

## Consensus as Democratic Education on the Village Consultative Body Election in Bangkalan

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### Abstract

This study aims to discuss democracy education practice on electing members of the Village Consultative Body in the Regency of Bangkalan –Indonesia. Through this study, the authors intend to describe models by which used in electing members of the Village Consultative Body (BPD) within the Regency of Bangkalan –Indonesia as well as to explore democracy values derived from the model chosen by related villages to be employed for society's education on democracy. This study is carried out by way of qualitative research methodology –by observing the ongoing election process of members of the Village Consultative Body in the Regency of Bangkalan in 2019; the authors were on the spot during the event. Furthermore, the study reveals that the Government of Bangkalan Regency drafts regulations by exercising the Regent's stipulation ,i.e., giving options to approximately 256 villages in Bangkalan in which, respective model or option is applicable in selecting the nominees to fill in the posts of members of Village Consultative Body in the Regency of Bangkalan The nomination procedure is held through a direct voting among village society or consensus by consultative assembly. Later, the result shows that the society who elect candidates for filling in the posts of BPD members agreed to use consensus as a model, and it is exercised in a specific consensus forum. Therefore, such model is considered suitable with the fourth of fundamental concept of Pancasila (five basic principles of establishing the state). The core issue regarding the fourth principle of Pancasila is the practice of democracy so that a consensus is also a reflection of democracy values and it can be used as a role model in educating people about democracy.

**Keywords:** *consensus, democracy education, election, Pancasila*

### Introduction

Democracy is commonly represented, one of them, by collective decision making, in which decisions are made by all members of a society to elect officials to govern the respective society in order to achieve what counts as the public good. Collective decision making is generally exercised through a mechanism of direct voting and the winner is the candidate with the majority

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votes. In Indonesia the typical mechanism is often conducted when electing the President, members of House Representative, Regional Representative Council as well as head of regional government namely governor and regent or mayor. Indonesia implements this democracy for favoring the harmony of Indonesian government system. The government system assigns the President as the central government is which divided into provincial governments ruled by governors. The provincial governments are also divided into regencies or municipalities which are led by regents or mayors. This system exists in article 18 the 1945 Indonesian constitution which regulate regional government.

However, there is a lower government system in Indonesia namely village government. The village government is indirectly expressed in article 18 the 1945 Indonesian Constitution. The position of village government is under the regency government as regulated in the 2014 Indonesian law Number 6 regarding Village. Nevertheless, the village is interpreted in article 18B section 2 the 1945 Indonesian Constitution which stated that “The State recognizes and respects traditional communities along with their traditional customary rights as long as these remain in existence and are in accordance with the societal development and the principles of the Unitary State of the Republic of Indonesia, and shall be regulated by law”

Village is the smallest region in Indonesia governed by village government. In addition, there is an institution to control village government a called a village consultative body or BPD (*Badan Permusyawaratan Desa*). Functionally, BPD serves society in the same way as the House of Representatives does, particularly in exercising supervision toward the chief of village performance. As such, the appointed members of BPD are preferably the village society and they are elected by means of a democratic election with two varied options: direct voting and representative deliberation.

Democracy, in general, is identical to direct election or direct voting by which the candidate with majority votes won. “The democratic form of nomination is election. The organ authorized to create or execute the legal norms is elected by subjects whose behavior is regulated by these norms” (Kelsen, 2017). It means that general election reflects democracy and a symbol of openness and freedom. As a matter of fact, in Indonesia, general election is used to elect the president,

members of house representative and regional representative council, the head of regional government, the members of regional house of representative and to elect the chief of village government. However, in electing BPD member, the Indonesian government provides two option; that is, direct voting and representative deliberation.

As reviewed above, Indonesian government hierarchies consist of central government – province government – regency or municipal government – village government. The village government consisting of the village head and village apparatus has the task of implementing the village governance system, development, community empowerment, service delivery and village community development. Therefore, the Village Government is the administration of government affairs and the interests of the local community in the government system of the Unitary Republic of Indonesia (Syahbudin, 2017). Meanwhile, BPD is an institution at a lower level to control a village government, specifically, the election of BPD members is exercised differently than that in another institution in Indonesian government system. The election should be done, for it is a tool of democracy supremacy. Normally, an election is implemented through direct election by which people choose the candidate directly. Direct election will determine the candidate with majority voter. Consequently, the candidate and its supporters likely resent their loss in the election. Besides, the direct election of regional heads is less efficient particularly in the budget. A huge amount for its logistic must be provided. Sometimes, direct election spends budgets larger than the allocation funds for the regional economic development. It probably appears conflicts that will disrupt the stability of regions (Megawati, 2019). It later raises disharmony in running the government.

Meanwhile, Indonesia has a principle of representative deliberation stated in the Pancasila. Pancasila is Indonesian fundamental norms and way of life which it comprises five inseparable and interrelated principles, namely: 1. Belief in the one and only God, 2. Just and Civilized Humanity, 3. The Unity of Indonesia, 4. Democracy guided by the inner wisdom in Unanimity Arising Out Of Deliberations amongst representatives, 5. Social Justice for the whole of the People of Indonesia. Pancasila reflects values that constant and common in community. These values exist beneath and in the general society and it's called the national traditions (Mishra & Azeez, 2014).

Temporarily, the implementation of representative deliberation as one of the values in Pancasila reduced especially in public and official elections even the curriculum of civic education from elementary school up to higher education basically covers how to implement the five principles of Pancasila. It means that the principle of deliberation to make a consensus in Pancasila has been abandoned and replaced with modern democracy through direct elections.

