








LEX JOURNAL: KAJIAN HUKUM DAN KEADILAN

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**Construction of Regional Head Elections according to Article 18 Paragraph 4 of
the 1945 Constitution Based on Popular Sovereignty**

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ABSTRACT

This study aims to analyze the historical development of regional elections in Indonesia, as well as to find ideal arrangements related to the construction of regional head elections according to Article 18 paragraph 4 of the 1945 Constitution based on popular sovereignty. The method used in this research is normative legal research using a statutory approach, conceptual approach, historical approach and comparative approach. The results of this study indicate that the arrangements related to regional head elections in Indonesia have undergone several changes in three historical periods, namely in the old order, new order and reform order periods. The changes are mainly concerned with the election model, where during the old order and new order the regional heads were appointed by the President, but during the reform order the regional heads were directly elected by the people. The ideal model for the election of regional heads based on popular sovereignty is that the Governor as the head of the provincial region should be carried out through democratic representation by the DPRD while the Regent/Mayor remains by direct election. This is related to the different principles of governance, the location of regional autonomy and budget efficiency in regional head elections.

Keywords: Construction, Regional Head Election, People's Sovereignty

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1. INTRODUCTION

The Pilkada regime in Indonesia has undergone many changes, starting in 1974 which was regulated in Law Number 5 of 1974 concerning Principles of Government in the Regions, then in 1998 the fall of the New Order regime had an effect on the change of power regime that experienced a shift (*Shifting*) from centralized to more participatory and regional autonomy. In terms of the implementation of regional elections, it was proven by the enactment of Law Number 22 of 1999 concerning Regional Government which revoked Law Number 5 of 1974 concerning Principles of Government in the Region. The strengthening of democracy and regional autonomy is reinforced by the amendment of the 1945 Constitution in the Second Amendment of 2000 related to regional head elections in Article 18 Paragraph 4 which states "Governors, Regents, and Mayors respectively as heads of provincial, district and city local governments are democratically elected".

The arrangements contained in the 1945 Constitution of the Republic of Indonesia are also the highest constitutional basis for the implementation of regional head elections. However, the regulation in the article brings differences in legal interpretation, especially in the context of interpreting articles related to the implementation of regional head elections in the future. This is because in the basic regulation in Article 18 paragraph (4) of the Constitution, the phrase "democratically elected" raises a variety of interpretations, including the meaning of *democracy* which can be interpreted as direct regional head elections that involve the people (*direct democracy*) and regional head elections conducted by the Regional People's Representative Council (DPRD) through a representative mechanism (*Indirect Democracy*).

Furthermore, Law Number 22 of 1999 concerning Regional Government was then amended to be more detailed with the enactment of Law Number 32 of 2004 concerning Regional Government where the Law marked the change in the regional head election regime which was previously through the Regional People's Representative Council

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(DPRD) to direct election by the people which was considered more consistent in reflecting the meaning of popular sovereignty because the people were directly involved in determining leaders in their regions.

This is mandated in the provisions of Article 25 paragraph (5) of Law Number 32 Year 2004 which states that "The regional head and deputy regional head ... are elected in one pair directly by the people in the region concerned". Still in the Act, Article 56 paragraph (1) also confirms that "The regional head and deputy regional head are elected in one pair of candidates which is carried out democratically based on the principles of direct, general, free, secret, honest and fair". After the regulation came into effect, for the first time in the political and legal history of Indonesia, the regional head election was held directly in 2004. The first democratic party to involve the people in a full and real way was held simultaneously in 213 regions throughout Indonesia. The details of the 213 regions are 7 provinces, 174 regencies, and 32 cities (Putra & Nefi, 2024).

