



## Rawa Aopa Law Review

Vol 1 No 1 February 2026

ISSN: XXXX-XXXX (Print) ISSN: XXXX-XXXX (Electronic)

Open Access: <https://journal.rawaopakonsel.ac.id/ralr>

# Law Enforcement in Regional Head Elections: A Sociological Law Perspective in Indonesia's Democratic Consolidation

Fakhril Riadi Mursalin

Doctoral Program in Law, Faculty of Law, Hasanuddin University

### Article Info :

Received:  
22/11/2025  
Revised:  
25/11/2025  
Accepted:  
19/01/2026

### ABSTRACT

*Direct regional head elections (Pilkada) represent a significant innovation in Indonesia's local democratic consolidation process. However, the implementation of Pilkada faces various legal enforcement challenges that can be analyzed from a sociological law perspective. This study examined the law enforcement system in Pilkada, identified critical problems in its implementation, and analyzed success indicators from both procedural and substantive dimensions. The research employed a normative juridical approach with sociological analysis, examining Law No. 32 of 2004 and related regulations. The findings revealed three main problems: suboptimal performance of election supervisors and organizers, limited legal instruments, and weak competence of law enforcement institutions. From a sociological perspective, Pilkada as a social process is influenced by political participation patterns, electoral culture, and local social dynamics that often create pseudo-participation through vote buying and voter mobilization. The study concluded that quality Pilkada requires not only formal-procedural mechanisms but also substantive guarantees of civil liberties, fair competition, and accountable political leadership. Law enforcement in Pilkada must integrate legal, political, and sociocultural dimensions to avoid the trap of electoralism and realize substantive democracy at the local level.*

**Keywords:** *Regional head elections; law enforcement; sociology of law; democratic consolidation; electoral democracy; local governance*



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## **INTRODUCTION**

In the perspective of decentralization and procedural democracy, the direct regional head election system (Pilkada Langsung) represents a meaningful innovation in the democratic consolidation process at the local level. The implementation of direct Pilkada marks a significant departure from previous centralized recruitment models, offering broader participatory spaces for citizens in determining local political leadership compared to representative democracy systems that concentrate power in the hands of a few Regional Representative Council (DPRD) members.

Normatively, based on minimalist democracy standards, direct Pilkada offers several benefits and hopes for the growth, deepening, and expansion of local democracy. First, the direct democracy system through Pilkada opens wider participatory spaces for citizens in the democratic process and determining political leadership at the local level. Second, from the aspect of political competition, direct Pilkada enables the emergence of broader preferences of competing candidates and allows each candidate to compete in a more open space. Third, the direct election system provides opportunities for citizens to actualize their political rights better without being reduced by political elite interests. Fourth, direct Pilkada increases hope for obtaining aspirational, competent, and legitimate leadership figures. Fifth, regional heads elected through Pilkada have strong political legitimacy, thus building a balance of power (checks and balances) in the region between the regional head and DPRD.

However, all these ideals and hopes will not be realized without a joint commitment from all elements of the nation interested in the Pilkada process to comply with all laws and regulations related to Pilkada. Given that Pilkada as one of the democratization processes is an event that sociologically concerns the lives of many people in a territory, law with all its products cannot be separated from the sociological aspects behind it. Previous research has examined various aspects of Pilkada, including political participation patterns, electoral violations, and institutional roles in election supervision. However, there remains a gap in understanding how sociological factors interact with legal enforcement mechanisms in shaping the quality of Pilkada outcomes.

This study aims to analyze law enforcement in Pilkada from a sociology of law perspective, examining how legal norms interact with social realities in the implementation of regional elections. The novelty of this research lies in its integrated approach that combines normative legal analysis with sociological examination of political behavior, institutional performance, and social dynamics that influence the effectiveness of law enforcement in Pilkada. This research is important because quality law enforcement in Pilkada is fundamental to ensuring democratic consolidation at the local level and preventing the trap of pseudo-democracy that only fulfills formal procedures without substantive democratic values.

## **RESEARCH METHODS**

This study employed a normative juridical research approach combined with sociological analysis. The research examined laws and regulations related to Pilkada, particularly Law No. 32 of 2004, and analyzed their implementation in social reality. Data were collected through literature review of legal documents, regulations, academic articles, and previous empirical studies on Pilkada implementation in various regions of Indonesia.

