





Original Research Article

Dispute Settlement Patterns on The Village Chief Election in Indonesia (Lumajang Regency)

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ABSTRACT

In the year of 2013, Lumajang Regency carries out 159 village chief election (*Pilkades*). There are 4 disputes of *Pilkades*, and all about voice counting result of *Pilkades*. Local Regulation No. 24 year 2006 and Local Regulation No. 6 year 2012 do not state any matter of dispute in village headman election and mechanism of solution, but Local Government Regulation determines Watchdog Committee in the level of sub-district and Team of Village Governance Issues Completion in the level of District. Watchdog committee conducts supervision by preventive and repressive act. Supervision is done through preventive act in the form of communications and socialization to the village officer, Village Consultative Council (BPD), and *Pilkades* Committee about the importance of honest, fair and democratic *Pilkades*. Meanwhile, supervision is conducted through repressive act by facilitating the parties if dispute happened. As the result, committee executes the monitoring well, proven from 159 *Pilkades*, there was only 4 disputes, three among others can be resolved in non litigation process. Existence of Watchdog Committee is supported by the availability of budget coming from help of region budget (APBD) that is packed into village budget (APBDes), Rp.2.000.000 for every *Pilkades*.

Keywords: Lumajang Regency; village chief election; *Pilkades*; dispute resolution.

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ABSTRAK

Pada tahun 2013, Kabupaten Lumajang melaksanakan pemilihan kepala desa 159 pemilu (*Pilkades*). Ada 4 sengketa dari *Pilkades*, dan semua tentang perhitungan suara hasil *Pilkades*. Peraturan Daerah No. 24 Tahun 2006 dan Peraturan Daerah No. 6 Tahun 2012 tidak menyatakan masalah sengketa dalam pemilihan kepala desa dan mekanisme solusi, tetapi peraturan pemerintah daerah menentukan komite pengawas di tingkat keHead of the Sub-District dan tim penyelesaian masalah-masalah pemerintahan desa di tingkat kabupaten. Komite pengawas melakukan pengawasan dengan tindakan pencegahan dan represif. Tindakan pengawasan menggunakan pencegahan dengan komunikasi dan sosialisasi kepada aparat desa, Badan Pemusyawaratan Desa (BPD), dan panitia *Pilkades* tentang pentingnya *Pilkades* yang jujur, adil dan demokratis. Sementara itu, pengawasan menggunakan tindakan represif dilakukan dengan memfasilitasi para pihak jika terjadi sengketa. Sebagai hasilnya, komite berhasil melaksanakan monitoring yang terbukti dari 159 *Pilkades*, hanya ada 4 sengketa, 3 diantaranya dapat diselesaikan dalam proses non litigasi. Keberadaan komite pengawas didukung oleh ketersediaan anggaran yang bersumber dari Anggaran Pendapatan dan Belanja Daerah (APBD) yang dikemas ke dalam Anggaran Pendapatan dan Belanja Desa (APBDes), sebesar Rp.2.000.000, untuk setiap *Pilkades*.

Kata kunci: Kabupaten Lumajang; pemilihan kepala desa; *Pilkades*; penyelesaian sengketa.

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1. Introduction

Village Chief Election (hereinafter referred to as *Pilkades*) is a way to get the highest leader in the village. Done with direct election by local people who eligible to vote and was followed by local people who qualify¹. As the election of General, dispute lends itself to occur. The existing legislation regulations indicate the *Pilkades* dispute results are not included in the competence of the judiciary. Therefore, the most appropriate settlement mechanism is non litigation². For it is necessary the presence of a competent and independent institutions can be accepted by all parties in a given district. The establishment of such institutions based on Local Regulation (*Perda*) or District Head Regulation (*Perbup*). This is important because for local Government and the people, smooth *Pilkades* agenda are becomes a reflection of government services and the organization of the agenda for the community at the village level, as the spearhead of the structure of Government in Indonesia. Therefore, the existence of *Perda* governing *Pilkades* dispute resolution and the institutions that have competence in the *Pilkades* dispute resolution becomes important³.