The reduced implementation of deliberation appears curiosity of the authors toward the mechanism of BPD members election in Bangkalan. With the two varied mechanisms of electing BPD members offered to the society (deliberation and direct election), thus, raises questions for a research as “ To what extent is the election for appointing BPD members in Bangkalan Regency in the East Java Province in 2019 democratic and “How should the election mechanism be applied to serve as a model in democratic education?” The election mechanism opted is in line with the Ministry of Home Affairs Regulation Number 110 Year of 2016 on Village Consultative Body.

The authors decided to take the Bangkalan Regency for a research in 2019 since it is located on Madura Island which region is under the jurisdiction of East Java Province. The territory on the island is divided into four regencies, that is, the Regencies of Sumenep, Pamekasan, Sampang and Bangkalan; among which Pamekasan, Sampang and Bangkalan are the Regencies inhabited by Society with the lowest education among other regencies within the East Java Province and most of them are found in rural areas. According to the statistics issued by the Data and Statistics Center of Culture and Education 2018/2019 Bangkalan is at the second lowest level for the citizens educational level among the rest 38 regencies in the East Java Province.

Moreover, regarding society which comprises nearly 90 percent of the entire population on the Island. Madura Island in general, literally belongs to the Madurese society whose characteristics are commonly simple-minded and conservative in nature. In addition to being less educated, they are docile, particularly to Muslim scholars. There are many graves of Muslim scholars found in Bangkalan; it proves that there were Islamic teachers who founded of the largest Islamic organization in Indonesia. In other words, democracy in Bangkalan is strongly influenced by strong religious values. Among regents in Indonesia, Bangkalan is identical with the patronage culture in the relationship between Islamic teacher (called as *kyai*) with their student (called as

*santri*). The Islamic teacher becomes a patron while the *santri* community as a client. Their relationships are bound by providing religious knowledge, guidance, role models and protection from the Islamic teacher (*kyai*) to their *santri* and the surrounding people. Consequently, they reward the *kyai* with their trust, loyalty, and support (Sjafrina, 2012). This unique character and culture are why researchers interested in conducting research in Bangkalan because the patronage culture probably influences the practice of democratic values in the community. They tend to follow the figure of *kyai* rather than express their own aspiration. Yet, the society thereby is less informed and educated about democracy; particularly, when electing the government head such as the President, Governor, Regent or Chief of Village. Therefore, any political events related to electing government officials are likely prone to conflicts.

Regarding the election mechanism to fill in the position of new BPD members, direct voting was offered and held simultaneously in 256, out of 273 villages of the Bangkalan Regency. The former BPD members assigned in these villages had finished their service in 2019. While 17 other villages will hold an election for the members of BPD in 2020. This study is supposedly intriguing for it is written at the same time as the enactment of The Minister of Home Affairs Regulation Number 110 Year of 2016 on Village Consultative Body serving as the legal basis for organizing the conduct of listing the candidates of BPD members. Furthermore, it would be the first enactment of the respective regulation in the Bangkalan Regency by way of two democratic election methods: direct voting or consensus through consultative body. Moreover, the regulation also requires that BPD also comprises at least a female representative in its composition.

Predominantly, population in Indonesia consists of people who live in villages, thus it is increasingly important to study how democracy exercised within village societies and the outcome of which is expected to reflect how democracy is practiced in Indonesia as well as to contribute to democracy development by means of providing adequate education in democracy. Democracy education aims to prepare citizen who think critically, act democratically and has equal opportunity (Mason, 2019; Polat, 2020; Robbins, et al. 2019).

This study shall carry out an in-depth survey to explore opportunities in some extent to apply similar democratic election model to relatively small-scale environments like educational

institutions. Educational institution such as schools, in this context, is a miniature of a state; thus, students thereby represent a small scale of society who demand equal opportunity in receiving education and fair treatment. Proper democratic education can have an impact on understanding rights and obligations. Conversely, democratic education which is not due to the wrong election mechanism model can become tyrannical. However, this type of election, especially related to BPD member electoral mechanism, can be applied as role model in democracy education (Lafer, 2014).

The study regarding the conduct of filling in the posts of BPD members prior to general election is comparatively new and no similar studies were held earlier. Rumayya Batubara focused on discussing “the interrelationship between democracy and ethnic fractionalization at village level, by applying a profit model to the IFLS (Indonesian Family Life Survey) data set on the perception of corruption incidence and the changes in governance at village government in 256 communities”(Batubara, 2016). Edward Aspinall and Noor Rohman held a research titled “Village head elections in Java: Money politics and broker age in the remaking of Indonesia's rural elite.” This study explores on how democracy will enable village officials to transform, particularly in the two elections of chief of village in Central Java(Aspinall & Rohman, 2017). Additionally, A.B. Barrul Fuad also carried out a study in respect to political changes in Indonesia by means of case studies at the village of Karang Pandan-Malang, Indonesia focussing not only on political or economic changes but it is also considered as a cultural event (Budiharso & Tarman, 2020; Fuad, 2014).

