

**No. 137**

**INDONESIA'S DIRECT LOCAL ELECTIONS:  
Background and Institutional Framework**

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**30 August 2007**

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## ABSTRACT

In June 2005, Indonesians held their first-ever direct gubernatorial, mayoral or regent elections across the country. Despite the historical meaning of such elections, experiences of holding direct local elections over the last two years suggest that systemic issues related to the elections' institutional framework have tarnished the electoral processes and outcomes in many cases. This essay examines Indonesia's historical background of decentralization and institutional framework for direct local elections. This essay also argues that the ultimate problem with Indonesia's direct local elections lies in its attempt to implement political decentralization, voluntarily or reluctantly, as a way of consolidating the country's new democracy at local levels. Indonesians have always responded to the idea of decentralization in an ambivalent way, which has in turn affected the path of decentralization that their political leaders have taken amid sweeping political change. While the resultant institutional arrangements for decentralization have indeed made local politics and governance more dynamic, they have not yet made local political process more responsive and participatory.

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# **INDONESIA'S DIRECT LOCAL ELECTIONS**

## **Background and Institutional Framework**

### **Introduction**

After nine years of political change, Indonesia is now the third largest democracy in the world. The Indonesian people have successfully held two democratic general elections and their first-ever direct presidential election. The Indonesian government has also implemented an extensive decentralization scheme since 2001. A wide range of administrative, fiscal and political power have descended to district-level government units. The country took another significant step for political decentralization in June 2005, when tens of millions of Indonesians held their first-ever direct gubernatorial, mayoral or regent elections across the country. To date, 13 provinces and more than 250 districts and municipalities have held direct local executive elections.

Despite the historical meaning of these elections, experiences of holding direct local elections over the last two years suggest that systemic issues related to the elections' institutional framework have tarnished the electoral processes and outcomes in many cases. Even before holding the first round of elections, there were already widespread concerns over the capacity of the local election commissions in staging and governing elections without assistance and monitoring of their mother organization in Jakarta. Given the ambiguity of the related law and regulations, there were also worries about the possible intervention in the electoral processes by the central government or local assemblies.

Such concerns and worries have turned out to be legitimate, and many elections, including the 'success stories', have proved that the institutional framework governing Indonesia's first direct local elections is defective. In response to increasing discontent with the electoral system for direct local elections, the national assembly has discussed the possibility of holding direct local elections simultaneously nationwide under the charge of the national election commission. Such a move can be expected to improve the governance of direct local elections but it is yet unclear when and what kind of system will replace the current one.

Hence, both to understand Indonesia's recent political developments and to anticipate the impact of the possible electoral reform, it is necessary to grasp the process and outcomes of recent direct local elections. To do so requires us to familiarize with the rules of the game,

which in turn necessitates understanding the backgrounds of electoral reform for local government heads.

In this essay, I analyse the context, content and consequences of the institutions governing Indonesia's first-ever direct local executive elections. My premise is that the rules of the political game have a powerful, if not determinant, bearing on the outcomes of policy implementation. I argue that the rules matter as far as they give key players space for interpretation and manipulation, while constraints emanating from other players, like civil society, are typically limited. Although I pay close attention to the relationship between institutions and outcomes of decentralization, I also think that key players and their interests ultimately shape the dynamics of decentralization on the ground.

My analysis is organized in three sections. In the first section, I discuss Indonesia's new experiments with direct local elections in a broad context of the country's ongoing political change and decentralization. In the second section, I briefly review the historical background of the idea of decentralization in Indonesia and the path of decentralization that the country has taken since the fall of the New Order regime. I especially examine the process by which direct elections of local government heads were adopted. In the final section, I analyse the electoral system and the formal institutions governing direct elections of local government heads. I particularly focus on the new law on regional administration (Law No. 32 of 2004) and its supplementary regulations that have direct and indirect effect on local electoral and party politics.

My claims in this essay are twofold. First, rules and mechanisms matter as far as they influence the conduct and outcomes of elections. Second, Indonesia's national party leaders crafted the institutional framework of direct local elections and it is thus not surprising to observe that the process and outcomes of these elections reflect the political and economic interests of major parties, particularly their central boards. Overall, I argue that the ultimate problem with Indonesia's direct local elections lies in its attempt to implement political decentralization, voluntarily or reluctantly, as a way of consolidating the country's new democracy at local levels. Indonesians have always responded to the idea of decentralization in an ambivalent way, which has in turn affected the path of decentralization that their political leaders have taken amid sweeping political change. While the resultant institutional arrangements for decentralization have indeed made local governance and politics far more vibrant, they have not yet made local political process more responsive and participatory.

