
The Problem of Fulfilling Voter Rights in Village Head Elections Is Based On E-Voting

Erman I. Rahim^{1*}
Nuvazria Achir²

^{1*}Faculty of Law, Universitas Negeri Gorontalo, Indonesia. E-mail: erman@ung.ac.id

²Faculty of Law, Universitas Negeri Gorontalo, Indonesia. E-mail: ulfa@ung.ac.id

Article Info

Keywords:
Right to Vote;
Village Head Elections;
E-Voting.

How to cite [Chicago Manual of Style 17th edition (full note)]:

Erman I. Rahim and Nuvazria Achir, "The Problem of Fulfilling Voter Rights in Village Head Elections Is Based On E-Voting," *Jambura Law Review* 5, no. 1 (2023): 156-178

Abstract

The purpose of this writing is to discuss the paradigm of the electoral process which is now showing a new face, through technological sophistication, which in foreign terms is called E-Voting (Electronic Voting), and legitimized through Indonesian national laws and regulations. This model is used during the implementation of voting and counting through an electronic device and has begun to be used in several countries, including Brazil, India, Switzerland, and the United States (US), including the Boalemo District Government, which is the umpteenth time using this system in Simultaneous Village head elections implementation in the region. The writing method used is empirical, seeing how a rule works in society. The data obtained is systematically arranged and then processed using descriptive analytical techniques. The study results show that the Village Head Election through the E-Voting system has been carried out for the fourth time by the regional government of Boalemo with an electronic device intermediary based on its legal umbrella, namely Regulation of the Regent of Boalemo Regency Number 48 of 2015 concerning Procedures for Election, Appointment and Inauguration of Village Heads. In practice, there are problems related to the fulfillment of voter rights in the E-Voting Based Village head elections, which are influenced by several things, namely; Location, Time, and Distance of polling stations, Not Accommodating Voters Under Certain Circumstances, Convoluted Voting Systems, and Procedures, Lack of Availability of Human Resources and Infrastructure.

@2023 - Erman I. Rahim and Nuvazria Achir
Under the license CC BY-SA 4.0

1. Introduction

Indonesian politics, especially concerning central and regional elections, has regulations governing them, initially electing state officials limited to the legislature, namely the DPR RI, Provincial Representative council, and Regency and Municipal Regional House of Representatives. As time went on and referred to the 3rd Amendment to the 1945 Republic of Indonesia Constitution in 2001, direct presidential and vice-presidential elections were held starting in 2004. This provision is contained in Article 6A Paragraph (1) of the 1945 Constitution of the Republic of Indonesia: "The President and Vice President are elected as a pair directly by the people. In addition to elections at the central level, regional head elections were also held to elect governors, mayors, and regents, who were carried out directly by the people in all regions.

According to Hans Kelsen democracy is a will expressed in the state's legal order under the will of legal subjects.¹ Direct democracy is the highest degree and is marked by the fact that the people carry out the drafting of executive, legislative and judicial functions through large or general meetings. Democracy is also a form or mechanism of the state government system to realize people's sovereignty over the state, which the authorities or government runs.

This direct democracy can also be said to be proportional because voters can deal directly with their representatives who will sit in parliament later.² Similar to that, said William Andrews.³ A modern democratic state stands based on a general agreement with the majority of the people's votes to bring the country in the direction it dreams of and achieve its politics. Miriam Budiardjo stated that four fields of political science were discussed concerning democracy in the 1950 United Nations Educational, Scientific and Cultural Organization (UNESCO) publication, namely;⁴ Theory; Political Institutions; Party or Group and General Opinion; and International Relations.

¹ Hans Kelsen, *Teori Umum Tentang Hukum Dan Negara* (Bandung: Nusa Media dan Nuansa, 2006), 402-409

² Inu Kencana Syafii, *Pengantar Ilmu Pemerintahan* (Bandung: PT. Refika Aditama, 2010), 139-140.

³ Jimly Asshddiqie, *Menuju Negara Hukum Yang Demokratis* (Jakarta: PT Bhuana Ilmu Populer, 2009), 398.

⁴ Abdul Manan, *Dinamika Politik Hukum Di Indonesia* (Jakarta: Kencana, 2018), 1-4.

Democracy is difficult to realize if state administrators are not serious about making it happen. It can even create tension and conflict between law actors and the government.⁵ Various forms of democracy are implemented, as mentioned above. The goal is to create an energetic atmosphere in the administration of politics in this country. Meanwhile, participation by the community is a form of participation in overseeing the democratic process so that it meets expectations and desires. Community political participation is also manifested in simple forms, one of which is through the Election of Village Heads.

Village head elections is a democratic party that, according to various groups, is very popular and is an event that can be used for good and honest learning about democracy and politics. The village head elections are also essential to determine village leaders over six years to realize sustainable development. The implementation of the Village head elections is also, in principle, a manifestation of sovereignty, especially for the people in the village in real terms, and is an effort to mobilize democracy within the uniqueness of the village in the spirit of acknowledging the uniqueness and peculiarities of village traditions.⁶ In addition, the electoral institution is a system of norms in the process of conveying the democratic rights of the people.⁷ In addition, Village head elections also becomes a regulatory agency in creating authority through governance over tribes, villages, and governance for indigenous peoples.⁸ The implementation process is also very detailed because it involves various parties and is more specific than other electoral processes, such as local and general elections. One of the reasons is that the candidates are usually known and closer to almost all members of society.

