoiding the crowd to prevent the Covid-19 virus spread. This means that the Pilkada must not neglect public health and safety, which is far more important. It is impossible to risk the health and safety of society in the name of democracy. Democracy itself is for the good and welfare of society. Democracy means that the government is from the people, by the people and for the people. Therefore, any policy is for the good and benefit of the society. The implementation of democracy is important but public health and safety are also important.
2. The South Nias Regency Pilkada amid the Covid-19 pandemic, based on Law No. 2 of 2020 on State Financial Policy and Financial System Stability for Handling of the Covid-19 Pandemic, has positive and negative impacts. Positive ones include: regulatory mandates have been carried out, the constitutional rights of Pilkada participants and the community are still fulfilled, the Pilkada reduces practices where local leadership are filled by temporary officials and prevents budget swelling. On the other hand, Pilkada's negative impacts include higher COVID-19 transmission, potential for increasingly rampant fraudulent practices and increase in voting abstention due to public rejections against the Pilkada. Efforts to ensure the continuity of the 2020 Pilkada includes, among others, increasing the supervision of health protocols, upholding integrity in organizing the Pilkada, maintaining commitments from both Pilkada participants and implementers as well as ensuring community discipline.

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