As a result of differences in interpretation of Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia in 2014 through Law Number 22 of 2014 concerning the Election of Governors, Regents and Mayors states that the elections are indirectly elected by the DPRD. Not long after the enactment of Law No. 22 of 2014, President Susilo Bambang Yudhoyono (SBY) issued Government Regulation in Lieu of Law No. 1 of 2014 on the Election of Governors, Regents and Mayors which restored the elections to be elected through direct elections by the people (Febiola, 2024) . The Perpu was then enacted through Law Number 1 of 2015 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law. Although it has undergone several changes, the regulations regarding direct elections in the Law are still valid today.

The multiple interpretations related to the mechanism of regional head elections contained in Article 18 paragraph (4) of the 1945 Constitution of the Republic of

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Indonesia seem to make the clause fragile because Indonesia has implemented democracy in the joints of state life but elections at the provincial, district/city level are not definitively determined through direct elections in the Constitution. This is in contrast if you look at the mechanism of the election of the President (Executive) and the Election of the House of Representatives (Legislative) carried out through a direct mechanism by the people as mandated in Article 22E paragraph (2), namely "General elections are held to elect members of the House of Representatives, the Regional Representatives Council, the President and Vice President and the Regional Representatives Council".

The alternative space for direct and indirect regional head elections according to Jimly Asshidiqie states that one of the most essential on the agenda of direct democracy by the people is the implementation of general elections, the election of the head of state and the holding of referendums (Asshiddiqie, 2015). So it seems that general elections and regional head elections are two different regimes.

In principle, elections that are held to uphold the political rights of the people must be protected by law because it is a *basic need* and has been inherent in citizens, meaning that it needs to be emphasized that democracy is closely related to participation, namely the relationship between citizens and their elected representatives based on reasons of equal rights in the political field, freedom of choice based on programs and performance (Kherid, 2021).

On its way, direct and indirect regional elections have had positive and negative impacts. The direct election of regional heads has a positive impact, namely that the community can determine for itself the leader it wants among the existing candidates, direct implementation by the people guarantees free and confidential implementation and between the community and the regional head there is a close relationship so that it has strong legitimacy and is not easily overthrown. As for the negative impact of direct elections as evaluated by Mahfud MD, namely "From the perspective of democracy,

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Pilkada is actually very good substantively for the development of democracy, but the general reality says that Pilkada has not been able to guarantee the realization of democracy and even tends to distort democracy, this happens because of many problems such as the number of violations both by candidate pairs participating in the elections to the impartiality of the bureaucratic apparatus and election organizers, besides the immaturity of supporters of candidate pairs who do not accept defeat from contestation often results in horizontal conflicts such as anarchism and regional conflicts (MD, 2012). In addition, there is often competition between the elected Regional Head and the DPRD as a result of differences in the majority parliamentary coalition, thus disrupting stability in government.

Indirect elections, which have also been implemented in Indonesia, have both positive and negative impacts. The advantages of this system are that in terms of *budgeting* there will be relatively less, the majority of DPRD's will be more supportive of the running of the government, while the disadvantage is that the representation of elected regional heads accommodates more interests in the DPRD so that it is full of *conflicts of interest*. The head of the region is threatened with *a vote of no confidence* so that the stability of the government seems shaky.

In comparison with countries that apply a presidential system in local elections, the Philippines is a country with a republican form of government with a unitary state structure where the state provides considerable decentralization in giving authority to the regions to manage their local affairs. Decentralization in the Philippines began in 1986 through the *People Power* movement that brought down the tyrannical government of Ferdinand Marcos. However, decentralization was legally adopted in 1991 after the *Local Government Code (LGC)* was enacted into law (Rochayati, 2017). The election of local heads in the Philippines starting from the Governor/Deputy Governor at the Provincial level, Mayor/Deputy Mayor, to the Village Head (*Barangay*) is carried out through a direct election mechanism by the people democratically with a

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majority vote system (*first past the post*). As for one leadership period for three years and can be *re-elected* (*possibility of reelection*) for three election periods, recently the last election in the Philippines was postponed twice, the last in 2018 was postponed by President Rodrigo Duterte until 2021 and President Marcos Junior postponed again until 2023 (Hardianto, 2023).