Meanwhile, the definition of village head is contained in the Regulation of the Minister of Home Affairs of the Republic of Indonesia (Permendagri) Number 112 of

⁵ Abdul Aziz Hakim, *Negara Hukum Dan Demokrasi Di Indonesia* (Yogyakarta: Pustaka Pelajar, 2011), 13

⁶ Ahmad Yani, "Penataan Pemilihan Kepala Desa Dalam Sistem Ketatanegaraan Di Indonesia," *Jurnal Konstitusi* 19, no. 2 (June 2, 2022): 456–78, <https://doi.org/10.31078/jk1929>.

⁷ Didik Sukriono, "Menggagas Sistem Pemilihan Umum Di Indonesia," *Jurnal Konstitusi PKK Universitas Kanjuruhan Malang* II, no. 1 (2009): 1–16.

⁸ Proborini Hastuti, "REDUKSI KEWENANGAN ATRIBUSI PEMERINTAH DAERAH DALAM PENGATURAN PEMILIHAN KEPALA DESA," *Jurnal Yudisial* 11, no. 1 (April 26, 2018): 113–30, <https://doi.org/10.29123/jy.v11i1.265>.

2014 concerning the Election of Village Heads, which is defined as village government officials who have the authority, duties, and obligations to manage their village households and carry out tasks from the Regional Government. Meanwhile, Village Head Election is the implementation of people's sovereignty to elect a village head that is direct, public, free, confidential, honest, and fair.⁹

Many things colored the implementation of the village head elections, apart from criminal violations which were still a scourge, the practice of money politics and violence between supporters during the candidate determination stage, and administrative problems, which often hindered candidacy.¹⁰ Apart from that, there were also cases where the candidacy for a village head failed. After all, he was constrained by a certificate requirement because he was the child of a banned organization's administrator.¹¹

However, there are exciting things currently in the Village head elections implementation, starting from the high interest of residents to run for village head, the large Management Budget owned by the village, including the Constitutional Court Decision stating the contents of Law of the Republic of Indonesia Number 6 of 2014 concerning Villages, Article 33 (point g), "namely "the candidate for village head is registered as a resident and resides in the local village for at least 1 (one) year before registration" becomes non-binding.

Based on this, a new Minister of Home Affairs Regulation (Permendagri) was born, namely Permendagri Number 65 of 2017 concerning Amendments to Minister of Home Affairs Regulation Number 112 of 2014 concerning Village Head Elections, which removed the provisions of Article 21 (point g) Permendagri Number 112 of 2014 concerning provisions (conditions) for village head candidates. The contents of the article deleted in the old Permendagri were "Candidates for Village Heads who

⁹ Regulation of the Ministry of Home Affairs of the Republic of Indonesia Number 112 of 2014 concerning Regional Head Elections

¹⁰ Syahrul Machmud, "Tindakan Preventif Dan Represif Non-Yustisial Penegakan Hukum Administrasi Oleh Eksekutif," *Jurnal Hukum Media Justitia Nusantara* 7, no. 2 (2017): 62-77, <https://doi.org/10.30999/mjn.v7i2.660>.

¹¹ Septa Eka Nugroho et al., "Kajian Yuridis Mekanisme Pencalonan Kepala Desa Berdasarkan Peraturan Daerah Kabupaten Jember Nomor 6 Tahun 2006 Tentang Pemerintahan Desa Juridical Studies Mechanism Of The Village Headman Candidate Which Is Based Jember Residence Territorial Regulation," *Lentera Hukum* 1, no. 1 (2014): 23-32, <https://doi.org/10.19184/ejhl.v1i1.561>.

were originally registered as residents and residing in the local village for at least 1 (one) year prior to registration". This indicates that people who wish to run for village head in an area do not have to be residents but are also wide open to residents from other villages or places.

Apart from these reasons, another thing that is no less important and interesting is the electoral system which is starting to switch to using technology which in foreign terms is called E-Voting (Electronic Voting). This model is used when voting and counting through an electronic device. This is similar to what was done by the Regional Government of Boalemo Regency, which has used this system several times in implementing simultaneous Village head elections in its territory.

E-Voting is an electronic voting device that can speed up data tabulation, reduce election costs, and contribute to preventing unauthorized voters. E-Voting is a voting process carried out through digital (electronic) devices, starting with the voter registration and data collection process, the implementation of elections, vote counting, and sending and reporting of vote results.¹² The implementation of elections with this system is directed at providing convenience for suffrage holders (voters) in channeling their votes as part of the fundamental rights of citizens.

Several democratic countries have also carried out this electronic election, tiny countries free from conflict. Many countries have also introduced this system which aims to increase participation and fulfillment of rights for voters. For example, Brazil introduced this system in 1996, India started implementing it through trials in 1990, Switzerland held online elections in early February 1998, and The United States, which started the process in 2004, was followed by 30% of the population.

Meanwhile, concerning human rights, it was stated by the Kansil CST,¹³ that human rights are absolute or absolute rights that are given this authority to a person or individual to carry out an act that anyone can defend. Everyone is obliged and must respect this right because it is inherently inherent in individuals and is absolute.

¹² Nani Purwati, "Perancangan Sistem E-Voting Untuk Pemilihan Kepala Daerah (Pilkada)," *Jurnal Bianglala Informatika* 3, no. 1 (2015): 18–27, <https://doi.org/10.31294/bi.v3i1.573.g464>.

¹³ Bambang Heri Supriyanto, "Law Enforcement Regarding Human Rights According to Positive Law in Indonesia," *Al-Azhar Indonesia Seri Pranata Sosial* 2, no. 3 (2014): 151–68.

