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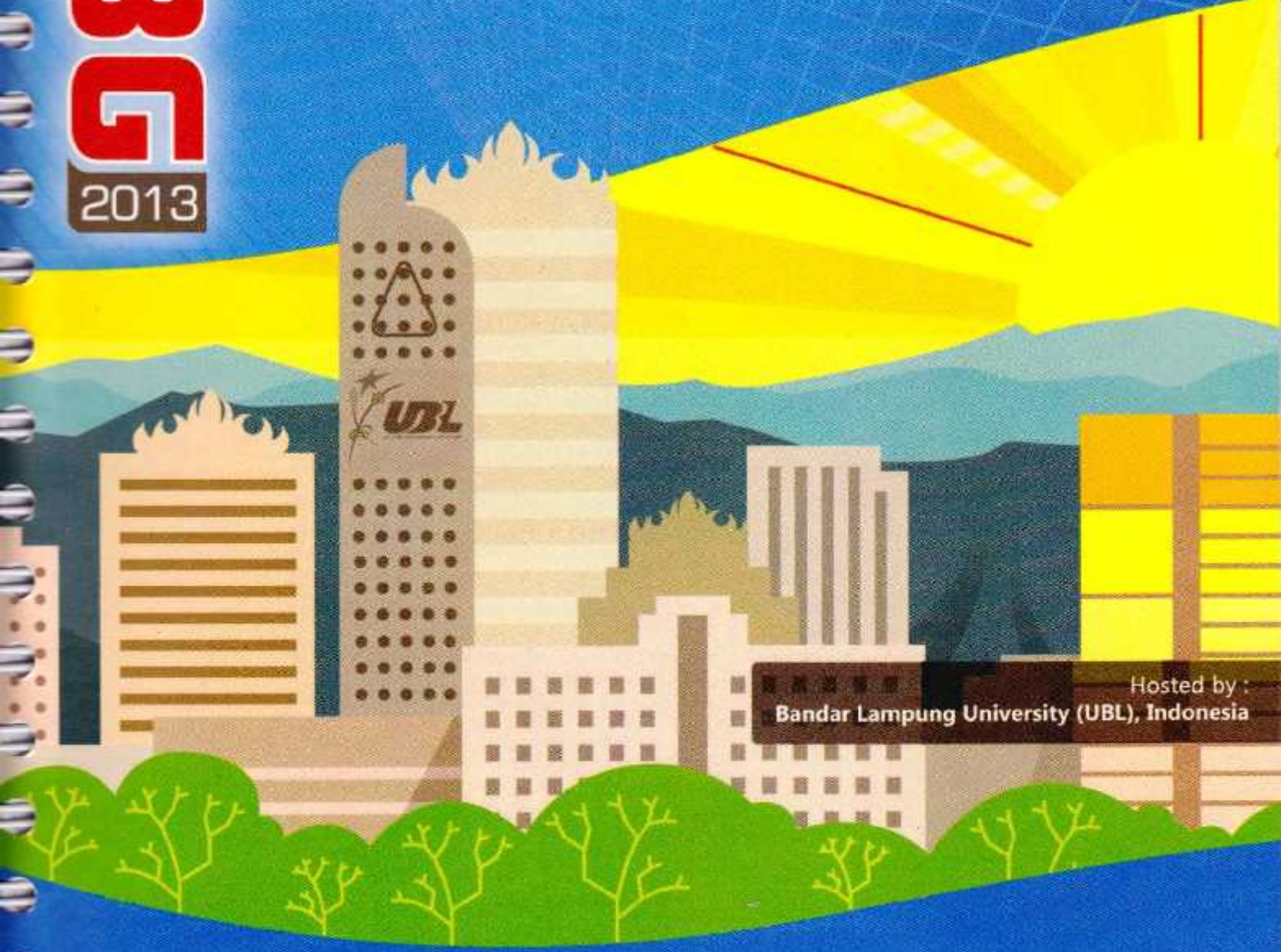
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bandar lampung**

THE FIRST  
INTERNATIONAL CONFERENCE ON  
**LAW, BUSINESS  
& GOVERNANCE**

**23-24**

OCTOBER 2013  
BANDAR LAMPUNG  
UNIVERSITY (UBL),  
INDONESIA

**ICON-UBG  
2013**



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**PROCEEDINGS**



# Icon-LBG 2013

THE FIRST INTERNATIONAL CONFERENCE  
ON LAW, BUSINESS AND GOVERNANCE 2013

22, 23, 24 October 2013  
Bandar Lampung University (UBL)  
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## PROCEEDINGS

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## **PREFACE**

The Activities of the International Conference are in line and very appropriate with the vision and mission of Bandar Lampung University (UBL) to promote training and education as well as research in these areas.