Recently, the 8th President of the Republic of Indonesia, Prabowo Subianto, again issued a discourse that shocked the public where the election of regional heads should be returned to the DPRD on the grounds of budget efficiency where the budget for Pilkada is considered bloated as well as seeing unhealthy contestation where he mentioned that the winners were lethargic, let alone the losers. He said "We should not be ashamed to admit that this system is too expensive, I see our neighboring countries are efficient, Malaysia, Singapore, India, once you elect a member of the DPRD, once you elect a member of the DPRD, the DPRD is the one who elects the governor, elects the regent, ... there needs to be a thought to improve this system, where how many tens of trillions of budget is spent for a few days" Prabowo said (Editorial Team, 2024).

The emergence of the discourse conveyed by Prabowo raises the discourse again regarding the alternative space for implementing regional elections through DPRD, but it must be reviewed that regional elections are a fundamental form of political participation of citizens in choosing their leaders in the regions. This is necessary so that the discourse on regional elections is not a wild ball that is discussed without seeing a clear basis for study and evaluation, so that the values of democracy and popular sovereignty of citizens are simply lost as a result of rash political decisions.

The multiple interpretations or vagueness of the norms in Article 18 Paragraph 4 of the 1945 Constitution of the Republic of Indonesia, which uses the phrase "democratically elected", has given a dilemma to the certainty of the implementation of regional head elections in Indonesia. The meaning of democratic in the clause can mean direct election by the people or indirect election through DPRD. In 2024, regional

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elections in Indonesia are still through direct elections, but whether the election of regional heads needs to be returned through the DPRD as it was implemented in Indonesia before, of course, it is necessary to approach the theory and the needs of the community today.

2. RESEARCH METHODS

The type of research conducted in this study is normative legal research, normative legal research is also called doctrinal legal research. In legal research for this type, often the *law* is conceptualized as what is written in legislation (*law in books*) or law is conceptualized as norms or rules that become benchmarks of human behavior that are considered appropriate (Amiruddin & Asikin, 2006). This type of normative legal research is research that focuses on examining norms in positive law. Using legal materials such as regulations, opinions of legal scholars and theories (Peter Mahmud Marzuki, 2017).

3. DISCUSSION

Construction of the Election of Governors, Regents and Mayors as Regional Heads in Indonesia

The Constitution of the Republic of Indonesia in Article 1 Paragraph 2 of the 1945 NRI Constitution states that sovereignty is in the hands of the people and is exercised according to the Constitution. In accordance with Jimly Asshiddiqie's opinion that sovereignty is in the hands of the people which is balanced with the affirmation that Indonesia is a state of law (*demokratische rechstaat*) which means that Indonesia is a state of law that is sovereign people/democracy (Jimly Asshiddiqie in Sesung, 2013).

According to Rusdianto Sesung, popular sovereignty must remain based on the constitution and law, as he argues that (Sesung, 2013):

"The principle of constitutional democracy is a form of democracy that is implemented by referring to the provisions in the constitution. So if it is assumed

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that what is determined by the constitution is something democratic. The measure of democratic and undemocratic depends on the provisions stipulated in the constitution. So that although Article 1 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia explicitly states that sovereignty is in the hands of the people, it is limited to its implementation based on the constitution and law. as referred to in Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia that Indonesia is a State of Law.

The Unitary State of the Republic of Indonesia is divided into provincial regions and provincial regions are divided into districts/cities. In running the wheels of government in each of these regions, there is a regional government consisting of the Governor and Deputy Governor for the Provincial area, Regent and Deputy Regent and Mayor and Deputy Mayor for the Regency/City area. Explained in Law Number 23 of 2014 concerning Regional Government regarding provincial and district areas in Article 4 Paragraphs 1 and 2 as follows:

1. In addition to its status as a Region, the provincial region is also an Administrative Region which is the working area for the governor as the representative of the Central Government and the working area for the governor in organizing general government affairs in the provincial region.
2. The regency/municipality in addition to its status as a Region is also an Administrative Region which becomes the working area for the regent/mayor in organizing general government affairs in the regency/municipality area.