According to Mariam Budiardjo, human rights are rights that belong to humans that have been obtained and brought together with the birth and presence of humans in life. Everyone must have the opportunity to develop according to their talents and what they aspire to, including participating in the implementation of democracy in their country.

2. Problem Statement

The technological approach to E-Voting-based elections is a new method implemented by several regions in Indonesia that facilitates the implementation of democracy in the context of village head elections, which in fact, raises several problems in its implementation, both in terms of channeling voting rights and regarding transparency in the final process. Based on the background description, the study problem that needs to be discussed is the problem of fulfilling the right to vote based on E-Voting.

3. Methods

Study this is done empirically, namely a legal research method by looking at how a rule works in society,¹⁴ whose object of study is societal behavior arising from interactions with a system of norms, particularly concerning fulfilling people's rights in a democratic world?

4. Discussion

4.1. E-Voting Selection Process

The use of voting rights in succession is a form of participation in politics and is not just the distribution of rights but relates to the existence of voters towards candidates so that people then decide to go to the polling stations. It is understood that the technique of conducting elections also influences a person's decision to vote. Therefore, the organizing committee must be swift in anticipating conditions in the field, from the long voting queues to the vote-counting process. This is intended so that voters have no intention of canceling their desire to channel and use their voting rights due to long queues.

¹⁴ Amiruddin and H. Zainal Asikin, *Pengantar Metode Penelitian Hukum* (Jakarta: Raja Grafindo Persada, 2010).

Candidates are also identified with images and symbols because many residents cannot read. Voters then exercise their right to vote and receive a ballot card, then they are taken to a booth and then punch in the picture of the candidate or symbol they want. Currently, the Village head elections model continues to experience development. Using a ballot card containing a photo and the name of the candidate, then voters exercise their rights by voting for a photo or serial number, and then the candidate with the most votes wins as the winner.

It was a different case with the election of village heads in Gorontalo Province, especially Boalemo District, which is based on District Head Regulation Number 48 of 2015 concerning Procedures for Election, Appointment, and Inauguration of Village Heads, where the implementation is through an E-Voting system (electronic voting). The author wants to discuss this area because Boalemo is the only area in Gorontalo that has implemented an electronic-based voting system, even for the fourth time.

The provisions in Article 31 of Law of the Republic of Indonesia Number 6 of 2014 concerning Villages (Village Law) stated that:

- 1) If the election is carried out using the E-Voting method, the Election Committee will not hold ballots.
- 2) Elections are carried out using the E-Voting method, and information technology tools are held and distributed by agencies or Regional Work Units in charge of village government affairs.
- 3) The election committee can apply to the agency, as referred to in paragraph (2), by attaching the number of voters and the number of polling stations.

Furthermore, Article 79 contains the following:

- 1) Voting and counting at polling stations can use the E-Voting method.
- 2) A District Head Decree further determines polling stations that use the E-Voting method.

For the third time in April 2019, the Boalemo area held simultaneous Village head elections in 35 villages using the electronic system, and previously for the first time in 2015 and 2017, and lastly, in December 2022. According to the regional government,

the simultaneous Village head elections used the E-Voting aims to make it easier for the public than the manual voting system. All processes are considered to have taken place openly and away from irregularities so that the public can channel and determine their right to vote because all candidates' identities (photos) have been displayed on the monitor screen. The regional government also made this effort to educate the community on mastery of information technology (IT) and ensure the smooth, safe, transparent, and according to the community's expectations.

The implementation of Village head elections in this area refers to the Regent of Boalemo Regency Number 48 of 2015 concerning Procedures for Election, Appointment and Inauguration of Village Heads (Regent Regulation Number 48 of 2015), under the umbrella of Village Law, and then followed by other implementing regulations such as;

- 1) Government Regulation of the Republic of Indonesia Number 43 of 2014 concerning Regulations for Implementing Village Law
- 2) Government Regulation of the Republic of Indonesia Number 47 of 2015 concerning Amendments to Government Regulation of the Republic of Indonesia Number 43 of 2014 concerning Regulations for Implementing Village Law
- 3) Government Regulation of the Republic of Indonesia Number 11 of 2019 concerning the Second Amendment to Government Regulation of the Republic of Indonesia Number 43 of 2014 concerning Regulations for Implementing Village Law
- 4) Permendagri Number 112 of 2014 Concerning Village Head Elections
- 5) Permendagri Number 65 of 2017 concerning Amendments to Permendagri Number 112 of 2014 concerning Village Head Elections.

In the election process, the polling place is centralized at the village office, and all voters must come to it within the allotted time of 12.00. Based on Indah's interview at KPPS, in distributing voting rights, especially in Diloato Village, the community came and then queued according to the seat position (chair), which also became the serial number. Residents then enter the voting booth where a computer device or touch screen has been provided, which is used to vote for one of the candidate images along

with the serial number. All processes are open, and the public is free to channel and determine their voting rights because the photos or identities of all candidates are displayed on the E-Voting screen. All must choose alternately one by one to carry out their obligations,

Kasmawaty Ngau, as Chair of the Village head elections Voting Committee, said that in Diloato Village alone, 3 Village Head candidates participated in the succession with a voter list of 1,300 people. The voting booth is located in the village office with two booths provided because only two computers are provided. The number of those who exercised their voting rights was 980 people until the deadline set at noon, followed by rest periods. During the election, the community was served by 5 (five) KPPS members with their respective positions, namely one chairperson, one person in the data checking and recording section using an ID card (KTP) detector, two people guarding the voting booth, and one person for ink dyeing.

