

Reconstruction Model in Filling the Regional Head Position from the Perspective of State Administrative Law and the Fourth Principle of Pancasila

Zulwisman¹, Hengki Andora²,

¹Faculty Of Law Universitas Riau, Pekanbaru, Indonesia

²Faculty Of Law Universitas Andalas, Padang, Indonesia

Received: April 03, 2026

Revised: May 05, 2026

Accepted: May 20, 2026

Published: May 30, 2026

Corresponding

Author: Zulwisman

Author Name*: Zulwisman

Email*: zulwisman2808@gmail.com

com

Abstrak: *This article analyzes the process of filling regional head positions in Indonesia and reconstructs its model from the perspective of State Administrative Law and the fourth principle of Pancasila. The research uses normative legal methods with statutory, conceptual, and historical approaches. The results indicate that the regulation of filling regional head positions has evolved toward a more structured direct electoral democracy, but still faces fundamental weaknesses, namely the dominance of political parties in the nomination process, high political costs, money politics, overly procedural democracy, single candidates, and the widespread use of acting regional heads. These conditions indicate that the current system does not fully align with the principles of State Administrative Law and the values of the fourth principle of Pancasila. This research proposes a reconstruction of a model for filling regional head positions that is administrative-deliberative in nature, with electoral legitimacy maintained through more proportional access to nominations, strengthening public deliberative forums, and stricter restrictions on the appointment of acting regional heads.*

Keywords : *Filling Positions; Regional Heads; State Administrative Law; Pancasila Democracy; Legal Reconstruction*

INTRODUCTION

Filling the position of regional head is a fundamental part of the regional government system in Indonesia which is constitutionally regulated in Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia. This norm states that regional heads are elected democratically, which shows that there is flexibility in determining the model for filling the position, either through a direct or indirect election mechanism (Asshiddiqie, 2007).

Since the reformation, the system for filling regional head positions has undergone a significant transformation, from a representative model through the Regional People's Representative Council (DPRD) to direct elections by the people. This transformation was reinforced through Law No. 32 of 2004 and Law No. 10 of 2016, which consolidated regional elections as part of direct electoral democracy. Normatively, these changes were intended to strengthen the political legitimacy of regional heads through direct public involvement.

However, practically this system has not fully delivered the desired quality of democracy. Several studies have shown that local democracy in Indonesia are still characterized by the dominance of political elites, high political costs, and patronage and money politics that influence election outcomes (Aspinall, 2013; Mietzner, 2013). This situation suggests that democracy tends to be procedural, with an emphasis on voting mechanisms without adequate deliberation.

From the perspective of State Administrative Law, filling regional head positions cannot be separated from government actions that must meet the principles of legality, legal certainty, and accountability (Hadjon, 2005). So that, the weaknesses in the regional head filling system reflect problems in the design of state actions themselves. Meanwhile, from the perspective of the fourth principle of Pancasila, democracy is understood not only as an aggregation of votes but also contains elements of deliberation and collective wisdom (Latif, 2011).

Based on that statement, there is a gap between the normative design and practice of filling regional head positions. The purpose of this research is to analyze the weaknesses of the existing system and formulate a reconstruction model that better aligns with the principles of State Administrative Law and the democratic values of Pancasila.

METODOLOGI

This research is a normative legal study with a statutory, conceptual, and historical approach. The legal materials that are used include primary legal materials in the form of laws that regulate the filling of regional head positions, secondary legal materials in the form of books and scientific journals, and also tertiary legal materials in the form of legal dictionaries and encyclopedias. Normative legal research is used because this study focuses on legal norms, legal principles, and legal doctrines relevant to filling regional head positions (Soekanto & Mamudji, 2001; Marzuki, 2011). The analysis is conducted qualitatively with a prescriptive approach to assess the weaknesses of the existing system and formulate a more ideal model

RESULTS AND DISCUSSION

The dominance of political parties in the nomination of regional heads is a major weakness in the current system. The regulate about the amount limitation of nomination effects the candidate selection process in the hands of party elites, and limits the public's choices (Isra, 2010). This situation creates an elitist democracy, where the public only plays a role in the election stage, not the nomination process.