## **Political Change and Decentralization**

The adoption of direct local executive elections is the latest step that the Indonesian government took in the country's ongoing process of political and administrative reform. As in many other late-democratising societies, Indonesia's political leaders have also crafted and implemented administrative and political decentralization as a way of consolidating their new democracy at local levels. Therefore, to examine the country's direct local executive elections requires us to grasp political change and decentralization in general terms, which is the aim of this section. Drawing on both international and Indonesia's recent experiences, I argue that practical outcomes of implementing political reform, such as holding direct local elections, are frequently different from what the political reform is meant to achieve mostly due to the interpretation and manipulation of agents, national and local.

Around the world, many central governments have been decentralizing their administrative, fiscal and political responsibilities to lower-level government units. Under the circumstance of political change, various forms of political decentralization have acquired greater significance compared to administrative or fiscal decentralization.<sup>1</sup> The rationale for decentralization varies across different social, economic and political settings. To many, decentralization promises to remedy the problems of an unresponsive central government by allowing more direct participation at local levels. A common assumption is that decentralization allows greater popular participation in public decision-making and undoubtedly enhances efficiency, responsiveness and accountability of the local government.

However, the outcomes of decentralization often turn out to be very different from those originally intended. To be certain, there is no standard model or path for successful decentralization. Nonetheless, there are at least two factors that generally affect the process and outcomes of decentralization. On the one hand, rules and enforcement mechanisms determine, if only partially, the actual implementation of decentralization. It is therefore important to examine "how the process of decentralization is structured and what the institutional framework looks like" (Lutz & Linder, 2002: 2). With regard to the institutional framework for decentralization, another significant question is related to the sustainability of decentralization reforms. The experiences of many countries have confirmed that central governments tend to retain control, even in the context of decentralization initiatives. If many

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<sup>1</sup> Political decentralization is different from the transfer of administrative authority to local units of governance. Administrative decentralization, or de-concentration, refers to the transfer of power from the central government to lower-level authorities that are upwardly accountable to the central government. In contrast, political decentralization refers to the transfer of authority to actors or institutions that are accountable to the population under their jurisdiction.

powers are re-allocated via governmental regulations or ministerial decrees, for instance, those changes do not represent originally legislated reforms. As I shall show in the following section, Indonesia's decentralization, though ambitious and enthusiastic, has also been challenged by national agencies' reluctance to share power and authority with their local counterparts.

On the other hand, at local levels of governance, the outcomes of decentralization hinge heavily on how local actors (with varying interests and capacities) shape and respond to new opportunities. For this reason, the dynamics of decentralization only become more complicated when decentralization measures are adopted as a way of consolidating a new democracy. As Hans Antlöv points out, one of the main aims of decentralization is to deepen democracy "by bringing decision-making closer to the people and producing more 'rooted' public policies" (Antlöv, 2003: 84). Typically, elections are considered to be the mechanism that ensures downward, rather than upward, accountability in political decentralization. However, there is no inherent relation between political decentralization and democracy. Although political decentralization can enhance the responsiveness, accountability and transparency of local governments, both international and Indonesia's own recent experience warn us against unqualified optimism. Assessing the actual effects of political decentralization requires evidence and explanation going beyond the simplistic assumptions about the positive impact of formally democratic institutions and processes.<sup>2</sup> Whether, how, and with what consequences political decentralization affects local political institutions and governance in Indonesia is an open question and can be answered only by empirical analysis.

I limit the aim of this essay to examining how the institutional framework—the rules of the game, enforcement mechanisms, etc.—has shaped new opportunities in the arena of direct local executive elections (for an empirical analysis of how local players have actually responded to these new opportunities, see Choi, 2007). Let us now turn from the broad considerations about political change combined with decentralization back to the central thesis of this essay and consider the particular path of decentralization that Indonesia has taken since its independence.

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<sup>2</sup> The experiences of many countries that have undergone political change and decentralization simultaneously tell us, however, that the positive impact of devolving power to local authorities in the process of political reform will only be felt if the decentralized power is exercised democratically (Crook & Manor, 1995; Kerkvliet & Mojares, 1991; Trocki, 1998; Arghiros, 2001; Swianiewicz, 2001). For instance, reforms in Thailand and the Philippines have revealed that competitive elections for local officials do not in themselves ensure that the devolved authority would be operated democratically (Kerkvliet, 1996; Sidel, 1999; McVey, 2000).

## **The Indonesian Path of Decentralization**

Decentralization occurs in diverse political, economic and social settings that affect the aim, substance, conduct and outcomes of decentralization measures. It is thus very important to understand the circumstances under which decisions or policies regarding decentralization are made and implemented.