Every voter is required to bring and use an e-KTP (electronic KTP) to be served, and when voting, the committee checks the card through an electronic device. After being checked and validated, they must then vote to enter the voting booth, where the people who cast their votes will press or touch the computer screen (touch screen) and follow several procedures or steps before voting. On the computer, there are several instructions so voters will later get photos/pictures of the village head candidates, who then press or touch one of the pictures to finalize and distribute their rights.

Vote counting was carried out at 13.00 WITA after the break, according to the provisions in Regent Regulation Number 48 of 2015, Article 81 Paragraph (2). The calculation mechanism is through printout results from computer devices because the results of people's choices channeled through computer screens have been recorded automatically and will then be read. Whoever is elected or has the most votes in the succession will immediately know the results in just 10 minutes, then be announced to the public. The KPPS chairman before the community and witnesses from all candidates announced and read out the printout results of the vote acquisition for each candidate for village head so that in a short time, they could find out who was the winner in succession.

However, the holding of the Village head elections mentioned above had an impact on other matters related to the legal standing of the Regent Regulation Number 48 of 2015 as well as the constitutional fulfillment of voter rights. This is based on the author's statement, namely, the existence of the Regent Regulation Number 48 of 2015 concerning Village head elections by E-Voting, in-laws, and regulations. In this case, the Law and Government laws have not regulated the implementation and use of technology in village head elections, including the election model that is carried out for residents, in this case, voters who are undergoing hospitalization at health centers or hospitals, as well as voters who are serving sentences in prison and so on.

4.2. Issues and Fulfillment of Voters' Rights based on E-Voting as a Constitutional Right

In Indonesia, based on our research, the author has yet to find data related to the regions that first implemented E-Voting. However, the implementation of digitalization-based elections was carried out in line with the issuance of the Village Law in 2014, and several areas have been implemented, such as Banyumas (Central Java), since 2019. In records of the Ministry of Home Affairs, from 2013 to 2020, 23 districts/cities with 1,572 villages in Indonesia held village head elections electronically (E-Voting). Furthermore, the ministry again supports this kind of implementation by issuing letter No 41/1115/BPD in March 2021, which aims to eliminate various problems, especially at the election stage, from voting to counting.¹⁵

Furthermore, the fulfillment of constitutional rights for voters in Boalemo Regency is constrained by several problems, which include: (a) location, time, and distance of polling stations; (b) not accommodating voters under certain circumstances; (c) convoluted voting systems and procedures; (d) lack of availability of human resources and infrastructure; (e) there is no guarantee against device standardization; and (f) weak public oversight.

Voting places in village head elections (Village head elections), especially those using E-Voting, are all centered in the village office. This aims to maximize access and computer network during the election. However, efforts to maximize community

¹⁵ "Hingga 2020, 1.572 Desa Gunakan E-Voting Saat Pilkades," *Republika Online*, September 22, 2021, <https://republika.co.id/share/qztxhj428>.

participation, especially in the election of village heads in Diloato, needed to be improved in terms of distance and time, which was considered limited compared to the provision of polling places at several points. This is because the Polling Stations locations provided are only one point, so sometimes it can ignite someone's intention to cast their vote. Officers and organizers acknowledged that the procedures and steps in implementing the distribution of voting rights should be by increasing the number of places (counters) for registration and voting so that every voter can go directly to the voting location which is near the house, and after registering there is no need to wait and queue too long. This is due to some people not exercising their voting rights for the reason that they are working, the distance to the voting location is far away, and the time allotted is limited because they have to rush to work and finish the job, so they do not have time to be present to vote. This is evident from the number of 1,300 voters, and there were 320 people who did not cast their right to vote, some of them for the reasons above. Therefore, problems related to the procurement of Polling Stations, which are only at 1 (one) point, can certainly hamper efforts to realize democratization in the village, especially in the succession of village head elections.

Apart from the constraints on distance and the location of the polling stations, another thing that also became a problem in the village head elections, which were concentrated in only one place was that some people were not able to cast their voting rights up to 25% of the total electorate. This is evident from the number of voters of 1,300 people, of which only 980 people used their voting rights to come to the Polling Stations. There are several reasons for the absence of voters, namely apart from distance and opportunity, it is also due to illness. Essential things in the implementation of village head elections are matters of legal legitimacy, the wishes and needs of the community, and the fulfillment of the principles of justice. The purpose of justice here is the form and model of an election applied to citizens. This also applies to citizens as voters and holders of voting rights who are undergoing hospitalization at health centers or hospitals, voters who are serving sentences in prison, and so on. Article 37 of Permendagri Number 112 of 2014 emphasizes that "Voters who are hospitalized or the like, who are serving prison sentences, voters

who do not have a permanent residence, who live on boats or offshore workers, and other places vote at unique polling stations. This did not apply in the Village head elections implementation in Diloato Village, which used the E-Voting system. As explained by previous researchers, the obstacle is that the Polling Stations is centered at one point or place, namely at the village office, and does not provide particular polling stations, as stated in the Permendagri. Referring to the Regulation of the Minister of Home Affairs (Permendagri) above, the Village head elections organizing committee should be able to provide a particular polling station or something like a walking polling station to collect votes from the obligatory voters if they are unable to vote but wish to cast a vote. For example, for those who are at the health center who can be reached, then in order to fulfill justice from the right holders, the organizers should be able to do this. However, this does not apply in Diloato Village, which does not provide other alternatives for fulfilling community rights, causing many community members to be unable to vote.