In carrying out the function of regional government to regulate and manage its own regional household affairs, the Law on regional government regulates the principle of autonomy which is the basic principle of governance based on regional autonomy consisting of decentralization, deconcentration and assistance tasks. This is explained in Article 1 Paragraphs 8, 9 and 11 which states:

1. Regional autonomy is the right, authority and obligation of autonomous regions to regulate and manage their own Government Affairs and local community interests within the system of the Unitary State of the Republic of Indonesia.
2. Decentralization is the right, authority and obligation of autonomous regions to regulate and manage their own Government Affairs and local community interests within the system of the Unitary State of the Republic of Indonesia.

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3. Deconcentration is the delegation of part of the Government Affairs under the authority of the Central Government to the governor as the representative of the Central Government, to vertical agencies in certain areas, and/or to the governor and regent/mayor as the person in charge of general government affairs.
4. Tugas Pembantuan is an assignment from the Central Government to autonomous regions to carry out part of the Government Affairs which are the authority of the Central Government or from the provincial Regional Government to regencies/cities to carry out part of the Government Affairs which are the authority of the provincial Region.

When referring to the arrangements related to the principle of regional autonomy carried out by the provincial government, the Governor, because of his position and position as the representative of the central government in the province concerned, in this case bridges the functions of governance and supervision of the central government to the lower strata of government, namely districts and cities and at the same time the Governor is responsible to the President as the highest position in governance. So it can be concluded that the Governor as the head of the provincial region has a dual function, namely as regional head and representative of the central government in the region.

Meanwhile, the Regent/Mayor as a regional government unit under the Governor implements the widest possible regional autonomy based on the principle of decentralization with the principle of real and responsible implementation. Law Number 23 of 2014 concerning Regional Government regulates the classification of government affairs consisting of absolute government affairs, concurrent government affairs and general government affairs. This is as explained in Article 9 as follows:

1. Government affairs consist of absolute government affairs, concurrent government affairs, and general government affairs.
2. Absolute government affairs as referred to in paragraph (1) are Government Affairs that are fully under the authority of the Central Government.
3. Concurrent government affairs as referred to in paragraph (1) are Government Affairs that are shared between the Central Government and provincial Regions and regency/city Regions.
4. Concurrent government affairs handed over to the Regions form the basis for the implementation of Regional Autonomy.

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5. General government affairs as referred to in paragraph (1) are Government Affairs which fall under the authority of the President as head of government.

In the division of government affairs, government affairs are absolutely the domain of the central government including foreign policy, defense, security, justice, national monetary and fiscal and religion. In the implementation of these affairs it is explained that the Central Government delegates authority to vertical agencies in the regions or governors as representatives of the central government based on the principle of deconcentration, therefore the Governor in addition to carrying out the principle of deconcentration also implements the principle of decentralization at the same time while the Regent/Mayor only implements decentralization. This can be explained in concurrent government affairs divided into mandatory government affairs and optional affairs where concurrent government is carried out by the Regional Government directly related to basic services.

Departing from regional government affairs that provide a special mandate to the Governor as a provincial government so that it can carry out absolute government affairs while the Regents and Mayors carry out mandatory government affairs so that by Suratin Eko Supono states that the Regency/City as a basic unit while the provincial government as an intermediate unit (Supono, 2023). Further explained related to the explanation of the intermediate unit and the basic unit as follows (Supono, 2023):

"The existence of intermediate units is more concerned with the implementation of deconcentration activities than decentralization activities. As an implication, the intermediate unit focuses more on managerial activities and efficiency so that its existence is emphasized to ensure the coordination of the implementation of the functions of the basic unit. Meanwhile, the basic unit, in this case the Regent and Mayor, has the main function of providing services to citizens in general.