The judiciary was not on duty and authorized to be supervisors and break the dispute based upon the selection process itself such as the question of the campaign and the vote count. The results of previous research in Bondowoso found *Pilkades* disputes embryos can be handled by a Watchdog Team, so the whole *Pilkades* can complete the stages up to the inauguration⁴.

The *Pilkades* dispute that is not resolved can cause a potential government barriers, especially concerning the term of office of the head of the village. The *Pilkades* dispute issues needs further research. After in Bondowoso, this research focuses on Lumajang formula with the same problem i.e. the election dispute pattern related village chief, and how the settlement pattern that was used.

¹ Soerojo Wignjodipoero, *Pengantar Dan Asas-Asas Hukum Adat*, Kesembilan (Jakarta: Haji Masagung, 1990).

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² Retnowulan Sutanto, *Hukum Acara Perdata Dalam Teori Dan Praktek*, 10th ed. (Jakarta: Mandar Maju, 2007). [View Item](#)

³ Abraham Amos, *Sistem Ketatanegaraan Indonesia (Dari Orla, Orba Sampai Reformasi) Telaah Sosiologis Yuridis Dan Yuridis Pragmatis Krisis Jati Diri Hukum Tata Negara Indonesia* (Jakarta: Raja Grafindo Persada, 2005). [View Item](#)

⁴ Fauziyah Fauziyah and Sri Praptianingsih, "Dispute Settlement Patterns on The Village Chief Election at Bondowoso Regency," *Rechtsidee* 2, no. 1 (June 15, 2015): 11, doi:10.21070/jihr.v2i1.8. [View Item](#) [Google Scholar](#)

2. Discussion

2.1 The Rule of Village Chief Selection In Lumajang Regency

The administration area of Lumajang consists of 7 Villages in the Sub Lumajang, and 198 villages spread over 21 districts. About 198 villages in Lumajang, until this research (March 2015) done, already established 156 election of village chief who carried out synchronously in 2013, and it filled all the stages of the election until it came to the inauguration of the elected village chief.

The procedure of the election of the village chief in Lumajang is organized in Local Regulations Number 24 of 2006 on The Procedures For The Selection, Nomination, Appointment, Inauguration, and Dismissal of the Village Head (hereinafter referred to *Perda 24/2006*)⁵. Jo. Local Regulation Number 6 of 2012 on The Change of Local Regulation region Number 24 of 2006 on The Procedures For The Selection, Nomination, Appointment, Inauguration, and Dismissal of the Village Head (hereinafter *Perda 6/2012*)⁶. In addition, this Local Regulation, governed more by the District Head Regulation Number 22 of 2006 on The Election Guidelines of Nomination, Appointment, Inauguration and Dismissal of the Village Head (hereinafter referred to *Perbup 22/2006*)⁷. Jo. District Head Regulation Number 25 of 2006 on The Changes of District Head Regulation Number 22 of 2006 on The Election Guidelines of Nomination, Appointment, Inauguration and Dismissal of the Village Head⁸ (hereinafter referred to *Perbup 25/2006*).

Conducting the election of the village chief in Lumajang is managed by three institutions, namely Head of the Sub-District, Village Consultative Council (BPD) and the *Pilkades* Committee. Furthermore, conducting the election of the head of the village is done with the following stages:

⁵ Kabupaten Lumajang, *Perda Nomor 24 Tahun 2006 Tentang Tata Cara Pemilihan, Pencalonan, Pengangkatan, Pelantikan Dan Pemberhentian Kepala Desa* (Local Regulation No. 24: RG No. 16 E Series, 2006). [View Item](#)

⁶ Kabupaten Lumajang, *Perda Nomor 6 Tahun 2012 Tentang Perubahan Peraturan Daerah Nomor 24 Tahun 2006 Tentang Tata Cara Pemilihan, Pencalonan, Pengangkatan, Pelantikan Dan Pemberhentian Kepala Desa* (Local Regulation No. 6: RG No. 8, 2012). [View Item](#)

⁷ Kabupaten Lumajang, *Perbup Nomor 22 Tahun 2006 Tentang Pedoman Pemilihan, Pencalonan, Pengangkatan, Pelantikan Dan Pemberhentian Kepala Desa* (District Head Regulation No. 22: RR No. 28 E Series, 2006).