The analytical method used was qualitative descriptive analysis, which examined the law enforcement system in Pilkada from both normative and sociological perspectives. The analysis focused on three main aspects: the legal framework and institutional mechanisms for law enforcement in Pilkada, the sociological factors influencing the effectiveness of law enforcement, and the indicators of successful Pilkada from substantive democratic perspectives. The study also employed critical analysis to identify gaps between normative provisions and social practices in Pilkada implementation.

## **RESULTS AND DISCUSSION**

## **Analysis of the Pilkada Law Enforcement System**

Democratic, honest, and fair elections (free and fair elections) can be achieved if there is a legal framework that regulates all electoral processes while protecting organizers, participants, candidates, voters, observers, and citizens generally from fear, intimidation, violence, bribery, fraud, and various other fraudulent practices that will affect election results. Therefore, honest and fair elections require election legislation and apparatus tasked with enforcing such regulations. These principles also apply to the implementation of Pilkada.

Ten instruments must be prepared to build a Pilkada law enforcement system: effective legal mechanisms and resolution, regulations regarding penalties for election violations, detailed and adequate provisions to protect voting rights, rights for voters and candidates to complain to election organizing bodies or judicial institutions, decisions from election organizing bodies or judicial institutions to prevent loss of victim voting rights, right to appeal, decisions as soon as possible, regulations regarding time needed to decide lawsuits, clarity regarding implications of election rule violations on election results, and processes and prosecutions that respect human rights.

Referring to provisions regulated in Law No. 32 of 2004, legal problems are almost the same as those regulated in general elections, consisting of four categories. First, Pilkada criminal acts, which are violations of provisions regulated in laws threatened with criminal sanctions, regulated in Articles 115 to 119. Second, Pilkada administrative violations, which are acts violating provisions of legislation not threatened with criminal sanctions, specifically violations of provisions, requirements, obligations, commands, and prohibitions. Third, Pilkada administrative disputes, where disputes occur due to decisions or actions of election organizers deemed detrimental to certain parties, namely citizens with voting and candidacy rights, nominating political parties, prospective regional head candidates, and regional head/deputy regional head candidates occurring in Pilkada stages. Fourth, election result disputes, which are disputes caused by election organizer decisions about election results deemed detrimental to certain parties, namely regional head and deputy regional head candidates, occurring at the Pilkada result determination stage, as regulated in Article 106 of Law No. 32 of 2004.

## **Problems in Pilkada Law Enforcement Implementation**

In implementing the current Pilkada law enforcement system, enforcement problems occur in three main areas. First, suboptimal work of Pilkada supervisors and organizers. Second, limited legal instruments. Third, weak competence of law enforcement institutions. Regarding limited legal instruments, the legal mechanisms used in Law provisions are very limited because they only relate to criminal violations and Pilkada result determination. In administrative violations, the Regional Election Commission (KPUD) as subject is heavily protected by law by stating that KPUD decisions are final and binding. There are no legal remedies available to assess whether decisions or actions taken by KPUD are appropriate according to regulatory provisions or not.

The administrative dispute mechanism framework needs restructuring by providing opportunities for aggrieved parties to submit objections at each Pilkada stage with clear, strict provisions and detailed time limits so that objection processes can be handled properly by targeted institutions without disrupting Pilkada stage implementation. Specifically, for determining the time frame for resolving Pilkada administrative dispute cases, at least three considerations must receive attention. First, there must be time for parties who may feel aggrieved by election organizer decisions to know and understand decision materials so they can decide to submit objections or not. Second, the process of resolving Pilkada administrative dispute cases handled by election organizers at higher levels must be shorter compared to cases that must be resolved by Pilkada judges in judicial institutions. Third, Pilkada dispute cases at one stage must be resolved before the next stage begins.

Furthermore, institutions handling election objections include the Election Commission (KPU/KPUD), High Courts (ad-hoc election judges at High Courts), and the Supreme Court (ad-hoc

election judges at Supreme Court). Regarding weak competence of law enforcement institutions, integration is needed in the criminal justice system handling Pilkada criminal cases. All components in this system, besides mastering general legal knowledge and skills, must master Pilkada law and processes. Components working in the special criminal justice system for handling Pilkada criminal acts are police (specifically teams handling election criminal acts), prosecutors (specifically prosecutor teams handling election criminal acts), and courts (specifically judges on special teams handling election criminal acts).