On behalf of the First International Conference on Law, Business and Governance (Icon-LBG 2013) organizing committee, we are very pleased with the very good response especially from the keynote speaker and from the participants. It is noteworthy to point out that about 67 technical papers were received for this conference.

The participants of the conference come from many well known universities, among others : International Islamic University Malaysia, Utrech University, Maastricht University, Unika ATMA JAYA, Universitas Sebelas Maret, Universitas Negeri Surabaya, Universitas Jambi (UNJA), Diponegoro University, Semarang, Universitas 17 Agustus 1945 Jakarta, Universitas Bandar Lampung, Universitas Andalas Padang, University of Dian Nuswantoro, Semarang, Universitas Terbuka, Universitas Airlangga, Bangka Belitung University, President University, Tujuh Belas Agustus University Jakarta, International Business Management Ciputra University, Surabaya, University of Indonesia, Business School Pelita Harapan University, STIE EKUITAS, Bandung, STAN Indonesia Mandiri School of Economics Bandung, Lampung University.

I would like to express my deepest gratitude to the International Advisory Board members, sponsor and also to all keynote speakers and all participants. I am also gratefull to all organizing committee and all of the reviewers who contribute to the high standard of the conference. Also I would like to express my deepest gratitude to the Rector of Bandar Lampung University (UBL) who give us endless support to these activities, so that the conference can be administrated on time

Bandar Lampung, 22 October 2013

**Mustofa Usman, Ph.D**  
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## **Table Of Content**

Preface.....	ii
International Advisory Board .....	iii
Steering Committee .....	iv
Organizing Committee.....	vi
Table of Content .....	ix

### **Keynote Speakers :**

1. Leadership Style, Climate, Commitment and Corporate Performance – Andreas Budihardjo .....	I-1
2. The Great Paradox of Good Governance in Indonesia - Andrik Purwasito .....	I-8
3. Local Autonomy and Inter-Sector Performance-Based-Governance in Lampung Province – Ari Darmastuti .....	I-15
4. Urgency of Regulatory Priorities Watershed in Order To Conduct an Integrated Watershed Administrative Law In Indonesia – I Gusti Ayu Ketut Rachmi Handayani.....	I-22
5. The Strategic Development Model of Organizational Dynamic Capabilities at Private Higher Education Institutions Using Soft System Methodology – M Yusuf S Barusman.....	I-29
6. Governance, Business and The Environment - Maliah Sulaiman .....	I-39
7. Good Governance and The Rule Of Law - Nik Ahmad Kamal Nik Mahmod .....	I-45
8. The Legal Protection of Geographical Indications in Indonesia Towards The Asean Economic Community - Wahyu Sasongko.....	I-56
9. Bank Indonesia Law Relations With The Financial Services Authority (FSA) in Indonesian Banking Supervision - Zulfi Diane Zaini .....	I-63
10. Application of Factor Analysis to Public Sector Integrity in Indonesia - Warsono, Armen Yasir, Dian Kurniasari, Widiarti, Ridwan Saifuddin .....	I-69
11. Strengthening Creative Economic Resources Through Designing Appropriate Regulatory Model in Managing and Optimising Cultural Property- Hayyan ul Haq.....	I-76

### **Invited Speaker**

12. The Direction Of Future Management Accounting Research In The Asia Pacific Region - Grahita Chandrarin .....	I-77
---	------

### **Paper Presenter :**

#### **Law :**

1. Indonesian Marriage Legal System Construction In Order to Protect Children From Marriage Law That is Not Recorded - Amnawaty.....	II-1
2. Urgently of Harmonization of National Legislation on Juvenile Criminal Justice Towards International Standards: A Review of Rules of Deprivation of Liberty of Child Offender - Antonius Ps Wibowo.....	II-14