⁸ Kabupaten Lumajang, *Perbup Nomor 25 Tahun 2006 Tentang Perubahan Peraturan Bupati Lumajang Nomor 22 Tahun 2006 Tentang Pedoman Pemilihan, Pencalonan, Pengangkatan, Pelantikan Dan Pemberhentian Kepala Desa* (District Head Regulation No. 25: RR No. 38 E Series, 2006).

a. Formation of the *Pilkades* Committee .

b. The implementation of the *pilkades*, including the following activities:

- 1) Networking and registration of prospective *Pilkades* Committee candidates;
- 2) Screening prospective of the village chief candidates;
- 3) Determination of village chief candidate;
- 4) Register of electors;
- 5) Campaign;
- 6) Voting;
- 7) The vote count;
- 8) Designation of candidates elected.

c. Ratification and Inauguration of the Village Chief

2.2 Institution to Handle *Pilkades* Disputes in Lumajang

One important component in *Pilkades* in Lumajang is the existence of the Watchdog Committee in the Sub-district level who are in charge of conducting preventive action in the form of communication and socialization to the village officer, Village Consultative Council (BPD), and *Pilkades* Committee about the importance of honest, fair and democratic *pilkades*, as well as repressive action in the event of a dispute on the *pilkades* by facilitating the parties. The formation of Watchdog Committee specified regulated in *Perbup* 22/2006⁹.

The membership of the Watchdog Committee are *ex-officio*, already defined in *Perbup* 25/2006¹⁰ that is 5 (five) persons, composed of Head of Sub-District as a Chairman, Head of the Sub-District Secretary as Secretary, and The Commander of the *Koramil* / The Head of the Police Sector / Chief of The Government Section in Sub-District as members. This Watchdog Committee have task to ¹¹ Oversee and monitor all stages of the *Pilkades* actively, received complain reports of *Pilkades*, complete each complaint of *Pilkades* in 7 (seven) days minimum after reports of the complaints received, and forward the complaint that cannot be resolved to the Team of Village Governance Issues Completion in 7 (seven) days minimum after the complaint is received.

⁹ Lumajang, *Perbup Nomor 22 Tahun 2006 Tentang Pedoman Pemilihan, Pencalonan, Pengangkatan, Pelantikan Dan Pemberhentian Kepala Desa*. Article 22.

¹⁰ Lumajang, *Perbup Nomor 25 Tahun 2006 Tentang Perubahan Peraturan Bupati Lumajang Nomor 22 Tahun 2006 Tentang Pedoman Pemilihan, Pencalonan, Pengangkatan, Pelantikan Dan Pemberhentian Kepala Desa*. Article I Number 7.

¹¹ 69 B

Watchdog Committee activities and the commitment of the organizers of the *Pilkades* can be guarded well, thanks to the existence of a clear policy and the budget support devoted to the activities of the *Pilkades* (Rp. 15.500.000,-). This fund is from Lumajang region budget allocating to *Pilkades* relief fund, and submitted to the village government for inclusion in the village budget as *Pilkades* costs, with the following details: Rp. 7,500,000.-for operational funds during the *Pilkades*, Rp. 6,000,000 for organizers, and Rp. 2,000,000,- for the Watchdog Committee.