### **Pilkada as a Social Process: Sociological Perspective**

Although normatively direct Pilkada leaves several hopes, at the same time it also has opportunities to fall into the trap of electoralism. Therefore, one key factor determining success in obtaining benefits from the direct Pilkada system is the ability to avoid electoral democracy traps. This is important because for approximately the past four years, the electoral democracy concept, which emphasizes competitive struggle in obtaining people's votes, has been a very popular concept. Electoral democracy principles are not only believed in the academic world but have become the main reference in political practice and government in Indonesia.

Excessive emphasis on electoralism causes several consequences. First, democracy seems finished for discussion when election systems guaranteeing participation and political competition formally are already built. Many parties are already satisfied when direct election systems for President, Governor, and Regent/Mayor are successfully formulated in policy reform agendas. However, direct election systems will mean nothing for democracy if the system becomes a mask or is even hijacked by anti-democratic forces. Second, electoral democracy concepts risk causing what Terry Karl calls "electoral fallacy." This electoral fallacy occurs when the concept privileges elections above other dimensions and ignores possibilities that multi-party elections can create in excluding certain community rights to compete for power or increase and defend their interests, or create important policymaking arenas outside the control of elected officials.

Third, surging optimism from electoral democracy concepts in creating certainties makes this concept ignore factors outside election and political party dimensions, such as political culture and democratic legitimacy. Political culture concerns patterns of beliefs, values, ideas, sentiments, and attitudes of a society about their country's political system and the role of each individual in that system. Fourth, electoral democracy tends to be formalist and procedural, thus failing to explain the emergence of pseudo participation and competition forms. There may appear to be mass participation expansion, but participation occurring is more in the framework of mobilization. Similarly, with political competition, formally according to electoral democracy criteria, multi-party elections have been conducted freely and regularly, but substantially that competition is conducted in completely different cultural manifestations.

### **Critical Issues in Pilkada Political Participation**

Citizen participation in Pilkada contributes to developing democracy quality if participants have critical awareness in using their rights. There are several important points in this political participation issue. First, the possibility of low political participation levels in direct Pilkada. This low indication can at least be based on data from legislative election results in April 2004 and the first and second rounds of presidential elections. Statistical data show that voter participation in the 2004 election only reached 84.07% of a total of 148 million registered voters, while invalid votes reached 8.81% of a total of 124.42 million voters who voted. Of the 34.5 million who did not exercise voting rights, 23.5 million did not come to polling stations.

Second, the possibility of returning pseudo participation patterns in direct Pilkada through voter mobilization instruments and vote buying. Both can mutually strengthen each other, with the emergence of phantom voters very close to using money in obtaining support. The mobilization

modus in direct Pilkada will at least be similar to methods used in the first round of presidential elections, where candidates mobilize masses from outside regions to areas where Pilkada takes place. Voter mobilization opportunities become strong amid historical weaknesses of population administration systems that are easily bribed, thus facilitating someone or groups of people to obtain duplicate identity cards.

Third, the possibility of discrimination against voters based on ethnicity. The importance of demographic composition factors based on ethnicity in political calculations of each candidate competing in direct Pilkada results in systematic efforts to sort voters. Such discrimination can occur when certain ethnic groups are systematically prevented from using their voting rights or when campaigns use ethnic sentiment to mobilize support. This phenomenon shows how sociological factors such as ethnicity, kinship, and religion can be exploited in Pilkada, creating divisions rather than strengthening democratic unity.

### **Institutional Credibility and Independence Issues**

Direct Pilkada cannot run with quality when election organizing institutions are not competent and credible. These two things are often questioned when Article 37 of Law No. 32 of 2004 states that regional head and deputy regional head elections are organized by KPUD responsible to DPRD. This is reaffirmed in Article 67 paragraph (1) point c stating KPUD is obliged to submit reports to DPRD for each election implementation stage and convey information about its activities to the community, or point e in the same article where KPUD is obliged to account for budget use to DPRD.

Direct Pilkada implementation accountability by KPUD to DPRD certainly raises controversy when Law No. 12 of 2003 clearly positions KPU as a national, permanent, and independent institution. When Law No. 32 of 2004 places KPUD under and responsible to DPRD, problems will certainly arise from its independence side. KPUD will be very easily intervened or worked on by dominant political forces controlling DPRD. Besides that, there are several articles in Law No. 32 of 2004 that also curtail KPUD authority as direct Pilkada organizer, such as Article 82 paragraph (2) where DPRD has authority to provide cancellation sanctions as candidates if conducting money politics.