Right after the fall of the highly centralized authoritarian New Order regime, Indonesia's political leaders adopted, voluntarily or reluctantly, an extensive decentralization scheme as a way of consolidating its new democracy. However, the country's experience of the last six years confirms that the process and outcomes of decentralization ultimately hinge on the political and economic interests as well as capacities of those who design and carry out the reforms, on the one hand, and the interpretation and manipulation of local players, on the other.

In this section, I investigate the historical background of the idea of decentralization in Indonesia, and the content and effects of the implementation of regional autonomy outlined by Law No. 22 and No. 25 of 1999. After a brief historical review, I provide the backdrop for the adoption of a direct election system for local government heads by examining the path of decentralization that Indonesia has taken since May 1998. I show that, while the 1999 regional autonomy scheme certainly breathed dynamism into Indonesia's local politics, it was also accompanied by the prevailing of undemocratic practices, such as "vote-selling" by local assembly members in indirect local elections. Finally, I examine the birth of new regional autonomy laws, at the centre of which is Law No. 32 of 2004 on regional administration, as one of the efforts of national leaders to put back together the unintended effects of the implementation of the previous regional autonomy laws.

### ***Historical background***

Historically, the idea of decentralization has been at the top of Indonesia's political agenda since its independence. Law No. 1 of 1957 was designed to increase the power of elected legislative assemblies in the provinces, districts and municipalities, and provided for the gradual elimination of the authority of the traditional aristocratic-bureaucratic class (*pamong pradja*) (Feith, 1962: 552). According to this law, the regents or mayors (*bupati* or *walikota*) and governors—the executive heads in the district and provincial levels of governance—would be elected and, thus, be held by party politicians and no longer by the civil service corps (Amal, 1994: 215).

However, this devolution of power did not take place largely due to the regional rebellions in the late 1950s, which eventually paved the way for the development of a highly centralized government. In early 1959, Soekarno initiated moves to concentrate executive powers in the hands of the president and issued a decree dissolving the Constituent Assembly and reintroducing the 1945 Constitution on 5 July 1959. The decree also revoked the provisions of Law No. 1 of 1957, allowing for the election of governors, who now were to be again appointed by the central government (Kahin, 1994: 207–208; Amal, 1994).

The New Order regime, which succeeded in exerting political pressure at all levels of society through its hierarchical administrative system and the military's territorial structure, also applied some limited decentralization measures. Law No. 5 of 1974, the foundation of the New Order's regional government system, designated local legislative assemblies as a part of the provincial and district local government system. A local assembly, therefore, was chaired by a person elected from their own members, but indirectly under the supervision of the formally elected governor, regent or mayor.

The central government dominated most local affairs, from the nomination of local government heads to the budget, favouring the government bureaucracy in its power relations with local assemblies (Astuti, 1994: 149). As a result, as administrative and fiscal centralization escalated, there was a growing resistance in several regions outside Java to the consequent inefficiency stifling regional economic development. Meanwhile, some elements in the central government began considering the need for some degree of decentralization (Kahin, 1994: 211; Aini, 2002: 129–136). The New Order regime's collapse in May 1998 transformed not only the country's political system<sup>3</sup> but also the central and local government relations.

### ***Institutional rearrangements and local dynamics***

B.J. Habibie's interregnum government surprised both domestic and international observers by adopting some basic, but significant, political reforms despite a high degree of continuity of personnel from the Soeharto era. These included reforms contained in the regional autonomy laws (Laws No. 22 and 25 of 1999), which some hailed as a "governance revolution", devolving authority over all fields except foreign affairs, defence and security, justice, monetary and fiscal policy, religion and a number of broad economic areas (Betts, 2003).

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<sup>3</sup> Whether the regime change brought about a new leadership and a new power configuration, nationally and/or at the local level, is still under debate. See, for example, Robison and Hadiz (2004), pp. 164–183.

Law No. 22 of 1999 on Local Governance transferred functions, personnel and assets from the central government to provincial as well as district and municipal governments.<sup>4</sup> Law No. 25 of 1999 on Fiscal Balance between the Centre and the Regions aimed to empower and raise local economic capacities. While provincial governments had a dual status as autonomous regions and also as representatives of the central government, decentralization was focused on the district and municipal levels. It assigned most functions to the district level, including the devolution of expenditure responsibilities, public works, health, education and culture, agriculture, communications, industry and trade, capital investment, environment, land, cooperative, and manpower affairs.