### **Methods**

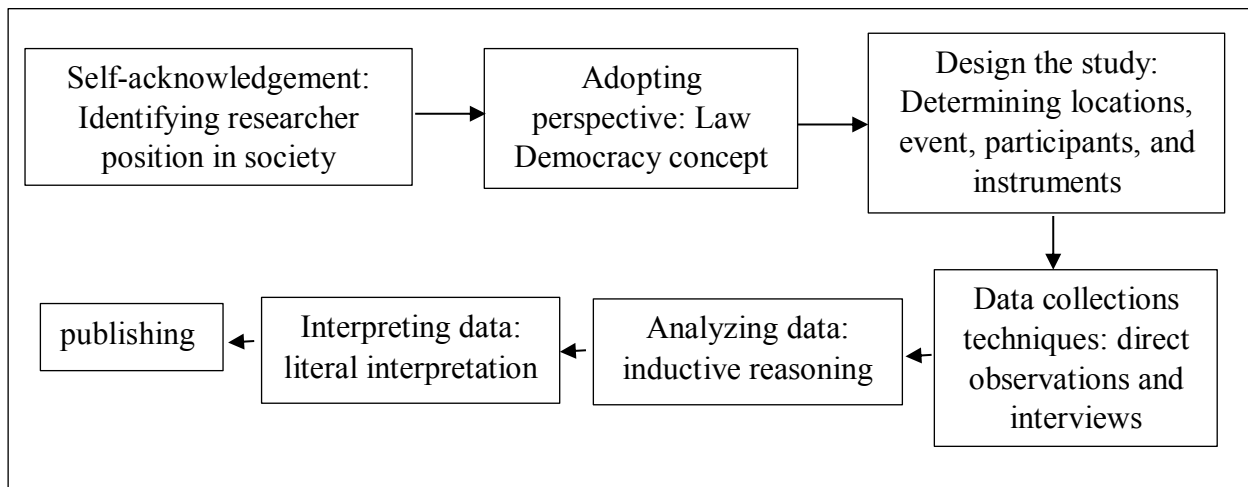
The study employs a socio legal research. It combines the methods of legal research and social research. This socio-legal study imposes on evaluation research at which it attempts to determine how the program or the policy achieve the goals (Neuman, 2011). Hereby, the authors evaluate how the laws and democracy principles works on the process of preparing and filling in the posts of BPD members and how the participating villages interact within their community and communicate the preparedness to the Village Empowerment Office in Bangkalan Regency. As such, the authors construct social reality in the election of BPD members in forms of attending the process of drafting regulations for listing the candidates of BPD members in Bangkalan Regency,

particularly in terms of model designation for such respective matters. In addition, the designation shall impact democracy education within village societies in the Regency of Bangkalan.

### Research Design

The research design follows the qualitative approach. Consequently, the data collected and their analysis are descriptive in form of text and the data is less published inform of statistical analysis (Neuman, 2011). Additionally, it involves observations on people with their surroundings as well as interact with them by learning the atmosphere around them (Nasution, 1996). This qualitative research also constructs social reality, concentrates on interaction and occurrence wherein there is a self-involvement of the authors (Neuman, 2011). Newman designs the qualitative research processes into seven steps namely: (1) acknowledgement on Social phenomenon, (2) adopting perspective, (3) designing the study, (4) collecting data, (5) analyzing data, (6) interpreting data and (7) publishing (Neuman, 2006). Briefly, the following diagram visualizes this research design:

Diagram 1 The Research Design



### Self-acknowledgement

Researchers are familiar with the characters of Bangkalan society because they are lecturers and government consultants for regulatory drafting. Most of them are Bangkalan residents for years. Prior to the study, a team needs to be formed by way of involving personal expertise in accordance with the field of research such as law, governance, education, and social issues. They fully involved in the process of drafting BPD Election regulation, interacted with the chiefs of village

and the government officers of the villages empowerment affairs in Bangkalan, East Java, Indonesia.

### **Adopting Perspectives**

The authors designate the research perspectives which comprise perspectives on legislation and democracy education. Hence, the study is equipped with research variables on law. Anwarul Yaqin describes that socio-legal research covers the study of legal research on particular case and how it deals with social context or social problem (Yaqin, 2007). Legal resources to be discussed as variables consist of the 1945 Constitution of Republic of Indonesia, specifically it focuses on its preamble, the Republic of Indonesia Laws Number 6 of 2014 concerning Villages and the regulation of Home Affairs Minister of the Republic of Indonesia Number 110 of 2016 regarding Village Consultative Bodies. These doctrinal discussions are both a descriptive and exploratory study to find out the fact and to figure out plausible explanations (Yaqin, 2007). They will clarify how the regulations accommodate elections methods both deliberation and voting. Later, they disclose facts and find educational democratic values contained thereof as educational variables so that it is necessary to perceive whether models chosen for listing the candidates of BPD members reflects democracy values which later be implemented by village societies or the public for democracy education.

### **Designing the Study**

The study commences by designating the place of research and its social phenomenon, i.e., the Regency of Bangkalan. The choice is taken as there are complaints within village societies. Such complaints are filed by the chiefs of villages related to the listing of candidates to be appointed as BPD members in Bangkalan Regency in terms of the election mechanism, number of BPD members to be elected, limited budget and allocation, absence of regulatory conduct within the Regency level. Formerly, when the authors began the study, there was no relevant stipulation made available to organize such issues in the Regency level. The authors design this study by determining the relevant topic and literature, arranging research stages and proposal, organizing research team, preparing administrative procedures and research instruments. Research proposal is written as the basis for conducting a study in Bangkalan Regency. In this stage, the research period is decided to last from March 2019 to December 2019 and to be located within the



Bangkalan regency, particularly at the Village Empowerment Office in Bangkalan Regency as the local institution to be in charge of the entire village issues within the Bangkalan Regency.

### **Participants**

The participants consist of author, government officers for village affairs in Bangkalan and heads of village in Bangkalan. The authors were consultants of government officers and the regulatory drafters for the election process. Therefore, authors became active participants in the consultation and drafting regulation process. The event was attended by the heads of 256 villages, the government officers, and the regency committee for the BPD elections. The authors were actively involved and disclosed his participation within that process. They become full participant in the process. It means that the authors attend the deliberation for drafting the election regulation. Two authors take a part in the deliberations, give suggestions, recommendation through the drafting process while others record and put jotted notes on the opinion stated by chiefs of villages in the drafting of regent regulation for electing BPD candidates.

### **Instruments**

The research instruments for collecting the data consist of observation and interview guidelines, check lists of the relevant literatures and documents (Nasution, 1996). Before observing and interviewing, the teams make guidelines in form of checklist points for observations and questions guideline for interview. Taking notes and recording the situation are urgent in observation (Neuman, 2011). Therefore, notes and recording are compulsory instruments during the observations and interviews. Besides, teams also prepare the lists for the needed literatures and documents for library research guidelines and makes check lists and notes for the collecting literatures and documents.