The duties and authorities of the Regional Head, in this case the Governor, Regent and Mayor, are contained in Article 65 and Article 66 of Law Number 23 Year 2014,

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which do not distinguish between the heads of provinces and regencies and cities, so that when viewed in terms of word choice there is no significant difference:

1. The regional head has duties:
 - a. leading the implementation of Government Affairs which are the authority of the Region based on the provisions of laws and regulations and policies set with the DPRD.
 - b. maintaining public peace and order.
 - c. preparing and submitting draft local regulations on RPJPD and draft local regulations on RPJMD to the DPRD for discussion with the DPRD, as well as preparing and stipulating the RKPD.
 - d. prepare and submit draft local regulations on the APBD, draft local regulations on APBD amendments, and draft local regulations on accountability for the implementation of the APBD to the DPRD for joint discussion.
 - e. represent its Region in and out of court, and may appoint a legal counsel to represent it in accordance with the provisions of laws and regulations.
 - f. propose the appointment of the deputy regional head; and
 - g. carry out other duties in accordance with the provisions of laws and regulations.
2. In carrying out the duties as referred to in paragraph (1) the regional head is authorized.
 - a. propose draft local regulations.
 - b. enact local regulations that have received joint approval from the DPRD.
 - c. establish Peraturan and decrees of the regional head.
 - d. take certain actions in urgent circumstances that are urgently needed by the Region and/or the community.
 - e. exercise other powers in accordance with the provisions of laws and regulations.

Article 66 describes the duties and authorities as follows:

1. The deputy regional head has the following
 - a. assisting the regional head in:
 - 1) lead the implementation of Government Affairs which are the authority of the Region.
 - 2) coordinate the activities of Regional Apparatus and follow up on reports and/or findings from the supervision of supervisory apparatus.
 - 3) monitor and evaluate the implementation of Regional Government carried out by the provincial Regional Apparatus for the deputy governor; and

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- 4) monitoring and evaluating the implementation of government carried out by district/city Regional Apparatus, sub-districts, and/or villages for the deputy regent/mayor.
- b. provide advice and consideration to the regional head in the implementation of Regional Government.
- c. carry out the duties and authority of the regional head if the regional head is serving a period of detention or is temporarily unable; and.
- d. carry out other duties in accordance with the provisions of laws and regulations.

Meanwhile, the same law contains Article 91 on the Governor as the representative of the central government, which distinguishes the position between the Governor as not only the regional head of an autonomous region but also as the representative of the central government in the region which specifically regulates his authority as the representative of the central government in the region.

Suratin Eko Supono simply explains the position of the Governor as the Head of the Region and at the same time as the representative of the central government in the region as follows (Supono, 2023):

In his position as head of the region, the governor in carrying out his function as the organizer of government in the region has limited authority. *First*, in the field of government that is across regencies and cities. *Second*, the authority that is not or cannot be implemented in the regency or city. *Third*, the authority in certain other areas of government. Meanwhile, in his capacity as a representative of the central government in the region, the governor has the function of supervising and coordinating the implementation of government affairs while his duties and authority as a representative of the central government in general represent the head of state and central government to organize general and structural government in his region on behalf of the President as head of state and head of government of course with the principles of deconcentration.

This is when compared to the position of Regents and Mayors as regional heads in Regency and City units in general, there is no specific discussion in the Law on Regional Government so that the author argues that the position of decentralization specifically exists at the Regency and City level of government, while the provincial

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government area in addition to having a decentralization function limited by Regents and Mayors, but has a deconcentration function, namely the representative of the central government in the region. Suratin Eko Supeno calls the provincial government an intermediate unit while the district/city government is the basic unit. So it can be concluded that in addition to delegation or delegation of authority from the central government occurs to the governor as the head of the provincial region but also the authority that is attribution where the authority of attribution is based on legislation.