3. The Urgency of Total Economic Value Aspect in Food Security Regulation In Order to Engage Asia's Trade Area (Indonesia Case Study) - Anugrah Adiastruti .....	II-25
4. Strike as The Last Resort In Dispute Settlement Between Workers and Employers - Arinto Nugroho .....	II-30
5. Politics of Land Law For Indonesian Farmers (Towards the Bill of Land in Indonesia) - Elita Rahmi .....	II-35
6. State Role In Building People's Economy Amid Economic Globalization - Elly Nurlaili .....	II-40
7. Legal Protection of Traditional Crafts Tapis Lampung Based Local Wisdom in The Era of Globalization- Erlina B .....	II-45
8. Perda Progressive : an Alternative To Fulfillment of Poor People Rights of Health in Local Autonomy - H.S. Tisnanta, Agus Triono .....	II-52
9. The Comparison Between Indonesian Constitutional Court and Russian Constitutional Court - Lintje Anna Marpaung.....	II-58
10. The Politics of Islamic Criminal Law in Indonesia (A Critical Analysis) - Mohamad Rapik.....	II-67
11. Learning Environmental Rights, Finding Green Future: The Road to Ecojustice - Muhammad Akib, Fathoni .....	II-73
12. The CSR of Tobacco Industries: The Concept And Its Implementation – Nanik Trihastuti .....	II-80
13. The Comparison Of The Indonesian Ppatk Role With Other Countries Financial Intelligence Unit (FIU) - Nikmah Rosidah .....	II-86
14. Benefits Of Ratification Of The Madrid Protocol (Protocol Relating To The Madrid Agreement Concerning The International Registration Of Marks) For The Protection Of Intellectual Property Rights In Indonesia - Risti Dwi Ramasari.....	II-92
15. Equitable Law of Democracy Political Policy Against The Election of Incumbent - S. Endang Prasetyawati .....	II-99
16. Narcotics Crime as A Phenomenon of Transnational Organized Crime - Zainab Ompu Jainah .....	II-110
17. Safety Net of The Financial System in The Perspective of Indonesian Banking Law - Zulfi Diane Zaini .....	II-115
18. National Land Law Reform in Facing Globalization - Darwin Ginting .....	II-122
19. Land Dispute Settlements Insocial Philosophy Perspectives (A Case Study in PTPN VII of Bergen Unit Business in South Lampung Regency) - Herlina Ratna S.N. ....	II-130
20. Analysis of Regional Expansion as Implications of Regional Autonomy Implementation - Indah Satria .....	II-137
21. Normative Judicial Analysis of Dissolution of Political Parties Towards Democratic System in Indonesia - Rifandy Ritonga .....	II-141
22. Limitations Of Legal Ability In Dispute Resolution Of Consumer Protection - Tami Rusli.....	II-147

**Business**

1. Accountability And Financial Performance of Local Government in Indonesia – Aminah, Lindrianasari .....	III-1
--	-------

2. Competitive Advantage; The Affecting Factors and Its Impact on Selling-In Performance (Studies on Patronage Outlets PT. Indosat Semarang) - Ana Kadarningsih .....	III-7
3. Bankruptcy Analysis of Banking Companies in Indonesia Period 2001-2012 (Using the Altman Z-Score Model)- Andi Sanjaya, Lindrianasari, Aminah.....	III-20
4. The Influence of Audit Committee Quality and Internal Auditor Objectivity Toward The Prevention of Fraudulent Financial Reporting(A Survey in BUMN of Indonesia) - Angrita Denziana .....	III-26
5. Performance Measurement of Management Study-Program Based on Balanced Scorecard from Students' Perception – Ardansyah, Ayu Ichda Mardatila.....	III-32
6. E-Business : At A Glance Indonesia Online Shop Agent - Arnes Yuli Vandika, Samsul Arifin, Eka Imama Novita Sari, Debi Herlina Meilani .....	III-37
7. Brand Awareness Strategy: Role of Blackberry Messenger (Case in Sumber Tiket Murah Travel: PIN 2144C41F) - Dian Pane, Baroroh Lestari.....	III-40
8. Analysis of Corporate Social Responsibility Implementation And Social Audit at PT Semen Padang - Elvira Luthan, Sri Dewi Edmawati .....	III-50
9. Tourism Investment, Supply and Demand in Indonesia: Impact and Factor Analysis -Faurani Santi, Rina Oktaviani, Dedi Budiman Hakim, Reni Kustiari.....	III-61
10. The Effect of Job Satisfaction and Organizational Justice on Organizational Citizenship Behavior with Organization Commitment as The Moderator - Fauzi Mihdar.....	III-75
11. The Economic of Umar Bin Khatt b Policy in Modern Economic Policy - Hendri Hermawan Adinugraha .....	III-83
12. The Influence of Corporate Governance Implementation toward Bank Performance (Empirical Study on Banks Listed in Indonesia Stock Exchange) - Heriyanni Mashitoh, Irma.....	III-90
13. The Factors That Influence The Firm Performance In The Furniture Industry Jepara - Mahmud,Guruh Taufan H, Ida Farida.....	III-102
14. The Implication of Opportunistic Behavior Towards a Financial Report Conservatism : A Study of Banking Company Go-Public at BEI - Novi Darmayanti, Nur Suci Mei.....	III-110
15. Innovation Strategy With Environment Variable Antesenden Internal, External And Environmental Partnership Strategy For Their Impact On The Sustainable Competitive Advantage (Survey on Small Business in Pangkalpinang city) - Reniati and Dian Prihardini Wibawa .....	III-118
16. The Infuence of Cash Flow Information Toward Stock Return - Reza Kurniawan .....	III-126
17. The Influence of Internal Control toward Production Cost Control Efectivity - Sarjito Surya.....	III-132
18. The Influence of Management Information System to Management Control System - Sihar Tambun, Vienda A. Kuntjoro.....	III-138
19. Identifying Indonesia-Uruguay Bilateral Trade Opportunities:A Revealed Comparative Advantage Approach - Sulthon Sjahril Sabaruddin, Riris Rotua Sitorus .....	III-145
20. Redesign the Competence Business Strategy of SME's in Dealing with ASEAN Economic Community (AEC) Trade Liberalization 2015 Case Studies: SME's Creative Industry Sector in Bandung - Teddy Fauzi .....	III-153