### **Sampling and Informants**

The informants are selected through purposive sampling. It means the researchers point out the criteria made for the purpose of study (Yaqin, 2007). The interviewers seek the data referred to the interview guideline. Briefly, the interviewers ask the informants toward their views on the options for the electoral mechanism of appointing BPD candidates, the strengths and weaknesses of each option, the budget allocation. The selected informants intended for purposive sampling consist of

the committee of BPD candidate election within the regency level and the Village Empowerment Officers of Bangkalan.

### **Data Collections Procedures**

The team determines the source of primary data and the secondary data. They obtain directly from the process of electing BPD Member in Bangkalan Regency and the secondary sources are gathered from relevant literature such as book, journal articles, former researches, relevant material posted in credible websites. The research applies observation and interview as the techniques for collecting primary data literature reviews and doctrinal studies for completing the secondary data (Yaqin, 2007). The authors collect specific data for primary by applying participant observations and structured interviews. According to Anwarul Yaqin, observation means collecting data by observing the phenomenon and people behavior directly (Yaqin, 2007). The authors in this research conduct as full participant in the observation. Participant observation means the observer involve actively with the activity in the natural process to obtain the data (Yaqin, 2007). Observation was conducted by way of a straight monitoring and attended by full participants in conjunction with the drafting of regent regulation to be used as the village guideline in listing the candidates of BPD members. The direct observation comes together with the structured interviews toward the informants. The outcomes of observation and interview were jotted down in notes and later to be reported in a minute, coded and classified for their relation to the subject of research (Neuman, 2011). The researchers also conduct the library research for collective relevant references and legal documents. The relevant sources are noted and organized in form of cards (Neuman, 2011) and afterwards, compiled with primary data.

### **Analyzing the Data**

The authors analyze the research subject by using inductive reasoning; it is analyzed based on specific facts or empirical events for producing theoretical or universal hypothesis (Neuman, 2011). Therefore, mentioned inductive analysis hereby is conducted by surveying the model chosen by the village for listing the candidates to fill in the post of BPD members to be analyzed later for its connection to the application of democracy values. In addition, if, in case democracy values are found in the chosen model of approach, it means that consultative model should be

applicable for providing democracy education toward the respective village societies or public in common.

### **Interpreting the data**

The authors make literal interpretation with a purposive approach (Yaqin, 2007). Literal interpretation of the statutes are conducted to the state principles contained in the Preamble of the Republic of Indonesia Constitution, specifically on paragraph four related to democracy characteristics as described by Beetham (Beetham, 2006). In addition, it is also interpreted Article 18 B Section (2) concerning protection as well as acknowledgement practice and respecting groups of societies under custom laws along with their lifetime traditional rights thereof which is in accordance with social development by the state.

### **Publishing**

The authors conduct evaluations and reporting by giving recommendations to stakeholders to improve the regulation performance and diminish its weaknesses in its relationship with filing in the post of BPD members in forms of documented reports. The reports will also be published by way of presenting all findings concerning the model *chosen* for the respective activity which can be used as a role model for democracy education.

## **Findings**

### ***Democratization in the election for appointing BPD members in Bangkalan Regency in the East Java Province in 2019***

The election or filling of officials in Indonesia is generally carried out using direct election mechanisms. This mechanism is considered to represent the embodiment of modern democratic values. Indeed, the concept of democracy does not only refer to use direct elections but also include the consensus mechanism. The consensus agreement is considered as democratic practice because in its implementation there must be a unanimous agreement and be accepted by all parties. Therefore, it deserves to enrich the democratic education values globally as what happened in the Bangkalan district in the implementation of filling BPD members in 2019.

Bangkalan Regency is a regency in the East Java Province Regional Government. Bangkalan holds 18 districts under which there are 273 villages and 8 village offices (kelurahan). Every village has sub-villages with the total number of 1,357. In 2019, the Regional Government carried out a simultaneous election for BPD members among 256 villages. The BPD members' service in 256 villages was valid until September 2019 where it has one period in six-years. Therefore, the Bangkalan Regency Regional House of Representative must draft the local laws regarding the BPD election on February 2019. In this process, the authors were involved directly in discussion with Commission field government of the Bangkalan Regency Regional House of Representative. Unfortunately, this local laws until May 2019 unfinished is caused the member of Bangkalan Regency Regional House of Representative more focusing in Indonesian General Election on April 2019. The general election was held for appointing the Indonesian President and members of Bangkalan Regency Regional House of Representatives

There was scarcely an election for appointing BPD members because of the incomplete procedure of local laws performed by the Bangkalan Regency Regional House of Representatives. Local laws are very important to be drafted so that the selection of BPD members for 256 Bangkalan Regency Villages can still be done. Therefore, to fill this vacancy, the Bangkalan Regency Government through the Village Community Empowerment Agency passed a regent's regulation based on the old regional regulation such as Bangkalan Regency Local Laws Number 2 of 2015 regarding BPD and based on the enactment of The Ministry of Home Affairs Regulation Number 110 Year of 2016 on Village Consultative Body.

In preparing the regent's regulations regarding filling in the post of BPD members wherein the researchers discussing with the committee of election of BPD member in Bangkalan Regency level and several heads of village, there are several factors to be reviewed in the regent's regulations to minimize conflicts such as social conditions of Bangkalan, the pattern of leadership in Bangkalan Government and related regulations. Bangkalan comprises a religious community wherein many Islamic Boarding Schools are established. Consequently, Bangkalan society implements values and systems based on Islam such as obedience to leaders and religious leaders. In the local government leadership pattern, the regent, in conducting a leadership pattern, also seek religious leaders' advice for decision and policy making. The religious leaders are important figure as a key

to avoid horizontal conflict. Whereas the regulation operates on the enactment of The Minister of Home Affairs Regulation Number 110 Year of 2016 on Village Consultative Body.