The 1999 regional autonomy laws particularly enhanced the position of the local assemblies (Dewan Perwakilan Rakyat Daerah, DPRD) by giving them power to elect and hold local government heads accountable, to initiate and promulgate statutes and regulations, and to approve budgets (Rasyid, 2003: 64). This transfer of power marked the end of the central government's right to intervene in appointing local officials, allowing local assemblies to gain substantive responsibility for electing and dismissing local government heads.<sup>5</sup> Local assemblies were now able to operate independent of checks. With the revitalized multi-party parliamentary politics and the substantially expanded power of the local assemblies as a result of decentralization, party representatives in local assemblies have emerged as the new local power-holders.

However significant, the implementation of regional autonomy laws created some problems of its own. Three points are worth addressing here. The first set of problems concerns budget. Decentralization in budgetary matters is largely limited to expenditure, with no new revenue-raising power transferred to local governments. Local governments responded by seeking out new sources of revenue through increasing local taxes and levies.<sup>6</sup> This, in turn, generated growing concerns among business groups and civil society

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<sup>4</sup> Districts (*kabupaten*) and municipalities (*kotamadya*) are technically on the same level of government but distinguished on the basis of whether the administration is located in a rural area (district) or an urban area (municipality). Both administrative territories are divided into sub-districts (*kecamatan*), which are further divided into villages (*desa* in rural areas and *kelurahan* in urban areas).

<sup>5</sup> Under the New Order regime, the local assemblies usually proposed three candidates for the position of head of local government, with the final selection from the three lying in the hands of the central government. The President decided who would become governors, while the Minister of Home Affairs selected the regents and mayors. Neither the President nor the Minister was bound to select candidates who got the most votes in the local assemblies. In some cases, the successful candidates were those with the least support at the local levels (Rasyid, 2003: 64–65).

<sup>6</sup> This step had been based on Law No. 18 of 1997, which was revised later as Law No. 34 of 2000 concerning Local Taxes and Levies. Andi Mallarangeng, an expert on Indonesia's decentralization programmes, criticized that, without a stable tax base, district and municipal governments had to "make do with a budget subsidy determined by Jakarta plus whatever minor levies they could scrape up" (quoted in Betts, 2003).

organizations, which charge that the increased enthusiasm of local governments to raise revenue diverts them from the main aim of decentralization. The introduction of new taxes and levies is associated with such old practices as corruption and favouritism in local political institutions.<sup>7</sup>

A second source of problems can be attributed to the central government's inconsistency when it revoked several powers originally granted to the regions and the ambiguity concerning authority relations. A prime example of the former was the revocation of local responsibility for land management.<sup>8</sup> The central government also had to clarify ambiguity regarding the transition of power and authority relations (Ahmad & Hofman, 2000: 6–7; Usman, 2002: 5–6; Rasyid, 2003: 67). For example, the central government issued a regulation concerning “Supervision and Control of the Performance of Local Governments”<sup>9</sup> after the implementation process revealed conflicts arising from ambivalence regarding the division of power between provincial and district or municipal administrations.

With respect to authority relations, the 1999 regional autonomy scheme muddled the position of the provinces in relation to the districts and municipalities. Specifically, it confined provinces to the role of mediating disputes between districts and municipalities, facilitating cross-district or municipal development, and representing the central government within the region. For their part, many district and municipal governments tended to see themselves as subordinate to the central government rather than to the provincial government. Increasingly, provincial and district or municipal levels of governance tended to ignore each other.<sup>10</sup> In fact, although the focus of autonomy was the district-level government units, the autonomous power of district or municipality was formally limited. Not only was the devolution of functions selectively based on regional “preparedness”, but also the criteria for assessing preparedness were far from clear. In response, many district and municipal governments were reported to “have promulgated their own regulations, based largely on

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<sup>7</sup> According to a survey, by 21 November 2005, 30 provinces and 370 districts and municipalities had issued 13,520 local regulations on taxes and levies (*Kompas*, 20 March 2006).

<sup>8</sup> Presidential Regulation No. 10 of 2001.

<sup>9</sup> Governmental Regulation No. 20 of 2001.

<sup>10</sup> From this viewpoint, Widjajanti I. Suharyo pointed out that the inter-governmental arrangements in the division of authority and functions were too vague and oversimplified in Laws No. 22 and No. 25 (Suharyo, 2002: 13). Following this line of reasoning, Syamsuddin Haris recommended that the position and functions of the new Regional Representative Assembly (Dewan Perwakilan Daerah, DPD) should be strengthened as a bridging institution between the central and local governments (Haris, 2004 & 2005).

local interests or concerns rather than on national law or the broader public interest” (Rasyid, 2003: 67).<sup>11</sup>

A third and most important set of problems centred on the substantially expanded power of the local assemblies in local politics. Although there have been some encouraging signs that “local assemblies are operating in a more accountable and more democratic fashion than ever before”, a number of “money politics” cases, in which local assembly members have been frequently involved, have required special investigations into the actual changing patterns of practices in local politics (Imawan, 2002). The position of local executive officials became weakened in relation to local assemblies and, in some instances, local assemblies rejected the responsibility reports submitted by governors, regents or mayors at the end of each fiscal year, which sometimes led to their dismissal. The strengthened local assemblies were supposed to revive and institutionalize responsive and efficient democratic institutions in the regions. In practice, however, under the changed power relationship, it was now local executive officials who had to use bribery or financial rewards as “the only effective means of maintaining power” (Mietzner, 2003: 245).