The results of previous research and interviews show that in channeling voting rights in village head elections, the community must first follow the instructions and instructions contained in the system (computer) before selecting the picture or photo of the desired candidate. However, this procedure causes problems where some voters are parents and the elderly, confusing people as to what steps must be taken to give voting rights. Therefore, in addition to the election needing to be consistent with the principle of 'secret,' because officials and other designated persons accompanied voters, it also caused the voting process to take longer than manual procedures using ballot papers. Because in general, there are also illiterate people (who cannot read) information on computer screens, while if you use ballots, people can immediately recognize pictures/photos of the candidates. This is one of the problems in implementing elections using computer systems and devices. The organizers and local governments should be able to reconsider an election system like this by looking at the capacity and ability of the community to use technological devices. Another reason is that everything is fine in elections that apply the E-Voting system, especially for a location where the coverage area is limited and conditions are still developing.

Meanwhile, if you use ballots, the public can immediately recognize the pictures/photos of the candidates. This is one of the problems in implementing elections using computer systems and devices. The organizers and local governments should be able to reconsider an election system like this by looking at the capacity and ability of the community to use technological devices. Another reason is that nothing is pressing in elections that apply the E-Voting system, especially for a location where the coverage area is limited, and conditions are still developing. Meanwhile, if you use ballots, the public can immediately recognize the pictures/photos of the candidates. This is one of the problems in implementing elections using computer systems and devices. The organizers and local governments should be able to reconsider an election system like this by looking at the capacity and ability of the community to use technological devices. Another reason is that nothing is pressing in elections that apply the E-Voting system, especially for a location where the coverage area is limited, and conditions are still developing. The organizers and local governments should be able to reconsider an election system like this by looking at the capacity and ability of the community to use technological devices. Another reason is that nothing is pressing in elections that apply the E-Voting system, especially for a location where the coverage area is limited, and conditions are still developing. The organizers and local governments should be able to reconsider an election system like this by looking at the capacity and ability of the community to use technological devices. Another reason is that nothing is pressing in elections that apply the E-Voting system, especially for a location where the coverage area is limited, and conditions are still developing. The organizers and local governments should be able to reconsider an election system like this by looking at the capacity and ability of the community to use technological devices. Another reason is that nothing is pressing in elections that apply the E-Voting system, especially for a location where the coverage area is limited, and conditions are still developing.

Another problem that occurs and needs to be solved in holding simultaneous village head elections using the E-Voting system is the availability of tools and supporting infrastructure during the implementation process. As happened in the village of Diloato, in the process of distributing voting rights, there were only 2 (two) computers, even though the number of voters was more than a thousand people. Of course, in terms of time, it is very ineffective, considering that most people in the village do not master technology devices, especially parents. In addition to the inadequate availability of tools, Human Resources (HR), as the main factor that can

make the village head election successful, is also considered lacking. This is according to the results of interviews with researchers that in holding these elections, the committee (KPPS) did not master and did not understand how to operate computers and only relied on an operator whom the organizing committee or local government had appointed. According to the organizers' statement, they did not take part in coaching or workshops on operating computers, but only administrative tasks and guard booths. This is of course, very unfortunate, that as long as the election involves other people or outsiders besides the organizing committee. Supposedly, the Village Head Election Commission in the regions can think of other ways to overcome and deal with this. For example, you can involve the election committee in debriefing activities or organize technical training, especially in operating computer equipment, so as to create a professional, safe, transparent, and reliable Village head elections organization.

In addition to several problems that previous researchers have described, there are also other more technical and main obstacles in the implementation and success of village head elections. This was revealed during the researcher's interview with Kasmawaty, also the head of the KPPS in Diloato Village, that during the election process, there were problems that repeatedly occurred due to the computer equipment being used not functioning optimally. This incident occurred not only once but up to four times when the computer device experienced a problem (hung) and had to be repaired. To overcome this, the organizers or the Village head elections committee must summon operators from the relevant regions and SKPD. This election process becomes less transparent and needs to run optimally because it has to present other parties during the voting process, especially regarding handling election tools and equipment. In addition, the organizing committee does not control the tool even though it is their responsibility because it is part of the implementation of the election, which consists of selecting, voting, and counting votes. In addition, their existence has yet to be guaranteed regarding the standardization of the equipment or tools used. Of course, this can become a problem during the election implementation process. If so, according to the researchers, it is necessary to carry out a pilot test to ensure the smooth running of the succession, including preparing

reliable human resources from the organizing committee in the village. In addition, the organizing committee does not control the tool even though it is their responsibility because it is part of the implementation of the election, which consists of selecting, voting, and counting votes. In addition, their existence has yet to be guaranteed regarding the standardization of the equipment or tools used. Of course, this can become a problem during the election implementation process. If so, according to the researchers, it is necessary to carry out a trial specifically to ensure smooth implementation of the succession, including preparing reliable human resources from the organizing committee in the village. In addition, the organizing committee does not control the tool even though it is their responsibility because it is part of the implementation of the election, which consists of selecting, voting, and counting votes. In addition, their existence has yet to be guaranteed regarding the standardization of the equipment or tools used. Of course, this can become a problem during the election implementation process. If so, according to the researchers, it is necessary to carry out a pilot test to ensure the smooth running of the succession, including preparing reliable human resources from the organizing committee in the village.

Regarding the standardization of the equipment or tools used, their existence has yet to be guaranteed, so of course, this can become a problem during the election implementation process. If so, according to the researchers, it is necessary to carry out a pilot test to ensure the smooth running of the succession, including preparing reliable human resources from the organizing committee in the village. Regarding the standardization of the equipment or tools used, their existence has yet to be guaranteed, so of course, this can become a problem during the election implementation process. If so, according to the researchers, it is necessary to carry out a pilot test to ensure the smooth running of the succession, including preparing reliable human resources from the organizing committee in the village.