Based on the factors, the Regent Regulation Number 31 of 2019 on Technical Directory for the 2019 BPD Members Simultaneous Listing was issued. There are four important points in this regulation namely the minimum obligation to have one representative BPD member from the mechanism for selecting BPD members can be done through direct elections or representative deliberations, the implementation of elections that must be carried out simultaneously by 256 Villages in Bangkalan, and the number of BPD members each different villages, five, seven or nine based on the sum of sub village and the female element. The determination of the number of BPD members is based on the number of hamlets in a village.

### ***Consensus as a Model of Democratic Education***

In this study, the most urgent matter discussed was related to the mechanism for selecting or filling in the post of BPD members to be determined through village deliberations. The data showed that out of 256 villages which held internal meetings, all of which agreed to determine the mechanism for selecting BPD members through representative deliberations held in the special consultative assembly. The participants in this forum were the village heads and its apparatus, the representatives of youth, women, community clubs, health care and community empowerment offices as well as regional representatives in the village.

The stages to be carried out for the election of BPD members through consensus by special consultative assembly are: a. to establish the committee for filling in the post of BPD members, b. to screen the candidates of BPD members, c. to survey the fulfillment on administrative requirements, establish and announce the candidates of BPD members d. to establish the participants of consensus in particular, e. to determine and draw numbers to represent the candidates' orders, f. to hold the assembly to acquire consensus in particular and g. to appoint and inaugurate the BPD members.

Those stages show the implementation of an alternative model in democracy by using deliberation to make a consensus for the election. This model is properly applied in a democracy process and

as a direct democratic education. By which, people may aware their roles to uphold democracy value through democracy education in village society. This model takes advantages to avoid horizontal conflict, to afford less expense, to increase the community participation and to give more respect each other's opinion and aspiration. The consensus model is capable of being the way to maintain the existence of the fourth principles of Pancasila in society thus the teaching of civic education should be more stressed on the deliberation and consensus practice.

## **Discussion**

### **Creating the Regent Regulation to Fill Legal Vacancy**

Filling the posts of public officials within the practice of Indonesian civil law can be conducted by means of three possible mechanisms namely; consultative assembly, election and appointment. The three models can likely be employed when official public posts within the central government or the lowest local government, namely village, must be filled. Such procedures are organized in such a way to meet the values of state founding principles as stated in the Preamble of 1945 Constitution of the Republic of Indonesia. Additionally, paragraph four of which reads ‘thus the Indonesian national independence is organized within a Constitution called the Indonesian Constitution, which is arranged in the hierarchy of the Republic of Indonesia by applying people sovereignty’. People sovereignty in-depth interpretation is a main pillar for manifesting democracy. In other words, otherwise people sovereignty exists, democracy should never occur in society.

Sovereignty and democracy are underlying concepts in politics studies; both of them are inseparable. There are perspectives asserting the existence of democracy as the main requirement for establishing a state; they are in line with the theories created by Linz and Stepan which claim that democracy requires sovereignty. Explicitly, they add that official existence of a state highly requires democracy; the major challenge faced by a state, on its way to achieving democracy, is the requirement for having territories thereby as a state wherein sovereignty is bestowed upon (Tansey, 2010).

Sovereignty and democracy are intertwined with the three models of filling public official posts in some extent that democracy is a reflection of people governance thereby where society holds

absolute powers for the governance. Moreover, democracy can be manifested through direct voting as well as election through delegations. In an event of direct voting, society use their rights to cast ballots for their preferred candidates directly, whereas in a delegated democracy society entrust all decisions to delegations appointed on their option or preference. Hence, in delegated democracy, two models are available for filling the public official posts: consultative assembly and appointment.

Models of consultative assembly and appointment can be viewed within the procedure of filling the posts for the Ministers hired to assist the President; thus, it is the President's prerogative to decide who shall serve as his Ministers. Such appointment can only be performed by the President himself since it is unlikely possible to hold a consultative assembly for such matter. Nowadays, in the open era of democracy, it is hard to hold consultative assembly although such model suits the characteristics of village societies at the most.

In 2019, Bangkalan had to hold elections for BPD members in 256 villages. However, the implementation of the election of BPD members needs a rule of law as a basis for guidelines for village government. There are two rules to be established by the Bangkalan Regency, namely the regional regulation on the BPD and the Regent's regulation on the technical selection of BPD members. Indeed, previously there was a local regulation in Bangkalan District Number 2 of 2015 concerning BPD. However, many of these regional regulations are irrelevant to the enactment of The Minister of Home Affairs Regulation Number 110 Year of 2016 on Village Consultative Body. Therefore, in 2019, the Bangkalan Regency Regional House of Representative drafted local laws on BPD as a substitute for Bangkalan Regency Local Laws Number 2 Year 2015. However, the Bangkalan Regency Regional House of Representative failed to finish the draft of BPD. In fact, there was a legal vacancy to hold the election of BPD Members in Bangkalan. All members of the Bangkalan Regency Regional House of Representative focused on facing the general election.

In order to avoid the legal vacancy, the researchers propose the making of regent regulation on the basis of the Bangkalan Regency Local Law Number 2 Year 2015. Albeit the substance of regent regulation based on the enactment of The Minister of Home Affairs Regulation Number 110 Year

of 2016 on Village Consultative Body, in law aspect, a solution given for a law problem as a part of the Bangkalan Regency Local Law Number 2 Year 2015 regarding BPD is irrelevant to the enactment of The Minister of Home Affairs Regulation Number 110 Year of 2016 regarding BPD. However, the making of regent regulation is important to regulate the mechanism of electing BPD members in Bangkalan.