Alongside this, the new role of local assemblies in electing and requiring accountability from the local government heads also raised questions about whether the elections indeed benefited the majority of ordinary Indonesian people. From the outset, local assemblies’ choices were accompanied by allegations that local government leaders could win elections by buying votes from local assembly members and that many local government heads, no matter how they were elected, could secure their positions by bribing local assembly members (Rasyid, 2003: 66; Isra, 2005: 22). In many elections, local assemblies “inexplicably” elected unexpected or controversial figures as governors, regents or mayors. Assembly members frequently disregarded their own parties’ candidates and vote for rivals who had mostly won their support through bribery (Fealy, 2001: 102).

This frequent vote selling by local assembly members led to growing disillusionment and cynicism about political change and decentralization among the local populations. Accordingly, both international organizations and civil society activists began calling for a direct election system that they believed would make directly elected officials more responsive to local public interests (The Asia Foundation, 2002; Konrad-Adenauer-Stiftung & ADEKSI, 2003). Domestic and international critics alike voiced their concerns over the

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<sup>11</sup> According to a research conducted by the Regional Autonomy Watch (Komite Pemantauan Pelaksanaan Otonomi Daerah) in 2005, only 311 out of 1,025 local regulations were adjudged right, and the other 714 local regulations were assessed to be problematic due to ambiguities in matters like time, cost, procedure, structure or tariffs (*Kompas*, 20 March 2006).

continuous, or even growing, distance between (indirectly) elected local officials and their constituencies.

### ***Transition to a direct electoral system***

A growing number of allegations of vote selling by local assembly members in local executive elections rationalized the transition from indirect to direct elections of local government heads. Additionally, there was pressure from international development organizations that promoted direct elections of local government heads as a crucial way of improving and strengthening local governance. Party leaders of major parties initially appeared intent on maintaining the indirect electoral system, which allowed only party representatives in local assemblies to vote. But they had to adopt the proposal for a direct election system to achieve consistency with the four amendment packages of the 1945 Constitution made during 1999–2002.

In late 2002, the People's Consultative Assembly (Majelis Permusyawaratan Rakyat, MPR) revised the laws on political parties, general elections, and the structure and composition of the national (DPR, DPD and MPR) and local assemblies (DPRD). In the revised election law, the national assembly adopted a direct election system for government heads at all levels of governance—from the president to mayors and regents. In 2004, according to a new law on presidential election legislated in July 2003, the first direct presidential election was held in July and the run-off in September.<sup>12</sup> In September 2004, with direct local elections scheduled to begin in less than a year (June 2005), the national assembly rushed to revise the two regional autonomy laws and legislated Law No. 32 of 2004 on Regional Administration and Law No. 33 of 2004 on Fiscal Balance between the Centre and the Regions. The new laws came into effect in October 2004.

Law No. 32 of 2004 is designated to provide general guidelines for regional administration and division of governmental affairs. However, the law is controversial and has invoked much protest. It is quite ambiguous and confusing, opening itself to different interpretations and thus necessitated supplementary explanations and regulations. For example, the law stipulates that regulations on its implementation should be stipulated within two years after the enactment of the law (Article 238). One of such regulations is

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<sup>12</sup> To be elected in a presidential election, a team of candidates has to win an absolute majority of votes in the nation as a whole (50 per cent plus one) and 20 per cent or more in at least half the provinces. If no team meets the criteria, a second round of popular balloting is to be held between the top two pairs of candidates.

Governmental Regulation (Peraturan Pemerintah, PP) No. 6 of 2005 on the Election, Validation and Dismissal of Local Government Heads.

Even before its legislation, the law was already criticized and protested for its nuance of re-centralization. Critics argue that it regulates power sharing between Jakarta and the regions rather than regional autonomy *per se*, pointing out that it allows the central government to control some strategically important sectors, including development policies, of local government units (Sijabat, 2005; Haris, 2005; CETRO, 2004; LIPI, 2005). Some critics also point out that the new law on regional administration is contradictory in that, despite stronger legitimacy, directly elected local government heads have limited powers compared to those under Law No. 22 of 1999 (Haris, 2005: 17).<sup>13</sup> In short, Law No. 32 of 2004, besides being ambiguous and confusing, signals re-centralization. In this essay, I discuss the law in relation only to direct local executive elections.