The second problem is supervisory committee credibility and competence. Learning from legislative election and presidential election experiences, supervisory institution existence often cannot run maximally. This supervision function not being maximal is partly because supervisory institutions cannot become independent institutions. Opportunities toward reduced supervisory institution independence become greater when Law No. 32 of 2004 states that supervisory committees are formed by and responsible to DPRD and are obliged to submit their reports. The third problem is bureaucracy-regional government neutrality, which becomes a crucial issue when in several places indications have emerged that bureaucratic apparatus are utilized and mobilized to support candidates wanting to nominate themselves again.

The fourth problem concerns Pilkada financing. Issues around financing relate to KPUD credibility and capacity in organizing Pilkada. Several issues related to Pilkada financing include budget limitations when gaps occur between budget needs proposed by KPUD and realization approved by DPRD, politicization of Pilkada financing where bargaining positions held by dominant political forces or regional heads wanting to nominate themselves are very large in determining budgets and that position can be utilized for political interests, and problems of transparency and accountability in budget management by KPUD.

### **Success Indicators for Quality Pilkada**

Learning from weaknesses and criticisms of electoral democracy, measures of direct Pilkada quality should not be placed solely on formal-procedural measures but much deeper on qualitative and substantive measures. Therefore, the first indicator of Pilkada success is that Pilkada should provide

freedom space for citizens in expressing basic rights. Second, Pilkada takes place through fair competition. Third, Pilkada should create quality political leadership with high accountability.

In realizing quality Pilkada, these three indicators should be actualized in every stage of Pilkada implementation, from voter registration stage to regional head and deputy regional head inauguration. Finally, to achieve more substantive democracy based on the above indicators, how to see direct Pilkada success must be placed on the extent of achievement from process and result sides. In the process dimension, direct Pilkada should be read as a means to deepen and expand Indonesia's democratic consolidation process qualitatively. Meanwhile, in the result dimension, direct Pilkada should be placed as an instrument to obtain more accountable and responsive political leadership in delivering better public services and common welfare for citizen-communities in regions.

From a civil liberties dimension, two things can become crucial problems. First, the emergence of voter fear to use voting rights because of using violent methods, thuggery, physical intimidation, and terror. Second, the emergence of voter fear to use voting rights due to strengthening use of anti-pluralism discourse where people fear choosing different choices. This anti-pluralism discourse is based, for example, on native-migrant issues, kinship, and religion. Third, there are limitations on citizen voter freedom in obtaining information about competing candidates, or even the emergence of information manipulation in the form of image politics without space for voters to know regional head candidate track records.

### **Accountable Leadership and Participatory Democracy**

The democratic process at the local level does not stop at the election of regional heads and deputy regional heads but must be broader and deeper, including whether political-governmental leadership elected through Pilkada can be oriented to the needs and interests of many people. Direct Pilkada can be considered failed if political-governmental leadership built represents the interests of a few ruling political elites (oligarchic). Therefore, direct Pilkada, which enables citizens to directly elect their leaders, must be followed by expansion of voice, access, and community control to participate participatively in policy processes. Because through that participatory democracy model, citizen-communities will have opportunities to balance representative and trustee democracy models.

### **CONCLUSION**

The path toward more substantive and quality democracy is not an easy path but is full of traps, sharp turns, and may also go in circles. Quality Pilkada depends not only on organizers but also on supervisors, players, and voter-communities. Therefore, political progress achieved to reach the direct Pilkada system must be balanced with hard work to ensure democratic principles truly have, are, and will work. Without working democratic principles, Pilkada is the same as wasting money for something meaningless.

From a sociology of law perspective, law enforcement in Pilkada cannot be separated from social, political, and cultural contexts that shape its implementation. The success of Pilkada as a democratic instrument requires not only strong legal frameworks and competent institutions but also critical political awareness from citizens, fair competition culture, and commitment from all stakeholders to uphold democratic values substantively. Future research should examine empirical implementation of law enforcement mechanisms in specific Pilkada cases and develop more comprehensive models for measuring substantive democratic quality at the local level.

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