The Indonesian government represented by the regulation of Home Affairs Ministry of the Republic of Indonesia Number 110 of 2016 hereby provides two models available for conducting the election of BPD members, i.e., by means of direct voting or consultative assembly. Those two are assumed to represent the democracy systems applied in Indonesia. For example, in the event of electing an official to fill in the public post within the village in which direct voting or simultaneous election is exercised. Regarding the listing of candidates to fill in the posts of chief of village, a direct and simultaneous election is implemented direct voting. In other words, society directly vote for the future chief of village and the election of chief of village is also performed by other villages within one regency at the relatively same time and on relatively same day. Such electoral mechanism is practiced as a way of preventing violations against the fair elections (Pinilih, 2017). If, in case, direct and simultaneous elections can reduce unfair elections; it can be assumed that election held through consultative assembly would remove illegal procedures.

Nonetheless, the models exercised for the election of BPD members are still flawed despite its strengths. The first model by which direct election is conducted wherein the elected candidates are those with the highest ballots. Hence, the society will definitely accept the winning candidates based on the tally. While the weakness is that the first model requires massive funds and conflicts are prone to occur due to the loss suffered by parties whose respective candidates lost the election. The second model, whose mechanism is consultative assembly, provides benefits since it is only practiced by society representatives and minimum funds are required to conduct election as well as eliminates conflicts within society. Its weaknesses, however, are that candidates are elected by way of indirect voting for the rights for exercising such matters have been entrusted to their delegations as a medium for conveying their aspirations in the consultative forum.



The most important thing in discussing regent regulations is requiring women's representation in the BPD. So far, BPD members in Bangkalan are only a small proportion of women. This is because women are still not qualified to occupy a public position or represent the community. Traditionally, the low political participation of women is associated with gender socialization, both at childhood and adult level, and is also considered an important factor in determining the level of political participation. Women are socialized to gender roles that are submissive, passive, subordinate, and more private-oriented, while men are socialized to adopt leadership, public, autonomous, and self-reliant roles. Another explanation of women's low political participation is a strict division of public and private sphere it also depicted in the theory of politics. Women are supposed to be in custody of the domestic/private sphere. They have to take care of children, males, and elders of the family (Ahmad et al., 2019).

Based on regent regulations, each village must have a female representative in the BPD member. At least one woman must be a member of the BPD in each village. This women's representation as a form of democratic education is a manifestation of gender equality. This obligation to represent women is unprecedented. This is a new thing for the Bangkalan community who must change the paradigm of women who can also play a role in the political sphere, especially at the village level. Initially, the obligation of this representative was rejected because not all villages, female residents wanted to nominate to become BPD members because according to what was explained earlier that women only take care of domestic households. However, with the approach of the village head, the local government, and academics the responsibility of this women's representative can be realized for one village of one BPD member from a women's representative.

From the discussion above, based on our findings, the Regent Regulation Number 31 of 2019 has filled the existing legal vacancy, formed a new system and a paradigm shift towards Bangkalan people by managing to fill BPD members with two opted mechanism, namely direct election or representative deliberation. As such, the election was carried out simultaneously on the same day by 256 villages.

In spite of the chosen mechanism, it does not necessarily diminish the BPD members' significant roles within the villages. In fact, the BPD members play significant roles in safeguarding

developments and the governance within the villages. BPD can function as working partners to the Chiefs of Villages in efforts to achieve goals and work plans decided earlier. Different roles and authorities of the Chiefs of Villages and BPD members, indeed, put Chiefs of Villages and BPD members in comparatively equal levels. However, village societies mostly have no clues about what BPD members do and function. As such, BPD functions have been defined in Article 55 of the Indonesian Republic Laws Number 6 of 2014 regarding Villages described as follows:

- a. BPD members, along with the Chief of Village;
- b. Discuss and agree upon the Draft of Village Regulation;
- c. BPD members accommodate and convey village societies' aspirations; and
- d. Conduct supervisory actions toward the performance of the Chief of Village.

Those three functions mentioned above have to be comprehended and implemented by BPD members, thus it takes a considerable and careful survey prior to the candidates listing of BPD members; they have to be qualified and smart to take care of developments for the respective villages. The filling of BPD member posts compliant with the regulation of Home Affairs Minister of the Republic of Indonesia Number 110 of 2016 has to be held within democratic manners by considering the existence of territorial representation and female representation.

### **Special Consultative Assembly as a Manifestation of Democratic Values**

Bangkalan community is a very religious society. This is proven by the behavior of people who are very obedient to the teachings of their religion and religious leaders. In addition there is a philosophy of the Bangkalan people as Madurese that holds the term *Bhuppa 'Bhabhu' Ghuru Rato* which means to respect parents, teachers and government leaders (Susanto, 2012). Madura society also has a tendency to be individualistic, selfish, rigid and rude, firm to hold on to principles and natural, honest and innocent (Hidayat, 2012). This community phenomenon is observed by the researchers within the electoral system will be carried out by the Bangkalan community, especially in the selection of BPD members.

The characters described above likely lead to problems in society; thus, there are often incidences of *carok* (duel by using sickle as a gentleman) if there are individuals interfering with their privacy. This situation is also exacerbated by the low level of education in Bangkalan district; hence, a system capable of developing education is highly needed in Bangkalan and it can be applied in

education, particularly, through democracy education to demonstrate that democracy is adaptable with the characteristics of conventional wisdom. We know that democracy is not always synonymous direct election, but it can also be through deliberation. According David Beetham, democracy is based on the following key ideas, all members hold interests affected by collective decision, everyone is capable of reaching a view about what best or worst decision would be, both for themselves and the association as a whole. The best decisions over the long run will be ones where all such views have been publicly aired and debated. Where debate and discussion fail to produce a single agreed outcome, decision should be taken by a vote of all participating members. Furthermore, the principle of one person, one vote, one value, reflects a wider conception that all person are equal worth (Addai-Mununkum, 2019; Beetham, 2006).