The Limited access to candidacy is also evident in the independent candidate pathway. Normatively, the existence of independent candidates is intended to open up alternatives outside of political parties. However, in practice, the requirements for support from independent candidates remain quite stringent, preventing them from fully representing an alternative channel on par with political parties (Prasetyo, 2024). As a result, the candidacy system continues to favor actors with strong party support or political resources.

This elitist candidacy is closely linked to the issue of political costs. When the access to candidacy is largely determined by party support and resource strength, candidates are encouraged to use financial resources as a primary instrument to get the political support. The high political costs encourage

candidates to use financial resources as a primary tool to win the competition. This is reinforced by the finding that money politics is a crucial part of Indonesia's electoral system (Aspinall, 2013). Consequently, the quality of democracy declines as victory is more easily determined by capital, patronage networks, and resource mobilization capabilities than by leadership capacity.

In this context, the direct regional elections do not automatically have the result that substantive democracy. When electoral competition is extremely costly, only the candidates with strong financial have a good chance of winning. This has the potential to deviate the regional elections from their original purpose, such as to produce regional leaders with popular legitimacy and adequate governance capacity.

This problem becomes strong because of the current regional election system's emphasis on voting rather than the process of forming the political willing rationally. The current election system emphasizes voting without adequate deliberation. Democracy has become merely a formal procedure, rather than a rational process of forming collective will (Magnis-Suseno, 1987). This ismake a contradiction with the principles of Pancasila democracy, which emphasize deliberation, wisdom, and a focus on the common good (Latif, 2011).

The weakness of deliberation can be seen in the limited public space used to truly test the ideas, capacity, and integrity of regional head candidates. Campaigns often more serve as a mobilizing political support than as a forum for citizen political education. As a result, while the public have the right to vote, but those choice are not always formed through a mature and rational deliberation process.

In the situations whenthe nominations are elitist, political costs are high, and public deliberation are weak, the quality of local political competition also declines. One of symptom is the emergence of the single candidate phenomenon. Rahman et al. (2022) valued that the single candidates in regional elections can be interpreted as a leadership crisis and a threat to democracy. In the context of filling regional head positions, the single candidates demonstrate that democratic procedures remain in place, but the quality of competition become weak because of the public lacks of a balanced choice.

Besides the problem of electoral competition, this filling regional head positions also have challenges in transitional situations of regional government, especially through the use of acting regional heads. Rahmazani (2023) showed that the filling of regional head positions during the transitional period before the 2024 had problems because related to legitimacy, transparency, and appointment mechanisms. In the perspective of State Administrative Law, the regional heads can be understood as an administrative solution to fill vacant positions. However, if it used too broadly and without strict limitations, this mechanism can shift the electoral legitimacy to merely administrative legitimacy.

Those problems demonstrates that the weaknesses in the regional head position filling system are not only in a single aspect, but also extend from the nomination stage, the competition, through the formation of public will, until the transitional period. Therefore, a reconstruction model of the filling the regional head position which is combining the administrative and deliberative aspectsis necessary. At the nomination stage, access should be relaxed to increase the competition, including by reviewing the amount limitation of nomination and the strengthening of independent candidate pathwaymore proportionally.

At the stage of forming public will, the structured deliberative forum is needed to be developed. This forum can be the form of public candidate tests, substantive debates based on regional issues, and deliberative forums involving civil society, academics, professional groups, and local community elements. These forums are not intended to replace the direct elections, but rather to improve the quality of the process before the people make their choices.

Meanwhile, the use of the regional heads must be strictly limited, transparent, and temporary. The appointment of the regional heads should be considered an exceptional mechanism, and not as the normal pattern for filling positions. So that, the administrative-deliberative model keeps the direct elections as a source of legitimacy, but improves the quality of the process to be better based on the principles of State Administrative Law and the values of the fourth principle of Pancasila.