In addition to disputes settlement on *Pilkades*, government of Lumajang also formed a Team of Village Governance Issues Completion. On this team, both *Perda* 24/2006, *Perbup* 22/2006, *Perda* 6/2012 or *Perbup* 25/2006 do not specify further. The results after the interview with Mr. Aksan¹² show that this team is on a district level, with the following structure:

Person in charge: Tata Praja Assistant;

Chairman: Village Government Division (Head);

Secretary: Village Government Sub-Division (Head);

members:

- a. Head of local governance unit;
- b. Inspector;
- c. Head of Nation's Unity And Political Bodies;
- d. Head of Pamong Praja units;
- e. Head of Legal Division;
- f. Head of Government Division;
- g. Village Government Elements.

Similarly to Watchdog Committee, this team also ex-officio.

If there are problems to be resolved, the settlement mechanism start with a team came to a troubled village and tries everything possible so that the problem can be done there on that day. This relates to the Lumajang government's commitment to conducting the good, true, honest and fair of *Pilkades* while maintaining order and public security. Therefore, if the problem can be resolved soon, village government activities can be immediately continued without being bothered by the post-election unsettled *Pilkades* dispute.

¹² Aksan, "Interviewed by Fauziyah" (Village Government Division on Lumajang Regency: 2 April, 2015).

2.3 Cases in *Pilkades*

The *Pilkades* in Lumajang in general it can be stated worked well, as evidenced by the 156 *Pilkades* in 2013, appears only 4 (four) cases relates to the *Pilkades* with 3 (three) cases can be solved by a Watchdog Committee, and one (1) case filed to PTUN. Such cases as follows¹³:

a. Jatimulyo Village

The cases that appear in the Jatimulyo village caused by the existence of a difference between the number of the invitation letter and the number of the voting card that is in the ballot box. In the *Pilkades*, there is a document called the book of voters list that can be used as a standard 'supervision' of who and how many voters, who and how to be invited to do election, and who and how that comes to use the right candidate at the time of the *Pilkades*. Ideally, the number of voters present and use his voice, equal to the number of the voting card which is contained in the ballot box. But, there was a difference, the number of the vote card in the ballot box, it was more than the 3 (three) cards, compared with the present list of voters who used his voice. This triggered protests, especially from a candidate who 'lost' (get a little vote counts). Upon this state, *Perbup* is already set up clearly, before the tally, three (3) vote cards are taken at random, and then start counting. The final results shown, the difference of first and second figure *Pilkades* candidate gained more than 100. Thus, an excess of three (3) vote cardis not significant to influence the results of the electoral vote count at Jatimulyo *Pilkades*.

b. Lempeni Village

In Lempeni *Pilkades*, case occured when the results of the vote count was not quite satisfying for candidates who did not won. When the vote count ended, the difference in the result only 3 (three) vote between the first and second rank. As a result, discontent a rises, which led to the rejection of the vote count. Hence, the Watchdog Committee trying to communicate with the problematic parties or particularly *Pilkades* candidate. The results, they are agreed to do a recount in sub-districts office. Upon the results of the recount, the parties, especially the *Pilkades* candidate could receive the result properly.

c. Banyuputih Lor Village

There is a strife in the Banyuputih Lor village which is arises at the counting process begun. Started with the entry of angry group supporting one of the candidates who gained few vote (most likely lost) in counting area. They shed vote box that still contained a card

¹³ Moh. Arif, "Interviewed by Fauziyah" (Village Government Division on Lumajang Regency: 13 June, 2015).

that had not been calculated. The Watchdog Committee was already there in place of elections took action and securing the results of the vote count that was already done and kept the number of existing vote card, both of which already counted or not. Once the situation was under control, discovered that the number of the vote card that had not been calculated, much less than the difference between the acquisition of the results of the vote count that was already done, so the calculation was unlikely affect the existing provisional results. Furthermore, the Pilkades candidate and supporters, inevitably received the results of the vote count.

d. Randuagung Village

On the contrary, in Randuagung Village¹⁴, *Pilkades* results disputed submitted to the Malang District Court by the party who rejected the vote counting results, but the court reject that submission due the competencies issue. Later, plaintiff filed a lawsuit to the vote count results cancelation through PTUN. On the first level, PTUN granted the suit. Upon the verdict of PTUN, local government appeals to PT-TUN, and the appellate level PT-TUN accept that appeals and rejected the lawsuit of vote count result.