Village societies in Bangkalan need to have in-depth learning on democracy although they may have practiced democracy in their day to day lives. However, they have yet comprehended or known exactly whether the daily practice shows the democracy values. Therefore, democracy education is essential to village societies for providing knowledge on democracy and explaining how it is implemented. Village societies, as a matter of fact, tend to be modest and lowly educated, thus appointing a leader who is trustworthy, just, and capable of leading societies to welfare can be done as an implementation of democracy. In addition, they also expect that their leader is a skilled person in entrepreneurship whose network exceeding the areas beyond the village territories(Bernstein, 2006).

The election of Chief of Village is a form of democratic practice within village societies although its mechanism on direct election is not the sole applicable mechanism. Democracy values could also be manifested through efforts made to protect the rights belonging to the village and its society. Protection against the rights of village and its citizens' has been strictly stipulated in Article 18 section (2) of the 1945 Constitution of the Republic of Indonesia which states that " The state acknowledges and respects groups of societies under custom laws along with their traditional rights for lifetime thereof, which is in accordance with society development as well as the principles of establishing the Republic of Indonesia as a unitary state as it has been stipulated in the Constitution.

Acknowledgement towards societies under custom laws and their traditional rights is that commonly attached to the village and its societies as each village may have varied cultures and conventional wisdoms. Such cultural diversity, rights of the village and of its society are those issues protected by the 1945 Constitution of the Republic of Indonesia and stipulated in detailed in the Indonesian Republic Laws Number 6 of 2014 regarding Villages and supported by Article 67 of the Indonesian Republic Laws Number 6 of 2014 which states that the rights of a village are: a. to manage and take care of society necessities based on rights of their origin, custom and social and cultural values of village societies ; b. to establish and manage the village institutional body; and c. to find resources of income. Furthermore, in addition to be granted rights, villages are obliged to **a.** protect and maintain the unity, solid, and harmony within village societies in efforts to establish national security and oneness of the Republic of Indonesia as a unitary state; **b.** to improve livelihood of village societies; **c.** to develop democracy life; **d.** to develop the empowerment of village societies; and **e.** provide and improve public services for the village societies.

The rights bestowed to village societies are defined in Article 68 of the Indonesian Republic Laws Number 6 of 2014 which states that village societies are entitled for a. requesting for and obtain information from the village government and to conduct supervisory actions toward the day to day performance of Village Government, actions taken related to Village Developments, programs provided for village social mentoring, and empowerment of village societies; b. obtaining the same fair treatment related to public services; c. deliver their aspirations, give suggestions and opinions verbally or in writing as well as to take responsibility for any activities of running the village government, village developments, village societies mentoring, and village societies empowerment; d. to elect, to be elected and/or to be appointed as: 1. the Chief of Village; 2. Village supporting staffs; 3. Members of Village Consultative Body (BPD); or 4. Members of Village Social Institution; e. to obtain privileges as well as protections against disturbances and public disorders within the village. While village societies are obliged to **a.** develop inner self and maintain the village surroundings; **b.** to encourage the establishment of Village Government, the implementation of Village Development, the mentoring on village social aspects and the adequate empowerment on village societies; **c.** to ensure safe, convenient, and harmonious atmosphere

within villages; d. to maintain and develop values of assembly, consensus, family bonding and mutual works within villages; e. to take parts in the entire activities held within villages.

Rights and obligations are exercised simultaneously in order that justice is achieved. When the obligations are once accomplished, the rights will be received afterwards. As mentioned earlier that rights and obligations of a village and of its societies are defined in the Indonesian Republic Laws Number 6 of 2014. As such, it is in line with the views of Supreme Court of Canada which introduce the rights related to democracy such as (1) the right to effective representation; (2) the right to meaningful participation; (3) the right to equal participation; and (4) the right to a free and informed vote (Dawood, 2013). These respective rights are necessarily socialized in such a way that society will learn about their rights in living the democracy life.

Democracy implementation on village societies is expected to raise hopes in order that village societies obtain their rights as stipulated in both the Constitution and Laws of the Indonesian Republic. The aim of practicing democracy within the village societies is to provide protection for the village as well as its societies, to improve welfare and the most important issue of all is to avoid possible conflicts, either horizontally or vertically; Horizontal conflicts might arise from the village itself from which its citizens confront their fellow citizens or the village societies confront societies of other villages. While vertical conflicts might take place when societies are up against the local government in the village or societies are up against the Chief of village. Such conflicts can only be eliminated when democracy education exists. As discussed earlier that democracy is exercised by imposing the values of Pancasila which reflect the fundamental principles of the state. The terminology of Pancasila emerged and gained its fame when it was brought up in the Presidential Speech of Mr. Soekarno, the first president of Republic of Indonesia on June 1<sup>st</sup>, 1945. According to Sukarno, Pancasila is the “*filosofische grondslag*” of Indonesian Independence which means foundation, philosophy, the most profound thought, the spirit, and the deepest desire, upon which to build the eternal, indestructible nation of Independent Indonesia (Fatlolon, 2019).

In addition, Pancasila is also written in the Preamble of 1945 Constitution of the Indonesian Republic, particularly, in paragraph four. The Preamble is an inseparable part of the Constitution.

This fourth paragraph defines the five principles of Pancasila: 1. In One God We Believe; 2. Humanity which is Just and Civilized; 3. The Unity of Indonesia; 4. Governance is held through wisdom, within consensus achieved through consultative assembly and 5. Justice and Social Welfare are devoted to the entire citizens of Indonesia. In other words, Pancasila can be summarized as a. Believe in one God; b. Humanitarianism; c. Nationalism; Democracy; e. Social justice (Sarip, 2018).