### **Direct Local Elections: Rules on the Paper and Twists in Practice**

To understand the process and outcomes of Indonesia's first direct elections of local government heads requires an appreciation of the formal institutions and electoral framework governing such elections. Although the outcomes of elections ultimately hinge on how local actors respond to new opportunities, rules and enforcement mechanisms still matter as far as they shape the arena for the electoral contest. In fact, as this paper will show, the electoral system of Indonesia's direct local executive elections is quite problematic, with many ambiguous and confusing stipulations in the law and its supplementary regulations, and a lot of controversies over systemic issues.

Law No. 32 of 2004—specifically, Articles 56 to 119—provides the basic framework of direct local executive elections (*pemilihan kepala daerah, pilkada*). There are at least five issues that are essential to understanding the electoral system of *pilkada*. First, direct local executive elections are not categorized as, or at least differentiated from, general elections. As a consequence, it is each local branch of the Election Commission (Komisi Pemilihan

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<sup>13</sup> For example, Law No. 32 of 2004 authorizes the central government to rescind local regulations that violate the Constitution or higher laws (Article 145). Syamsuddin Haris actually warned that the effort of the central government to restrain local governments through the mechanism of surveillance could threaten the continuity of democratization and regional autonomy (Haris, 2005, 20). New regional autonomy laws aside, the central government's effort to coordinate, if not control, local governments and assemblies can be seen in its new governmental regulations as well as its direct contact with officials from the district and municipal level. In early 2006, for instance, the Yudhoyono government held meetings with local government heads and local assembly members from 33 provinces and 440 districts and municipalities, divided into three regional regions (East, Central and West). In previous years, the central government held half-yearly meetings only with governors.

Umum Daerah, KPUD) that is designated to organize and stage elections. Unlike in the general and presidential elections, KPUD does not receive any centrally coordinated assistance and monitoring from its parent organization, the Election Commission (Komisi Pemilihan Umum, KPU). This stipulation raised questions about the preparedness of KPUD in most regions. The law also stipulates that each KPUD has to be accountable to its respective local assembly (DPRD). This stipulation aroused concerns about the fairness and impartiality of the elections. Later, the Constitutional Court ruled that KPUD should be accountable to the public, not to local assemblies. Nonetheless, each KPUD still has to be accountable to its respective local assembly for the use of the budget for election, which is decided and monitored by the local assembly.<sup>14</sup>

A second issue regarding the electoral system of direct local executive elections is apparently designed to strengthen the oligarchy of political parties.<sup>15</sup> Only political parties or party coalitions seizing at least 15 per cent of seats in local assemblies or having acquired at least 15 per cent of the valid vote in the parliamentary elections are eligible to nominate candidates for governors, mayors or regents (Article 59). The idea of allowing independent candidates to run for local government heads, suggested by the Ministry of Home Affairs and supported by diverse civil society organizations, was dropped during a discussion at the DPR.<sup>16</sup> Therefore, the law credited political parties as a major mechanism for recruiting political leaders and officials.

It looks ironic now that political parties no longer seem to be an important element in most Indonesians' voting behaviour, especially in direct local executive elections. According to a survey conducted by *Kompas*, one of Indonesia's leading national dailies, for example, more than a quarter of the respondents (28 per cent) chose political parties as a factor that they would consider in casting their votes in the coming direct local elections (*Kompas*, 14

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<sup>14</sup> In late 2006, the national assembly indicated that *pilkada* would be integrated into general elections in the revised election law and KPU would centrally coordinate and monitor KPUD in organizing and staging *pilkada* in the regions (*Kompas*, 5 December 2006).

<sup>15</sup> In a report, the oligarchy of political parties was cynically coined as "partyocracy", with political processes and governance being under the control of political parties while party representatives at local assemblies tend to be more accountable to the party leaderships than to their local constituents. See Bappenas & Laboratorium Sosiologi FISIP UI, "*Penyusunan Indikator Demokrasi*" (10 February 2004).