In addition, the Governor also gets a co-administration task which is an assignment from the central government to an autonomous region to carry out some government affairs which fall under the authority of the central government. This is as regulated in Article 91 of the Law on Regional Government as follows:

1. In carrying out guidance and supervision of the implementation of Government Affairs which fall under the authority of the Regency/City and Assistance Tasks by the Regency/City, the President is assisted by the governor as the representative of the Central Government.
2. In carrying out the guidance and supervision as referred to in paragraph (1), the governor as the representative of the Central Government has the task.
 - a. coordinate the guidance and supervision of the implementation of the Tasks of Assistance in the Regency/City.
 - b. conducts monitoring, evaluation, and supervision of the implementation of the district/city Regional Government in the region.
 - c. empowering and facilitating districts/cities in the region
 - d. evaluate the draft Regency/City Regional Regulations on RPJPD, RPJMD, APBD, APBD changes, accountability for APBD implementation, regional spatial planning, regional taxes, and regional retribution.
 - e. conduct supervision of Regency/City Regional Regulations; and carry out other duties in accordance with the provisions of laws and regulations.
3. In carrying out the duties as referred to in paragraph (2), the governor as the representative of the Central Government has the authority:
 - a. cancel regency/city regulations and regent/mayor regulations.
 - b. give awards or sanctions to regents/mayors related to the implementation of Regional Government.
 - c. resolving disputes in the implementation of government functions between districts/cities within 1 (one) provincial region.

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- d. giving approval to the draft Regency/City Regional Regulation on the establishment and composition of the Regency/City Regional Apparatus and
 - e. exercise other powers in accordance with the provisions of laws and regulations.
4. In addition to carrying out guidance and supervision as referred to in paragraph (1), the governor as the representative of the Central Government has duties and authorities:
- a. harmonize development planning between districts/municipalities and between provincial regions and districts/municipalities in the region.
 - b. coordinate government and development activities between provincial regions and regency/city regions and between regency/city regions in the region.
 - c. provide recommendations to the Central Government on the proposed DAK in the Regency/City in its region.
 - d. inaugurating the regent/mayor.
 - e. approve the establishment of Vertical Agencies in the provincial territory except for the establishment of Vertical Agencies to carry out absolute government affairs and the establishment of Vertical Agencies by ministries whose nomenclature is expressly mentioned in the 1945 Constitution of the Republic of Indonesia.
 - f. inaugurate the heads of Vertical Agencies of ministries and non-ministerial government agencies assigned to the Regional Area of the province concerned except for the heads of Vertical Agencies that carry out absolute government affairs and the heads of Vertical Agencies established by ministries whose nomenclature is expressly mentioned in the 1945 Constitution of the Republic of Indonesia; and
 - g. carry out other duties in accordance with the provisions of laws and regulations.

If we look back at the model of filling the position of regional head which is carried out directly as stipulated in Article 1 Paragraph (1) of Law Number 1 of 2015 jo Article 1 Paragraph (1) of Law Number 8 of 2015 which states that: "The election of Governors and Deputy Governors, Regents and Deputy Regents, and Mayors and Deputy Mayors hereinafter referred to as Elections is the exercise of popular sovereignty in provincial and regency/city areas to elect Governors and Deputy Governors, Regents and Deputy Regents, and Mayors and Deputy Mayors directly and democratically."

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The election that refers to the Local Government Law requires the election to be carried out based on direct elections by the people (*direct democracy*) while other election models can be implemented through the election mechanism by the DPRD (*Indirect democracy*) as interpreted in Article 18 Paragraph (4) of the 1945 Constitution of the Republic of Indonesia and contained in the decision of the Constitutional Court (MK) case No. 15/PUU-V/2007 which constitutionalizes the two types of elections that further how the election is the authority of the legislator to determine it in the form of legislation (*open legal policy*). What must be underlined is that the two election mechanisms have the same legitimacy, which is the consideration of which of these models is the need based on the current situation.