According to the researcher, the existence of existing problems and problems is also based on the fact that voting or counting votes using a manual system, especially at polling stations, has been going well. It is more transparent than electronic systems such as E-Voting. This is because there is no guarantee that the electronic system will

not experience any problems or disturbances, which is not guaranteed even in terms of accountability and legitimacy. The manual system is also considered successful, and there are almost no problems, starting from the election to even counting the votes at Polling stations, which is going very well and is transparent because all parties are actively involved, starting from the organizers, voters and witnesses are more active and directly involved during the calculation process and the procedures afterward. Each witness can provide confirmation and legitimacy for each voter's vote without going through a system that has yet to be well standardized. Therefore, in elections like this, there is no need for an E-Voting system or elections using technological devices. In addition, it is essential to build public trust, especially in security, which should be the primary requirement in holding Village head elections through the E-Voting method.

Moreover, in the manual calculation process, the researchers considered this more transparent because it was witnessed and attended directly by the entire community, organizers, and prospective village head witnesses for each candidate. E-Voting is a technological system that is not needed to replace the current voting and counting methods because it needs to meet the aspects of public trust in terms of security, transparency, and standardization of voting tools. Therefore, in changing the paradigm and people's trust in this system (E-Voting), it is necessary to organize all matters relating to the ability and capacity of the community, guaranteeing the tools used, including data security and safety. What can be done now is how to overcome the obstacles and problems at the sound recap stage. As happened during the 2019 Simultaneous General Election (Pemilu), which caught the attention of the wider community and other countries. It even raises suspicions and invites questions and suspicions from the public about the legitimacy of the final result. Therefore, it is necessary to think of a solution or solution to this problem by producing technology at the vote recap stage and not at voting.

4.3. The Practice of Fulfilling Voters' Rights based on E-Voting in Several Countries

The idea of modernization in general elections is growing, marked by the birth of the E-Voting or electronic voting system, which is defined as using the right to vote in

activities or succession supported by electronic devices. Several democratic countries have also implemented this electronic election, tiny countries free from conflict. Many countries have also introduced this system which aims to increase participation and fulfill voters' rights. The following will explain what the implementation of E-Voting is like to fulfill the political rights of voters in Brazil, India, Switzerland, and America.

E-Voting is a way of modernizing the election process and increasing community participation based on information and communication technology. This system in practice promotes transparency with the aim of increasing confidence in an electoral system that is direct, free, honest and fair.¹⁶ Countries that have implemented processes and mechanisms that are subsequently accepted by the community, and proven to be effective with the aim that their people can exercise their rights easily.

For example, Brazil has developed the concept of democratic elections through E-Voting since 2000. This mechanism was first introduced in the country in 1996 during local elections in Santa Catarina.¹⁷ Furthermore, in 1998, this voting process was introduced more broadly (nationally) as a system for organizing elections as a whole. However, looking at history, according to the ACE Project, the E-Voting mechanism was implemented in 1985 during the computer-based election of the head of the Brazilian Supreme Court. The background to implementing E-Voting is focused on the state's desire to eliminate fraud during the tabulation process of ballots and overcome problems related to election accessibility in conventional election systems.¹⁸

In practice, the use of machines in Brazil aims to identify voters, then the voting and counting process.¹⁹ Ensure transparency, all parties and election participants have access to the evoting machine program in their audit. Brazil has also had a long

¹⁶ Siti Chaerani Dewanti, "Wacana Penggunaan E-Voting Pada Pemilu," *INFO SINGKAT: Kajian Singkat Terhadap Isu Aktual Dan Strategis* XI, no. 10 (2019): 1.

¹⁷ Ali Rokhman, *Prospek & Tantangan Penerapan E-Voting Di Indonesia* (Jakarta: Universitas Terbuka, 2011), 6.

¹⁸ Imas Novita Juaningsih, Muhammad Saef El-Islam, and Adit Nurrafi, "Penerapan E-Voting Dalam Sistem Pemilihan Umum Sebagai Optimalisasi Pelayanan Publik Di Era Revolusi Industri 4.0," *SALAM: Jurnal Sosial Dan Budaya Syar-i* 7, no. 1 (March 3, 2020): 141-62, <https://doi.org/10.15408/SJSBS.V7I2.14720>.

¹⁹ Orhan Cetinkaya and Deniz Cetinkaya, "Validation and Verification Issues in E-Voting," *Proceedings of the European Conference on E-Government, ECEG* 5, no. 2 (2007): 63-70.

journey in implementing this system, which initially used paper trail technology (VVPAT), then changed to using a microcomputer specifically designed for election purposes. Physically, the machine has good strength and is small and light. In addition, it is independent of the supply of electric power because it can use batteries and has sufficient security. This machine also has two parts: the control panel, which polling stations officers operate, and the voting panel for voters. The control panel owned by the polling stations officer has a keypad that consists of numbers that the officer uses to record the registration number for each voter.

It is almost the same in India with a civil law legal system. This developing country has implemented E-Voting since 1989/1990 through trials in local elections in several parts of the country.²⁰ E-Voting was officially implemented in 1998 on a small scale in electing members of the DPR (DPR), then in 2004 it was held as a whole. India has implemented an E-Voting system consistently and continuously since the 2004 elections, both local and national, in all parts of India. The background and purpose of implementing E-Voting in this country are as an aspect of economic growth and preventing fraud in election results which is very high. The technology used in India is the EVM (Electronic Voting Machine), a small machine with a simple computing device that can record voters' choices without letters or ballot papers.