21. Service Innovation: In Highly Competitive of Hotel Industry - Widjaja Hartono .....	III-157
22. The Impact of Liquidity, Profitability And Activity Ratio To The Probability Of Default For Banking Companies Listed in Indonesia Stock Exchanges For The Period 2006 To 2012 - William Tjong, Herlina Lusmeida .....	III-164
23. Using Altman Z-Score Model and Current Status Of Financial Ratio to Asses Of Consumer Goods Company Listed in Indonesia Stock Exchange (IDX) - Yoppy Palupi Purbaningsih, .....	III-169
24. Analysis of Factors Affecting Foreign Direct Investment Mineral Mining Sector in Indonesia Period 2009-2012 - Zeflin Anggal, Purwanto .....	III-176
25. Implement of M-Government to Improve Public Services - Ahmad Cucus, Yuthsi Aprilinda .....	III-181
26. The Development of Productivity Performance Models: Based on Self-efficacy, Trust, Systems Quality, and Information Quality. Study on Information Systems of PT Pindo Deli Paper Products - Indah Kartika Sandhi.....	III-187

#### Governance

1. Controlling for Agricultural Land Conversion District in West Java Province Tasikmalaya - Ade Iskandar .....	IV-1
2. Local Handicraft Development Policy Implementation - Ani Heryani .....	IV-5
3. Designing IT Governance Approach Standard ISO 38500 for Indonesia Higher Education - Arnes Yuli Vandika, Samsul Arifin, Eka Imama Novita Sari, Debi Herlina Meilani .....	IV-9
4. Potential Thematic Campaign for Lampung Tourism - Hasan Basri .....	IV-12
5. Globalization and Its Effect on Democracy - Ida Farida .....	IV-17
6. Bureaucracy Communication and Government Organizational Culture - Khomsahrial Romli .....	IV-23
7. Creative Economic Development Mode Through Business Learning Group For The Purpose of Ending The Poverty - Soewito, Suwandi .....	IV-29
8. Child Protection Strategies at Agrarian Conflict Area (A Case Study at Moro-Moro Village, Register 45, Mesuji Regency) - Wijatnika .....	IV-36

# EQUITABLE LAW OF DEMOCRACY POLITICAL POLICY AGAINST THE ELECTION OF INCUMBENT

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## 1. BACKGROUND

General electoral Regional Head in 2010 has given rise to many interesting phenomena in the history of politics in Indonesia. Starting from the phenomenon of political dynasties, the defeat of an incumbent candidate in the elections<sup>1</sup> even the phenomenon of the use of funds from the Revenue and Expenditure (Budget) by the incumbent in the election.

Politics and the Indonesian government changed from a monolithic, centralized system towards a democratic system of government. Since 1999, the government has done some democratization agenda through a more competitive party system and the holding of elections free and fair. The central government has also delegated more authority to local governments.