In government practice as described above, it can be found that the position of decentralization is specifically in the district/city government which is referred to as the basic unit while the provincial government carries out the functions of decentralization and deconcentration and assistance tasks simultaneously which is referred to as an intermediate unit that represents the central government in the region. Based on the function of the regional government, the author argues that the mechanism of regional head elections for provinces and districts/cities can be applied differently.

Based on the reasons stated above, it can be argued that the mechanism of regional head elections for provinces and districts/cities must go through a democratic mechanism. The author argues that for the Regency/City model, the election of regional heads remains through *direct* elections by the people (*direct democracy*) while for the election of governors should be elected through the DPRD (*indirect democracy*).

The author assumes that the differentiation of the election mechanism model between the provincial and regency/municipal heads is reasonable with the following considerations. *First, the* Regency/City as a basic government unit that carries out the direct function of decentralization/regional autonomy that is in direct contact with the community so that basic services are carried out by the basic government unit while the

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province has a dual function, namely as the executor of the autonomous regional government and at the same time being the representative of the central government in the region. The determination of regional autonomy directly not to the Province according to Muhammad Kodari is more to the features of the Indonesian state structure where the Indonesian structure is a unitary state while the federal state gives autonomy to the provinces at the state level (Qodari, 2024). *Second*, in order to maintain direct involvement to channel the people's voting rights to who leads them at the district / city level, direct elections are still carried out to maintain *trust (trust)* because in practice those who know the needs of the people most directly are the Regent/Mayor. *The third* reason is related to political *costs (cost politics)*. The author in this case considers that political costs, including the commodities of regional heads that are traded, do not come from pure political regeneration, this mainly occurs in the election of governors but for the election of regents/mayors because they are in direct contact with the people so that they are more populist and their accountability can be effective, besides that political dowries and money politics for elections at the governor level with a broad regional map are prone to budget swelling which is the entrance to *money politics*. On the one hand, the organizers also spend a lot of funds to organize the elections because the scope of the governor's election is not limited by the boundaries of the regency/city. Finally, the *fourth* need for the election of governors through DPRD representation to create a conducive atmosphere between the central government and local governments, that there should not be differences in leadership character (*challenge politics*) according to Fahri Hamzah because of differences in political party coalitions that often occur is that regional heads in certain regions often *challenge* the central government openly either by not following presidential instructions, not attending limited meetings with the president and various other notes that consciously mean not following the appeals of the central government, this creates an atmosphere that is not conducive

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which causes uncertainty in the effectiveness of services and investment (Assumption, 2024).

If juxtaposed with the opinion of Hendry B Mayo who provides an understanding of demoration as follows:

"A democratic political system is one in which public policies are made on a majority basis, by representatives subject to effective popular control at periodic elections which are conducted on the principle of political equality and under conditions of political freedom". (A democratic political system is one in which public policies are made on a majority basis by representatives subject to effective popular control at periodic elections which are conducted on the principle of political equality and under conditions of political freedom).

Of course, the different models of regional head elections for provinces and districts/cities will have legal implications, so it is necessary to regulate the requirements, election mechanisms and appointments to be able to implement them. DPRD as a state institution that will be given the authority to conduct representative elections of regional heads must be given the authority to propose the appointment of regional heads by the President, as was regulated in Law Number 22 of 2003 concerning the Structure and Position of the People's Consultative Assembly, the House of Representatives, the Regional Representative Council and the Regional Representative Council or what is referred to as the MD3 Law.

4. CONCLUSION

Regional head elections in Indonesia are part of general elections in accordance with the Constitutional Court Decision Number 85/PUU-XX/2022 so that the principles in elections apply, namely direct, general, free, secret, honest and fair. The ideal model of regional head elections based on popular sovereignty is that the election of the Provincial head, namely the Governor as an intermediate unit, should be elected through indirect elections through the DPRD with consideration of the principle in the administration of government, namely deconcentration and the location of regional

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autonomy in particular in the Regency/City and budget efficiency. However, direct election is still recommended for Regency/City level heads as the basic unit that is directly in contact and closest to the community.

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