Placement of EVM at each polling station, and what is currently being used is the 3rd generation EVM in 2006, using evidence in the form of paper for every voter who has exercised his right to vote in the form of (VVPAT - The Verified Paper Trail Audit).²¹ The use of EVM through VVPAT is concrete evidence against public criticism that EVM is not transparent and cannot be audited. This machine consists of 2 units that are related to each other, where the first is a control unit that is used by implementing officers, while unit 2 is used by voters to determine their choice in the voting booth, by pressing a button that has the name of the candidate and the logo of the political party printed on it.²² This again increases the participation of the public and political

²⁰ Jordi Barrat Esteve, Ben Goldsmith, and John Turner, *International Experience with E-Voting: Norwegian E-Vote Project* (Washington: IFES, 2012), 5.

²¹ Robin Jeffrey, "The Threat of the Geeky Goonda: India's Electronic Voting Machines," *ISAS Working Paper* 12, no. 30 (2010): 1-15.

²² R Michael Alvarez, Thad E Hall, and Alexander H Trechsel, "Internet Voting in Comparative Perspective: The Case of Estonia," *Political Science & Politics* 42, no. 3 (2009): 497-505.

parties in elections, which can be seen from the high voter turnout, thus indicating that the implementation of E-Voting has been successful and has succeeded in bringing benefits to fulfilling population rights and minimizing errors and voter abstentions.²³

Meanwhile, in Switzerland, February 1998 marked the beginning of the use of the voting system in that country, which was formulated in the Strategy for an Information Society in Switzerland to create an information society in that country. In January 2002, a report was published carrying the Rapport sur le vote électronique, which aimed to show what is needed in implementing the system in Switzerland. Vote électronique is a model of cooperation between confederations and other regions that are obliged to carry out elections by operating an E-Voting system. From 2004 to 2006, trials were also carried out in 3 regions namely Geneva, Neuchâtel and Zurich, which then the federal council decided on May 31 2006 the E-Voting system was implemented in stages.²⁴

Voting procedure in Switzerland online with stages:²⁵

- 1) Each voter receives a postal letter and proof of voting rights. This letter has an ID number and is used to authenticate and carry out elections. In starting, it requires a computer or mobile phone that has a connection to the internet and a browser, then proceed with transmitting virtual sound via the browser address. Voters must read and confirm by pressing the button available on the screen and must fill out the template by pressing the yes or no button regarding the questions in the election.
- 2) When finished, voters can continue by pressing the available button and confirming their choice. All voters who enter will be registered and then examined, where for security, they are required to enter their date of birth to find evidence of their right to vote and then will receive a confirmation.

²³Pippa Norris, "Will new technology boost turnout? Experiments in e-Voting and all postal voting in British local elections" in Norbert Kersting and H. Baldersheim, *Electronic Voting and Democracy* (New York: Palgrave Macmillan, 2004), 30.

²⁴ Juaningsih, El-Islam, and Nurrafi, "Penerapan E-Voting Dalam Sistem Pemilihan Umum Sebagai Optimalisasi Pelayanan Publik Di Era Revolusi Industri 4.0." *Loc.cit*

²⁵ Marcel Egli, *E-Voting in Switzerland* (Wolhusen: Department Of Informatics Of The University Fribourg, 2012), 10.

It is different in America, where the critical factor is the rules regarding access to ballots, which political parties or individuals determine. In the beginning, the owners or holders of voting rights would go and head to the voting location and then announce who would be supported. This then developed where each political party created or created their own ballots, then the vote owners put the ballots in the box. Then at the end of the 19th century, America began to apply the voting method by secret ballot, and it became a national standard. This method (secret voting) is then assessed as guaranteeing the confidentiality of the rights holders and then being protected. Government duties are no longer reserved for loyal voters,

Furthermore, the community began to support E-Voting and said that this system would reduce election costs and increase public participation because the voting process was comfortable and easy. Therefore, in 2004 there were 30 percent of the population of the United States using this technology through touch machines and direct electronic recording or optical scanners in the presidential election. However, Americans are starting to abandon E-Voting machines because they have lost faith in the system of democracy. In the 2016 elections, several states abandoned this system and ensured that most of the population (70 percent) chose the manual method.²⁶

Voting via E-Voting machines is becoming obsolete because most are a decade old, and other states need more funds to replace or repair them. In the end, elections are back to pencil and paper, and many states still need to maintain the machine due to lack of budgets. In addition, it is a maintenance problem and a high risk of being hacked. The failure of this E-Voting machine occurred during the presidential election in 2004 when North Carolina lost 4,500 votes after the machine stopped counting. Then states began to pass election laws with a paper system and followed Germany and the Netherlands, which first left the E-Voting system.

5. Conclusion

Village head elections (Village head elections) by E-Voting have been implemented in Indonesia since the issuance of Law no. 6 of 2014 concerning Villages, including in the Boalemo area based on District Head Regulation No. 48 of 2015 as the legal umbrella.

²⁶ Indah Hoesin, "AS Mulai Tinggalkan E-Voting," Media Indonesia, accessed January 2, 2023, <https://mediaindonesia.com/internasional/96702/as-mulai-tinggalkan-e-voting>.

The area has held digitization-based Village head elections four times through the E-Voting system, and there are still various problems related to fulfilling voter rights which are influenced by several things, namely; Location, Time and Distance of polling stations, not accommodating Voters Under Certain Circumstances, Complicated Voting Systems and Procedures, Lack of Availability of Human Resources and Infrastructure, No Guarantee Against Standardization of Equipment and Weak Public Oversight.

