



Regional Elections 2020 and Former Graft Convicts

By

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Introduction

Several weeks ago, the KPU issued KPU Regulation Number 18 Year 2019 regarding the Second Amendment to the KPU Regulation Number 3 Year 2017 regarding Candidacy for Gubernatorial, Regency, and Mayoral elections. The regulation serves as a technical guide for election organizers who will carry out regional elections (Pilkada) for regional heads. The nearest regional elections will be held on 23 September 2020 and take place in 9 provinces, 224 regencies, and 37 cities.

Most surprisingly from the new KPU regulation was the absence of any restrictions for former graft convicts to run for office in the regional elections. To compensate for this absence, the new KPU regulation appeals to political parties to prioritize candidates that do not have a status as former graft convict. That rule is found in Article 3A, Clause 3 which states, "in selecting candidates for Governor and Vice Governor, Regents and Vice Regents, and/or Mayors and Vice Mayors in a democratic and transparent manner, as is stated in clause (2), those who are not former graft convicts are prioritized."

Political Parties' Commitment

Before the aforementioned legal product was officially issued, and when it was still a draft regulation, the KPU appeared enthusiastic about inserting such a rule. The KPU deliberated on the issue that if the restriction on former graft convicts to run for office in regional elections was maintained, the new regulation governing the issue of regional election candidacy could not be enacted as there was no higher law that actually stated such restrictions.



The Constitutional Court Ruling Number 56/PUU-XVII/2019 also stated that former graft convicts were allowed to run in regional elections five years after they had served their sentence. The former graft convict would then need to openly declare to the public about his/her corruption background as well as not be a repeat offender.

The graft case of former Regent Kudus Muhammad Tamzil is one of the reasons why the KPU previously wanted to maintain the restriction on former graft convicts from running for office in regional elections. Tamzil was caught red-handed in an operation by the KPU on 26 July 2019. Prior to that, Tamzil was involved in a graft case when he was the Kudus Regent during the period 2003-2009. In 2014, Tamzil was found guilty in a corruption case over the Kudus regency local budget. After he served his sentence and was freed in 2015, he again ran for office in the 2018 regional elections and was re-elected.

Meanwhile, political parties have also responded to the KPU Regulation Number 18 Year 2019. Gerindra's Secretary General Ahmad Muzani stated that although the KPU decided against restricting former graft convicts from running for office in the regional elections, Gerindra would endeavor to not submit them as candidates for regional heads. A similar position was declared by the PDI-P Secretary General Hasto Kristiyanto. The party bearing the bull emblem will not recommend any former graft convicts as candidates for regional heads. The same is the case with the NasDem party. The NasDem party's central board chairman in the field of media and public communications Charles Meikyansah stated that the party respected the KPU Regulation Number 18 Year 2019. However, the NasDem party would still refer to its internal party agreement to not put forward a former graft convict for the regional elections of 2020. Meanwhile the National Mandate party (PAN) did not explicitly reject the idea of former graft convicts as candidates. PAN's central board chairman Yandri Susanto stated his party will try to avoid putting forward former graft convicts for the regional elections. However, in cases where a region did not have a suitable candidate, it was not impossible for PAN to submit a former graft convict as a candidate. The commitment of the various of the various political parties should be appreciated by the public. However the public will not easily forget the deception of several political parties during the recent General Election. Approaching the General Election of 2019, political parties made promises that they would not put former graft convicts as legislative candidates. However, when the official list of candidates was announced by the KPU, it became known that 81 legislative candidates put forward by a number of political parties were in fact former graft convicts.





Political Corruption

It cannot be denied that over the past two decades, the existence of democracy in Indonesia is still marred by various bad acts by corrupt political elite, including regional heads. The electoral contest (both for regional and general elections) up til now is often marred by various corrupt crimes. A number of cases that have been handled by the Corruption Eradication Commission (KPK) are also connected with this electoral contest. Data shows that 2018 saw the highest number of regional heads caught during sting operations (20 regional heads). Meanwhile 2019 recorded 9 regional heads being caught during KPK sting operations.