Furthermore, it reveals that on the consultative assembly the village societies of Bangkalan Regency practice the fourth principle of Pancasila. The consultative assembly is held in efforts to seek resolutions and make decisions based on consensus and not on the basis of highest votes; the participants of which can provide underlying reasons or argue about their decision in order to convince all participants of the consultative assembly to reach the mutual decision. In selecting BPD members, villages within the regency of Bangkalan agreed to conduct a particular village consultative assembly as the mechanism used for determining the BPD members. The particular assembly was attended by the Chief of Village, the Head of Election Committee, delegations from existing neighborhoods within the village territories, public figures as well as youth's and women's clubs. These delegations are trusted by the respective village societies and thus, they are convinced that their aspirations have been properly conveyed by the delegations in this event.

The specific village consultative assembly is carried out for determining BPD members and thus can only be performed when the new BPD members have to be appointed once within six years. In general, village consultative assembly is conducted by the Chief of Village to discuss work and action plans for the village government and attended by society representatives and BPD members. Such procedure is described in Article 54 the Indonesian Republic Laws Number 6 of 2014 as it states that "A Village Consultative Assembly is a consultative forum attended by society representatives and village society elements to discuss strategic issues in the establishment of Village Government. Moreover, the "strategic features" discussed in the village consultative assembly cover a. village management; b. village planning; c. village collaborations; d. investment planned to be placed within the village; e. the establishment of village-owned business (BUMD) ; f. the increase and the release of the village asset and g. extraordinary events

Furthermore, village consultative assembly is held approximately once a year, whereas specific village consultative assembly is conducted in case there are new BPD members to be appointed and it goes beyond the discussion within the village consultative assembly in common. Such assembly has been the habit practiced over time by the village societies of Bangkalan Regency and alternatively it can serve as a sample or a model for applying democracy in the election and it is in line with the fourth principle of Pancasila which is interpreted as “democracy guided by the inner wisdom in the unanimity arising out of deliberations amongst representatives. This principle emphasizes the idea of a people led or governed by sound policies through a process of consultation to attain consensus. It would be a big mistake simply to translate this as a commitment to Western liberal democracy, especially since the rejection of Western liberalism (or at least some parts of it) has been a continuing theme of Indonesian political discourse exercised since the time prior to the birth of the nation. The word **musyawarah** connotes discussion and deliberation amongst members of a society, but it does not necessarily suggest such ideas as majority rule and minority rights”(Fatlolon, 2019).

Deliberation is the core issue of the fourth principle of Pancasila’s implementation, which reflects the core of democracy values in Indonesia. Consensus principles are in accordance with fundamental values of Indonesia expressed in the principles for establishing the state called Pancasila(Mutaqin, 2017). Nonetheless, the consultative assembly to reach consensus has to be led by a wise and just person for his presence is compulsory for preventing conflicts emerging from consensus achieved earlier in the assembly. Additionally, consensus also imprints compliance on all participants of the assembly, thus they obey the consensus resulted from the consultative assembly. If viewed from its conduct, the consultative assembly is in line with democracy ideas. The advantages of employing this system are that the system is less costly, fast, able to make decisions in favor of all parties, less complicated since no one feels overwhelmed for winning or losing the election and it is created with the same goals for a development and an improvement over mutual prosperity.

Henceforth, education on democracy is highly needed to imprint democracy values within all levels of society and it can be started from the village society. Deliberation achieved through consultative assembly in the election of BPD members is a real form of how democracy possibly

exercised in the lowest level of society. If conducted within the village, such model is capable of applying democracy values. Thus, the same model can be employed at other countries which hold the same characteristics.

The practice of consultative assembly reflects educational values to society or young generations such as students of Junior High and Senior High School, particularly in terms of:

1. Interpreting the democracy values; by not taking “direct voting” as a sole mechanism to hold election for members of village representative body;
2. Understanding that consultative assembly is similar to the practice of democratic election held to achieve a consensus;
3. Understanding that consultative assembly also applies the five fundamental principles of the state establishment (Pancasila); and
4. Agreeing upon all decisions acquired in the consultative assembly whatsoever.

Democratic values, furthermore, can be imprinted on scholars or young people; they learn and interpret democratic values in accordance with conventional wisdom. Such consultative assembly practices can be used as open discussions or dialogs seeking to resolve conflicts and achieve institutional objectives.

### **Conclusion and Implications**

The election of BPD members in Bangkalan Regency was conducted with a relatively different electoral mechanism unlike those practices commonly held in Indonesia or other countries. Rather, it was carried out through a consultative assembly to reach a consensus. Such model can possibly be copied by regions comprising homogenous society whose characteristics are typically different from other societies. They tend to be religious, rigid yet docile, particularly, towards local public figures mainly towards religious scholars; they are generally simple-minded and low-educated. Deriving from these backgrounds; therefore, such electoral mechanism shall bear no conflicts for there are no winning or losing candidates and the election result will definitely be accepted by all participating parties.



Therefore, consensus can be a suggested model for the implementation of democracy as seen in the election for appointing BPD members in Bangkalan, in 2019. This evidence is proven to have successfully avoided vertical and horizontal conflicts. In order to make a consensus, the democratic value should adopt conventional wisdom. As the result, people easily accept the election model by conducting representative deliberation to achieve the full consent. The implication of this election model minimizes bribery given by the candidates to their supporters. Besides, the respective model is expected to bring about implications upon the society in terms of society's transformation on people's behavior to be more concerned about democratic values; hence, that will be a part of the democratic education to raise people awareness to get involved in democratic events. Another benefit of using the model is that it enables understanding towards respecting others, obeying the law, and avoiding conflicts. This model requires to be wrapped by local laws.

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