CONCLUSIONS

The system for filling regional head positions in Indonesia has evolved toward direct electoral democracy, but still have various structural weaknesses. These weaknesses can be seen in the dominance of political parties in the nomination process, the high requirements for independent candidates, the high cost of politics, the practice of money politics, overly procedural democracy, the phenomenon of single candidates, and the use of the regional heads during transitional periods. These conditions indicate that the current system does not fully reflect the principles of State Administrative Law and the democratic values of Pancasila, in dimation of the fourth principle of Pancasila.

Therefore, it is necessary to reconstruct the model for filling regional head positions that is administrative-deliberative through the fifth Amendment to the 1945 Constitution of the Republic of Indonesia and to revoke and replace it with the Law on the Election of Governors, Regents, and Mayors. The model for filling regional head positions must be electoral legitimacy through indirect elections (election by the Regional People's Representative Council). On the other hand, it maintains the role of the General Elections Commission (KPU) and the Provincial/District/City Election Supervisory Agency (BAWASLU) as election organizers at the regional level. On the other hand, it encourages political parties to improve the requirements and quality of nominations, and requires political parties to accommodate the aspirations of the people through a preliminary election mechanism as a screening in determining prospective candidate pairs that will be registered by political parties with the KPU as election organizer at the regional level. The preliminary election must be carried out by political parties in the dimensions of participatory principles, transparency, and accountability. With this model, filling regional head positions is expected to be fair, honest, open, accountable, competitive, and in line with the values of the people led by the wisdom of deliberation/representation.

REFERENCES

Book

- Carroll, Archie B. and Ann K. Buchholtz. *Business and Society*. Canada: Nelson Education, Ltd, 2009.
- Hadjon, P. M. *Pengantar Hukum Administrasi Indonesia*. Gadjah Mada University Press, 2005.
- Isra, S. *Pergeseran Fungsi Legislasi: Menguatnya Model Legislasi Parlementer dalam Sistem Presidensial Indonesia*. Rajawali Press, 2010.
- Kelsen, H. *Pure Theory of Law*. University of California Press, 1967.
- Latif, Y. *Negara Paripurna: Historisitas, Rasionalitas, dan Aktualitas Pancasila*. Gramedia, 2011.
- Mamudji, S. and S. Soekanto. *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. RajaGrafindo Persada, 2001.
- Marzuki, P. M. *Penelitian Hukum*. Kencana, 2011.
- Mietzner, M. *Money, Power, and Ideology: Political Parties in Post-Authoritarian Indonesia*. NUS Press, 2013.
- Shiddiqie, J. Asshiddiqie. *Pokok-Pokok Hukum Tata Negara Indonesia Pasca Reformasi*. Bhuana Ilmu Populer, 2007.
- Suseno, F. Magnis-Suseno. *Etika Politik: Prinsip-Prinsip Moral Dasar Kenegaraan Modern*. Gramedia, 1987.

Journal Article

- Aspinall, E. "Money politics and patronage in Indonesia's elections." *Journal of Democracy* 24, no. 4 (2013): 27–38.
- Harjanto, N. "Politik lokal dan demokratisasi di Indonesia." *Jurnal Ilmu Sosial dan Ilmu Politik* 15, no. 2 (2011): 131–148.
- Prasetyo, Y. "Besarnya syarat dukungan calon independen dalam pilkada: Auto kritik hukum terhadap demokrasi Indonesia." *Jurnal Konstitusi* 21, no. 2 (2024): 226–243. <https://doi.org/10.31078/jk2124>
- Rahman, R. A., I. Satriawan, & M. R. Diaz. "Calon tunggal pilkada: Krisis kepemimpinan dan ancaman bagi demokrasi." *Jurnal Konstitusi* 19, no. 1 (2022): 47–72.
- Rahmazani, R. "Problematisasi pengisian jabatan penjabat kepala daerah di masa transisi pra Pilkada 2024." *Jurnal Konstitusi* 20, no. 2 (2023): 196–215.