

## ABSTRACT

### THE SYSTEM OF DEMOCRATIC GENERAL ELECTION OF THE HEAD OF LOCAL GOVERNMENT

The title of this dissertation is "The System of Democratic General Election of The Head Of Local Government". In this dissertation, two legal issues are studied: (1) the system of indirect general election of the Head of local Government and (2) the system of direct general election of the Head of Local Government.

It is a normative study, by which it studies positive law and the general principles of law. This study employs statute approach, historical approach and conceptual approach. Legal materials used in this study are primary legal materials and secondary legal materials. The primary legal materials are analyzed through interpretation method, systematized through categorization and teleology. They are legally structured to create a legal theory.

From this research, it is found, historically, the former Act on Regional Government Indonesia has ever enacted adopted the system of indirect general election of the Head of Local Government. There are three patterns of such a system (1) appointment by the central government, (2) appointment base on nomination by Local Council; and (3) election by the Local Council. Whatever the pattern was, it was undemocratic since the the central government is dominant. The Local Council is too weak to the central government. As a matter of fact the Local Council is authorized to elect the Head of Local Administration but the elected candidate may be annulled and refused to inaugurate by the central government.

Law No.32 of 2004, however, stipulates that general election of the Head of Local Government shall be held by the people directly. Such a system, nevertheless, is not general election under the General Election Law. This law, consequently, does not apply to the general election of the Head of Local Government. The system of direct general election of the Head of Local Government prescribed in Law No. 32 of 2004 proves undemocratic.

If the general election of the Head of Local Government is held democratically pursuant to Article 18 paragraph (4) of the amended 1945 Constitution, it shall be conducted indirectly by the Local Council under the rules and transparent as well as accountable procedures. The central government, then just endorses. It is also possible that the general election of the Head of Local Administration is conducted directly by the people but it should be held under democratic parameter.

#### Keywords :

- Direct General Election,
- Head of Local Government,
- Indirect General Election.