References

- Alvarez, R Michael, Thad E Hall, and Alexander H Trechsel. "Internet Voting in Comparative Perspective: The Case of Estonia." *Political Science & Politics* 42, no. 3 (2009): 497–505.
- Amiruddin, and H. Zainal Asikin. *Pengantar Metode Penelitian Hukum*. Jakarta: Raja Grafindo Persada, 2010.
- Asshddiqie, Jimly. *Menuju Negara Hukum Yang Demokratis*. Jakarta: PT Bhuana Ilmu Populer, 2009.
- Cetinkaya, Orhan, and Deniz Cetinkaya. "Validation and Verification Issues in E-Voting." *Proceedings of the European Conference on E-Government, ECEG 5*, no. 2 (2007): 63–70.
- Dewanti, Siti Chaerani. "Wacana Penggunaan E-Voting Pada Pemilu." *INFO SINGKAT: Kajian Singkat Terhadap Isu Aktual Dan Strategis XI*, no. 10 (2019): 1.
- Egli, Marcel. *E-Voting in Switzerland*. Wolhusen: Department Of Informatics Of The University Fribourg, 2012.
- Esteve, Jordi Barrat, Ben Goldsmith, and John Turner. *International Experience with E-Voting: Norwegian E-Vote Project*. Washington: IFES, 2012.
- Hakim, Abdul Aziz. *Negara Hukum Dan Demokrasi Di Indonesia*. Yogyakarta: Pustaka Pelajar, 2011.
- Hastuti, Proborini. "REDUKSI KEWENANGAN ATRIBUSI PEMERINTAH DAERAH DALAM PENGATURAN PEMILIHAN KEPALA DESA." *Jurnal Yudisial* 11, no. 1 (April 26, 2018): 113–30. <https://doi.org/10.29123/jy.v11i1.265>.
- Republika Online. "Hingga 2020, 1.572 Desa Gunakan E-Voting Saat Pilkadaes," September 22, 2021. <https://republika.co.id/share/qztxhj428>.

- Indah Hoesin. "AS Mulai Tinggalkan E-Voting." Media Indonesia. Accessed January 2, 2023. <https://mediaindonesia.com/internasional/96702/as-mulai-tinggalkan-E-Voting>.
- Juaningsih, Imas Novita, Muhammad Saef El-Islam, and Adit Nurrafi. "Penerapan E-Voting Dalam Sistem Pemilihan Umum Sebagai Optimalisasi Pelayanan Publik Di Era Revolusi Industri 4.0." *SALAM: Jurnal Sosial Dan Budaya Syar-i* 7, no. 1 (March 3, 2020): 141–62. <https://doi.org/10.15408/SJSBS.V7I2.14720>.
- Kelsen, Hans. *Teori Umum Tentang Hukum Dan Negara*. Bandung: Nusa Media dan Nuansa, 2006.
- Machmud, Syahrul. "Tindakan Preventif Dan Represif Non-Yustisial Penegakan Hukum Administrasi Oleh Eksekutif." *Jurnal Hukum Media Justitia Nusantara* 7, no. 2 (2017): 62–77. <https://doi.org/10.30999/mjn.v7i2.660>.
- Manan, Abdul. *Dinamika Politik Hukum Di Indonesia*. Jakarta: Kencana, 2018.
- Norbert Kersting, and H. Baldersheim. *Electronic Voting and Democracy*. New York: Palgrave Macmillan, 2004.
- Nugroho, Septa Eka, Iwan Racmad Soetijono, Hukum Tata, Negara Fakultas, Kepala Desa, and Pemerintah Desa. "Kajian Yuridis Mekanisme Pencalonan Kepala Desa Berdasarkan Peraturan Daerah Kabupaten Jember Nomor 6 Tahun 2006 Tentang Pemerintahan Desa Juridical Studies Mechanism Of The Village Headman Candidate Which Is Based Jember Residence Territorial Regulation." *Lentera Hukum* 1, no. 1 (2014): 23–32. <https://doi.org/10.19184/ejrh.v1i1.561>.
- PERMENDAGRI No. 112 Tahun 2014 tentang Pemilihan Kepala Daerah (n.d.).
- Purwati, Nani. "Perancangan Sistem E-Voting Untuk Pemilihan Kepala Daerah (Pilkada)." *Jurnal Bianglala Informatika* 3, no. 1 (2015): 18–27. <https://doi.org/10.31294/bi.v3i1.573.g464>.
- Robin Jeffrey. "The Threat of the Geeky Goonda: India's Electronic Voting Machines." *ISAS Working Paper* 12, no. 30 (2010): 1–15.
- Rokhman, Ali. *Prospek & Tantangan Penerapan E-Voting Di Indonesia*. Jakarta: Universitas Terbuka, 2011.
- Sukriono, Didik. "Menggagas Sistem Pemilihan Umum Di Indonesia." *Jurnal Konstitusi PKK Universitas Kanjuruhan Malang* II, no. 1 (2009): 1–16.
- Supriyanto, Bambang Heri. "Law Enforcement Regarding Human Rights According to Positive Law in Indonesia." *Al-Azhar Indonesia Seri Pranata Sosial* 2, no. 3 (2014): 151–68.

Syafiie, Inu Kencana. *Pengantar Ilmu Pemerintahan*. Bandung: PT. Refika Aditama, 2010.

Yani, Ahmad. "Penataan Pemilihan Kepala Desa Dalam Sistem Ketatanegaraan Di Indonesia." *Jurnal Konstitusi* 19, no. 2 (June 2, 2022): 456-78. <https://doi.org/10.31078/jk1929>.