In general, the gaps in the practice of political corruption in the legislative or presidential elections is not too different from those in regional elections. Robert Hodes defines political corruption as a form of abuse of power by political elites for personal gains with the goal of perpetuating power or increasing wealth. Political corruption can take many forms, criminal activities, and forbidden practices, before, during and after he/she is a public officer. Political corruption does not always take the form of exchanging money from one hand to another, but may take the form of “peddling influence” (Hodes: 2004).

Emerging victorious in a direct electoral contest is not an easy matter. A strong vision and mission as well as a good track record and appealing program is not enough to win in such contests. Without sufficient financial support, candidates with a good track record and promising work program become meaningless as described by Jacobson: “Money is not sufficient but it is necessary for successful campaign. Money is necessary because campaigns do have impact on election results and campaign cannot be run without it” (Jacobson: 1980).

At minimum, there are five steps that must be passed by every potential candidate both legislative and for regional heads meaning that a large purse-string is required. First, producing and installing public socialization aid (posters/billboards/pamphlets etc). This is necessary so that a candidate is more known by voters.

Second, a ‘candidate ticket’ from a political party. The regional elections law requires candidates for regional heads to be nominated by political parties that have a minimum of 20 percent of the total political seats at the local legislature at the provincial, regency, or city level in their respective regions. This opens the opportunity for political dowry transactions between potential candidates and political





parties that have seats at a local legislature in order to fulfill the aforementioned candidacy requirement. Third, campaign costs. 2019-2019 has become the most expensive period for electoral contests in Indonesia. 15 February to 13 July 2018 saw the campaign period for regional elections in 171 regions. Later, 23 September 2018 to 12 April 2019 saw the campaign period for the General and Presidential Elections. Surely, the needs was very high for the political parties and potential candidates that participated in the various electoral contests that took place.

Fourth, funding witnesses at the polling station. The honorarium for a witness is around Rp 200.000 per person in every polling station. As an example, the regional election in West Java province in 2018 had 79,954 polling stations so that each candidate governor-vice governor pairings needed almost Rp 15 billion to pay for witnesses.

Fifth, following any disputes at the Constitutional Court. If a candidate was involved in a disputed election count, he/she should be prepared to pay additional expenses for a lawyer and the court case. Having noted the above, how is political funding obtained (illegally)? At the very least, there are four funding posts and policies that are at risk of being misused.

First, issuing business permits. Regional heads often exploit their authority in order to buy/sell business permits. The alleged bribery case against Bekasi Regent Neneng Hasanah Yasin for managing the permits for the Meikarta construction project is one example.

Second, charitable grants and social assistance. The Minister of Internal Affairs Regulation Number 14 Year 2016 gives too much authority to regional heads in deciding the distribution of grants and social assistance.

Third, buying and selling of public positions. The position of head of department (kepala dinas) can be a strategic one in the local government environment. The practice of buying and selling head of department's positions often takes place in the run-up to a regional election such as took place by Jombang Regent Nyono Suharli and the acting head of department for health in Jombang regency in 2018.

Fourth, procurement of goods and services. Even though such procurement now take place transparently, corruption still takes place.





It must be acknowledged that the regional elections law and the general elections law is not yet capable of providing answers to the issue of the integrity of election participants. The regulation and sanction mechanisms of the two laws have not made any significant changes. The legal framework that is the basis for implementing regional and general elections is not yet capable of providing adequate guarantees of a democratic election that protects the essential rights of voters.

Political Ethics and Integrity

Taking into the above, the wishes and desire for power of former graft convicts to run for office in regional elections must be rejected. The stubborn stance of former graft convicts to compete again in regional elections is a type of political ethic neglect. The same can be said of political parties that give a space for former graft convicts to put themselves forward as candidates.

Even if there is no requirements in any legal products that restrict political parties from considering such political ethic, as one of the main pillars of democracy, political parties must stand at the front line in giving political education to the public that public offices in the executive and legislative branches of government must be held by figures that are ethical and have high integrity.





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