<sup>16</sup> To govern the gubernatorial and regent or mayoral elections of Aceh held in December 2006 following the historical signing of a Memorandum of Understanding between the Indonesian government and the Free Aceh Movement in 2005, the national assembly legislated a separate law (Law No. 11 of 2006) and allowed independent candidates to run for positions of local government heads. On 23 July 2007, the Constitutional Court ruled that independent candidates should be allowed to run for positions of governor, mayor and regent. Although most party leaders seem to accept the ruling, it is yet unclear if the ruling would immediately affect the rules of the game in the coming *pilkada* or there will be no change until the national assembly revises the existing laws on election regional administration to reflect the ruling (*The Jakarta Post*, 28 July 2007; "Independents' Day", *Tempo* No. 48/vii/31 July–6 August 2007)

February 2005). The continuous monopoly of political parties over selection and nomination of candidates in *pilkada* has also caused concerns that it would not reduce the instances of money politics, which was already embedded in local elections under the indirect electoral system. In another survey, the majority of respondents (81.9 per cent) cited political parties as one of the most corrupt political institutions, alongside the national and local assemblies (83.9 per cent) and the local governments (82.7 per cent) (*Kompas*, 9 January 2006). Therefore, it is an irony that political parties still play gatekeepers in direct local elections, while many Indonesian voters have lost their faith in political parties as a satisfactory vehicle for representing citizens.

A third issue concerning *pilkada*'s institutional framework is that Law No. 32 of 2004 opened the possibility for the government to get involved in the electoral processes by stipulating that detailed guidelines for the preparation and implementation of elections should be provided to KPUD through a governmental regulation.<sup>17</sup> A number of civil society organizations and experts, including Ryaas Rasyid, former Director General of Regional Autonomy at the Ministry of Home Affairs (1999–2000), promptly criticized the law. They argued that the law contravened the amended 1945 Constitution because it allowed the government to intervene in the electoral process (*The Jakarta Post*, 17 February 2005; see also CETRO, 2004).<sup>18</sup>

Five civil society organizations,<sup>19</sup> 16 provincial branches of the Election Commission (KPUD) and leaders of small parties in North Sulawesi took the law to the Constitutional Court for a judicial review (MK 072-073/PUU-II/2004 and 005/PUU-III/2005). In early 2005, however, while the court was still holding hearings, the Yudhoyono government announced PP No. 6 of 2005 on the Election, Validation and Dismissal of Local Government Heads. In March 2005, the Constitutional Court issued a ruling, bringing changes to some of the controversial stipulations. With the ruling, parties that do not even have any representatives at local assemblies can nominate candidates for governors, mayors and regents by forming a coalition with other parties in such a way that they garner 15 per cent of

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<sup>17</sup> Organizing and implementing direct local executive elections also requires the Ministry of Home Affairs to issue a series of regulations. For example, in March 2005, the Ministry of Home Affairs issued Ministerial Decree No. 12 of 2005 on "Guidelines for the Management and Responsibility of the Budget in Elections of Local Government Heads".

<sup>18</sup> Syamsuddin Haris also argued that, compared to the parliamentary and presidential elections in which the KPU organizes and implements the elections as an independent institution, it is a regressive move that the government plays the role of regulator in direct local executive elections (Haris, 2005: 15).

<sup>19</sup> The five civil society organizations are the Centre for Electoral Reform (Cetro), the People's Network for Elections Monitoring (Jaringan Masyarakat Pemantau Pemilu Indonesia, Jamppi), the People's Network for Voter Education (Jaringan Pendidikan Pemilih untuk Rakyat, JPPR), the Civil Society Alliance for Democracy (Yappika) and Indonesian Corruption Watch (ICW).

votes in the previous parliamentary elections. The court also ruled that KPUD should be responsible to the public rather than to local assemblies. In response to the ruling, the central government issued a new governmental regulation (PP No. 17 of 2005) in April 2005.

A fourth issue concerning *pilkada*'s legal framework is that Law No. 32 of 2004 only stipulates that, in case of conflict over the election results, the case should only concern the result of votes counting and ought to be brought to the Supreme Court, which may delegate the power to resolve the cases of regent or mayoral elections to the regional High Court. Concerned about the absence of an institutional conflict management mechanism, the Supreme Court issued a regulation with regard to conflicts over the election results (Perma No. 1/2005) in April 2005 (revised as Perma No. 2/2005 in May). The Supreme Court's regulation provides general guidelines on how to submit a court action over the results of direct local executive elections but fails to clarify the scope of authority that judges have in making their decisions.

Finally, Law No. 32 of 2004 has also invited criticism that it allows local assemblies to get involved in the electoral process. As stated earlier, with the Constitutional Court ruling, KPUD should be accountable to the public, not to local assemblies, but it still has to be accountable to its respective local assembly for the use of the budget for election, which is to be decided and monitored by the local assembly. The law also specifies that local branches of the Election Supervisory Committee (Panitia Pengawas, Panwas),<sup>20</sup> which is to supervise the entire electoral process, are formed by and report to local assemblies. This stipulation has aroused concerns about possible pressure from political parties (through intervention by their representatives at local assemblies) and thus, the impartiality of the elections.