General Election after the reform era brought a little wind of change for Indonesia to a more democratic direction. The success of the 1999 general elections with a multi-party system party can become a process of socialization and education community to the so-called democracy. Along with the periodization of time which is also supported by the dynamics of social, cultural, political, legal and so fast, eventually the general election in 2004 and 2009 were able to realize the implementation of direct presidential elections were elected by the people. This is what makes the process of democratization in Indonesia has to be said to be at a level high enough although still not in support of other indicators of success in achieving a process of democratization.

Democracy seems to have occupied an important position in the distribution of power in a country. The division of power in our country based on the concepts and principles of trias politica. Act 32 of 2004 on regional government as the basis of organizing the elections have not accommodate the whole of the election. Therefore it needs a law governing special elections.

Wind of change brought about by the democratization process eventually not only reach the level of government alone but it has reached the level of local government. General Election region directly portray the dynamics of democracy in Indonesia has succeeded in changing the mindset of people in Indonesia. General Election held in 2010 gave birth to a lot of interesting phenomena in the history of politics in Indonesia. Starting from the phenomenon of dynastic politics in the elections, the phenomenon of celebrities who made a second fortune in various elections and the phenomenon of incumbent defeat a candidate in the elections, even the phenomenon of the use of funds from the Revenue and Expenditure (Budget) in the elections.

Incumbent benefited because it controls all access. Ahead of the elections, they as officials raise their popularity and self-image in a way to piggyback on local government projects. Many modes can be done in the search for popularity. For example, trying to speed up construction projects and force or try launching more pro-people development. Therefore, do not be surprised if there are regional *hesad* that will head forward again, inaugurate hospitals, schools, public roads, market development, or other public projects when approaching election event. It is not possible projects such as the BLT (conditional cash transfer) appear. They controlled access to the economy so that it can conjure up a government project with wrap of generosity<sup>2</sup>.

The modus did not just that. They also use social accesses. For example, increasing public participation events. It's very effective to build an image and to spread promises. Bottom line: The incumbent greatly benefited.

Revenue and Expenditure (Budget) is an important document for the region, because the Revenue and Expenditure (Budget) imaged income, sources of income and expenditure both development and routine

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<sup>1</sup> Undang-undang pemilu kada 2010, Pasal 1 ayat 1.

<sup>2</sup> Kompas 22 April 2007, Incumbent dan dana Pilkada



expenditures. In the era of regional autonomy there are some fundamental things that are contained in the Revenue and Expenditure (Budget) is<sup>3</sup>:

1. Local Government has a duty activities and local government obligations is to build economic, social and cultural areas to create the conditions for a better society.
2. Tasks such an obligation, carried out a detailed, systematic, systemic and procedural budgeted.
3. Systematic is planning must be done comprehensively according to the guidelines set forth in the applicable provisions of the order
4. The plan, which will be discussed with the Local Government Council of Regional Representatives (parliament) as outlined in the regulations that would be a deal together.

Possible Revenue and Expenditure (Budget) is used in the electoral process as a charity, humanitarian and social welfare but it aims to join forces to strip the head of one of the candidates.

According to article 12 paragraph (1) of Law No. 32 of 2004 jo. Undang Act No. 12 of 2008 stated that the Regional Representatives Council (Council) has duties and powers:

- a. Establish a regional regulation are discussed with the Regional Head for approval together.
- b. Discuss and approve the Draft Regulation on the local budget (budget) together with the Regional Head.
- c. To supervise the implementation of laws and other regulations, local regulations, the local budget (budget), government policy in implementing regional development programs and international cooperation in this area.
- d. Proposes Appointment and Dismissal of Chief regional / local Deputy to the President through the Minister of Home Affairs for the Regional Representatives Council (Parliament) and the Provincial Minister of the Interior through the Governor for the Regional Representatives Council (Council) District / City.
- e. Choosing the Deputy Chief of the area in the event of a vacancy of Deputy Head.
- f. Giving consideration to the opinions and responses to international plans in the region
- g. Approved the plan of international cooperation by the local governments
- h. Ask for accountability reports regional head in governance
- i. Monitoring reports and asking General Elections Commission (KPU) and / or the General Elections Commission (KPU) Regency / City in the administration of local elections Giving approval to the plan of cooperation between regions and with third parties that burdens communities and regions.