3. Conclusions

The study showed that there are four disputes related to the electoral vote result, which is exclude the competence of the judiciary. Three are settled outside the judiciary, and one case resolved through the court. The settlement outside the judiciary was facilitated by the Watchdog Committee at the sub-districts level. If the dispute still cannot be resolved, it will be assigned to Team of Village Governance Issues Completion at the district level.

In addition, the lack of the *Pilkades* disputes in Lumajang is a form of communication and success of intensive socialization done by the Watchdog Committee to the village officer, Village Consultative Council (BPD), and *Pilkades* Committee.

The existence of the Watchdog Committee who also acted as a facilitator in the disputes settlement, needs to be enhanced in terms of structure and mechanism. This advice was given accordance to the member of Watchdog Committee need to be examined again their each basic tasks and functions especially at the level of sub-districts. The development of the law awareness and knowledge of the people, requires the existence of an 'agency' that competent authorities to resolve the dispute accordance to the protection of the law and provided the exercise of democracy at the village level.

¹⁴ Taufik, "Interviewed by Fauziyah" (Head of Legal Division on Lumajang Regency: 17 May, 2015).

Bibliography

Journals:

Fauziyah, Fauziyah, and Sri Praptianingsih. "Dispute Settlement Patterns on The Village Chief Election at Bondowoso Regency." *Rechtsidee* 2, no. 1 (June 15, 2015): 11. doi:10.21070/jihr.v2i1.8. [View Item](#) [Google Scholar](#)

Books:

Amos, Abraham. *Sistem Ketatanegaraan Indonesia (Dari Orla, Orba Sampai Reformasi) Telaah Sosiologis Yuridis Dan Yuridis Pragmatis Krisis Jati Diri Hukum Tata Negara Indonesia*. Jakarta: Raja Grafindo Persada, 2005. [View Item](#)

Sutanto, Retnowulan. *Hukum Acara Perdata Dalam Teori Dan Praktek*. 10th ed. Jakarta: Mandar Maju, 2007. [View Item](#)

Wignjodipoero, Soerojo. *Pengantar Dan Asas-Asas Hukum Adat*. Kesembilan. Jakarta: Haji Masagung, 1990. [View Item](#)

Interviews:

Aksan. "Interviewed by Fauziyah." Village Government Division on Lumajang Regency: 2 April, 2015.

Arif, Moh. "Interviewed by Fauziyah." Village Government Division on Lumajang Regency: 13 June, 2015.

Taufik. "Interviewed by Fauziyah." Head of Legal Division on Lumajang Regency: 17 May, 2015.

Legal Documents:

Lumajang, Kabupaten. *Perbup Nomor 22 Tahun 2006 Tentang Pedoman Pemilihan, Pencalonan, Pengangkatan, Pelantikan Dan Pemberhentian Kepala Desa*. District Head Regulation No. 22: RR No. 28 E Series, 2006.

———. *Perbup Nomor 25 Tahun 2006 Tentang Perubahan Peraturan Bupati Lumajang Nomor 22 Tahun 2006 Tentang Pedoman Pemilihan, Pencalonan, Pengangkatan, Pelantikan Dan Pemberhentian Kepala Desa*. District Head Regulation No. 25: RR No. 38 E Series, 2006.

———. *Perda Nomor 24 Tahun 2006 Tentang Tata Cara Pemilihan, Pencalonan, Pengangkatan, Pelantikan Dan Pemberhentian Kepala Desa*. Local Regulation No. 24: RG No. 16 E Series, 2006. [View Item](#)

———. *Perda Nomor 6 Tahun 2012 Tentang Perubahan Peraturan Daerah Nomor 24 Tahun 2006 Tentang Tata Cara Pemilihan, Pencalonan, Pengangkatan, Pelantikan Dan Pemberhentian Kepala Desa*. Local Regulation No. 6: RG No. 8, 2012. [View Item](#)