Unsurprisingly, even before the first round of elections, controversies over systemic issues, concerns over possible intervention by national agencies or local assemblies, and the overall ambiguity about rules and mechanisms threatened to undermine the smooth conduct of elections. Table 1 summarizes major phases of Indonesia's direct local executive elections on the basis of Law No. 32 of 2004, Governmental Regulations No. 6 & 17 of 2005, the Constitutional Court's ruling and the Supreme Court's regulation.

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<sup>20</sup> The provincial and district or municipal branches of Panwas are composed of five members, each representing the police, attorney, universities, mass media and informal leaders, respectively, while the sub-district branches are composed of three members representing three of the abovementioned five elements of the society (Article 57). The police and the attorney appoint their representatives, while the local assembly (DPRD) selects the other three members on the basis of recommendations. The institution is to be established 21 days before elections and dissolved a month after the inauguration of those elected. Its main tasks include monitoring the electoral process, handling reports on the violation of election law and coordinating with members of the sub-district level. Its administrative staff comprises civil servants transferred from the local government and its budget is provided by the DPRD.

**Table 1****Electoral system of Indonesia's direct local executive elections**

<b>Phase of election</b>	<b>Major points</b>
Nomination of candidates	<ul style="list-style-type: none"><li>• Parties or party coalitions that have acquired at least 15 per cent of the vote in previous parliamentary elections or won at least 15 per cent of seats in local assemblies are eligible to nominate candidates.</li><li>• Minority parties that do not have any representatives in assemblies also can nominate candidates by forming a coalition with other parties.</li></ul>
Registration and validation of candidates, campaigns, voting and counting of the vote	<ul style="list-style-type: none"><li>• Basically, provincial and district branches of the Election Commission (KPUD) are responsible for the entire electoral process, without any centrally coordinated assistance and monitoring.</li><li>• KPUD should be accountable to the public.</li><li>• KPUD still has to be accountable to its respective local assembly for the use of the budget for elections, which is to be decided and monitored by the local assembly.</li></ul>
Validation of election results	<ul style="list-style-type: none"><li>• To win an election, a pair of candidates has to win the majority (more than 25 per cent) of the vote.</li><li>• They are to be inaugurated by the Minister of Home Affairs on the basis of the President's agreement.</li></ul>
Supervision and conflict management	<ul style="list-style-type: none"><li>• Local branches of the Election Supervisory Committee (Panitia Pengawas, Panwas) are to supervise the entire electoral process.</li><li>• Local branches of Panwas should be formed by and report to local assemblies.</li><li>• Cases of conflict over the election results should be brought to the Supreme Court, which may delegate the power to resolve the cases of regent or mayoral elections to the regional High Court.</li></ul>

## **Conclusion**

Political decentralization in the course of rapid political change is generally expected to reduce the power of the central government and improve accountability of local institutions and directly elected politicians. It is also assumed to be able to stimulate the reconstitution of political relations in the regions in terms of political participation. However, the practical effect of political decentralization has been different from the plan. Both international experience and Indonesia's recent experience have shown that it is quite unlikely that the designed rules and enforcement mechanisms will fully determine the actual implementation of decentralization. With its ambiguous and confusing rules and mechanisms, it is not surprising that the processes and outcomes of political decentralization will ultimately depend on the political aims of those who design the rules and enforcement mechanisms for political decentralization and the political and economic interests of local players interpreting and responding to the rules and mechanisms on the ground.

As I have shown in this essay, although the idea of holding direct elections of local government heads has received wide support from both international organizations and domestic politicians, the path of decentralization that Indonesia has taken since 1998 and the shortcomings of the institutional framework for elections have indicated impending controversies and conflicts over the processes and outcomes of elections at the grassroots.

With its vast size and social complexity, Indonesia's recent experiences of holding over 250 direct local executive elections have indeed been complex. Elections have gone smoothly in some areas but generated considerable controversy in many others. In some instances, election controversies have even drawn out large-scale public protests. There are a number of interesting cases that deserve close investigation for both diverse scholarly interests and practical efforts to improve the fairness and quality of future elections. As the groundwork for such empirical case studies, this essay provides important insights into the background and institutional framework of those elections.

The overall problem with Indonesia's direct local elections lies in its attempt to implement political decentralization as a way of consolidating the country's new democracy at local levels. Adopting direct local elections is just the beginning of a long journey towards practically realizing such intended outcomes as more responsive and participatory local governance. In between the two ends, there are historical reluctance to devolve power and authority, ambiguous and controversial rules and mechanisms, and politicians who are more interested in serving themselves.

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