Electoral (Elections) is an important instrument in a democracy that adheres to the representative system. Elections serve as a filter for "politicians" who will represent and bring the voice of the people in the representative institutions. Those selected are considered as individuals or groups who have the ability or obligation to speak and act on behalf of a larger group with a political party (parties). Therefore, the existence of political parties is a necessity in the modern democratic political life. It is intended to activate and mobilize the people, representing specific interests, provide a compromise for the opposite opinion, as well as providing a means of political succession legally and peacefully. Thus, like elections, political parties were an essential component of democracy. It should be emphasized discussion of election law cannot be separated from the discussion of the system that regulates the composition and status of representative institutions, because the election was held in order to fill the representative institutions. Election absolutely required by the state adopts democracy. In accordance with Sutjipto Raharjo, who said that in trying to fix the law in Indonesia we need to pay careful attention to the behavior problems of the nation, the law of life is not only about the technical legal matters, such as legal education but education regarding individual behavior and social development better. Therefore, in the opinion of the author is a very important improvement is also done on the behavioral aspects (cultural law) an independent law enforcement agency in line with the thinking that says a Warrasuh Esmi using or not using the law, obey or not to obey the law depends on the culture.

## 2. RESEARCH METHODOLOGY

This research combines doctrinal legal research (normative legal research) and socio-legal research (empirical legal research), the basis of doctrinal research is the research library that includes primary legal materials, legal materials and secondary legal materials tertiary. The legal material used in this study consisted of primary legal materials, namely Law no. 10/2008 on the General Election and the Law

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<sup>3</sup> Josep Riwu Kaho, *Prospek Otonomi Daerah di Negara Republik Indonesia*, Yogyakarta,

No.8/2012 on the Implementation of the General Election, secondary legal materials consisting of decision - the decision of the Supreme Court of the Constitution and laws of tertiary ingredients sourced from the results of previous studies and dictionaries. Legal material is secondary data, primary data was obtained from the informant which is supporting data. Data analysis was carried out qualitative analysis.

### 3. THEORY FRAMEWORK

In the early days of independence in accordance with the implementation of the process of decolonization, development policies implemented to carry out the construction of a centralized in the hands of the central authorities tend to be dominant. The belief that national elites contributed liberate the country found that prosperity can only be obtained quickly through "activity on", which can be distributed directly to the reasonable process called 'trickle down effects'. Or development activities remain to be implemented in accordance with the planned autonomy through a process managed by both top-down. But in fact the government must perform its bottom up development involving communities and enjoy also the result of development<sup>4</sup>, meant that communities participate actively in carrying out activities in life as a progressive legal characteristics<sup>5</sup>.

According Satjipto Raharjo law must return to the basic philosophy of the law for the people<sup>6</sup>. With this philosophy, becomes a critical point of orientation and the law. With this philosophy, becomes a critical point of orientation and the law. Law in the service of man and not vice versa. If the law in the service of people, the law should adjust the values of human needs, the interests of the people (welfare and happiness) must be widened final destination point of orientation and law enforcement<sup>7</sup>

Reformative nuanced policy options that the implementation of development involving the populist elements of society are often called different civil society with a policy of decolonization in the called according to Soetandyo is pursuing a policy to advance the strengthening of social infrastructure, as well as efforts community development and empowerment citizens in the life of the state, through a transformative process.

Transformatif development process is the process that drives change and the internal development of the social order are configured dependence, following the model of vertical relationships Kawula Gusti servant configured to the new order of equality among citizens. Such transformation requires local institutions engaged in active and progressive than, that of the local communities, these institutions by Berger and Neuhaus called *mediating structure*<sup>8</sup>. It is impossible as stated by Soetandyo the tri hita karana or feelino local and ethnic wuno can be accepted together, from Sabang to Merauke.<sup>9</sup>

Since the 1960s, there are many authors and statements that explicitly distanced himself from the approach only watched one dimension in order to construct development goals, such as economic growth, and propose a multidimensional target catalog. Experts are very memengaharui transition is seers Dudley (1974), who refused to growth without the development of society and menyebit three major strategic objectives, namely reducing poverty, unemployment and social inequality. According to the seers, three priorities were a prerequisite to developing human potential. "Reports Rio" (Tinbergen, 1976) covers a wider range of targets again, that equality, freedom, democracy, solidarity, cultural diversity, and environmental protection. Gerald Braun (1987) emphasize nonmaterial basic needs which he said is an environment consisting of protection of cultural identity and political autonomy, resistance to imitation western patterns seara not critical, and the determination of material needs.

In their book about economic development, which is widely used in developing countries (first edition published 1977), Todaro and Smith (2003; until the 7th edition Todaro alone) mentions three strategic objectives (prescriptive) support and complement each other, to stem from the analysis (descriptive)

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<sup>4</sup> Ibid, hlm. 568

<sup>5</sup> Hukum progresif pertama kali dilontarkan Satjipto Rahardo dalam Harian Kompas dengan judul "Indonesia membutuhkan Penegak Hukum Yang Progressif". Hukum Progressif yaitu yang menganut 'ideology'; hukum yang pro keadilan dan hukum yang pro rakyat, lihat juga dalam Satjipro Rahardjo, Hukum Progressif, dan Anton. F.Susanto, Rekonstruksi Hukum Ekplorasi Teks Dan Model Pembacaan, Genta Publishing, Jogyakarta, 2010, hlm. 48 dan Benard L Tanya, Teori Hukum Suatu Ketertiban Baru, Genta Publishing, Jogyakarta, 2010, hlm. 212.

<sup>6</sup> Satjipto Rahardjo, Hukum Progressif..."

<sup>7</sup> Bernard I. Tanya, ibid.

<sup>8</sup> Mediating structure adalah sejumlah institusi yang berfungsi sebagai pengantar yang mendekatkan kehidupan privat -domestik para warga ke kehidupan publik yang lebih luas yaitu dalam konteks kehidupan berbangsa dan bernegara.

<sup>9</sup> Bernard I. Tanya, op.cit, hlm. 48.

interrelationship of many factors. Three targets it is a guarantee of physical life through the ability to meet basic needs, human dignity, and freedom from any occupation, both physically and spiritually as a requirement for more choices of economic, social, and political. Strategic objectives should attract a lot of attention because operationalized in their work.

Catalog more detailed targets proposed by Nohlen and Nuscheler (1992a, 64-75) with the title Five Magical Triangle Community Development. Catalog that includes the following five elements:

1. Qualitative growth, reducing poverty and protecting the environment (sustainability) as an absolute condition, with a note, the growth was not enough to meet basic needs and the equitable distribution of income;
2. Employment opportunities, both as instrumental value, ie productive jobs and generate sufficient revenue, as well as a value in itself, is an opportunity to manifest themselves;
3. Equality / justice (as a qualitative correction factor to growth), equity and justice through public access to public goods and services;
4. Participation, as an opportunity to come speak and participate in social, in the sense of "development from below";
5. Independence / freedom, as an opportunity to pursue their economic and political self-sufficient.

The goals, which was first formulated in 1974 and true today, according to the dimensions they need dilengkai ecological and economic system that relies on the market and at the same time socially patterned. Nohlen and Nuscheler summarizes the definition of community development as follows:

"The development of the productive forces on the basis of their own initiative in order to provide goods and services for the whole community, both material and cultural survival that make life more humane, as well as a social and political arrangements that ensure all members of society will have equal opportunity, to participate in political decision-making as well as for a share of the prosperity that labored together." (Nohlen and Nuscheler, 1992a, 73)

Interestingly the approach of Dieter Senghaas (2002) who proposed a hexagon (hexagon) the process of civilization, which is heavily influenced by the works of Norbert Elias (1978) on the "process of civilization". According to Senghaas, modern society were challenged and characterized by politicization and pluralization, both the residents and the community, due to urbanization, increasingly dense social relations, literacy, upward mobility, as well as the international demonstration effects. Of all the problems that arise, ie how people can set up well, especially how conflicts can be resolved inevitable civilized that can be created with a peaceful life.

Based on the historical development in the West by many conflicts, he found six basic elements that form the basis of modern civilization in the West, which generally able to resolve conflict without violence. The six elements which are interwoven with each other and complement each other, are:

1. State monopoly in the use of physical violence, meaning the residents are not allowed to use guns to defend themselves (vigilante), because the task was handled by the state police;
2. State laws with various institutions (courts, prosecutors, lawyers) as a rule of the game to direct and control the state's monopoly of violence, especially to avoid the emergence of dictatorship.
3. Democratic participation as the foundation for change and develop the law in accordance with the changing times not to freeze so that it no longer reflects the aspirations of the people;
4. Control of affection at the individual level, either to internalize a culture of non-violence and through the interdependence of the many roles played by each person. Thus, there will be conflicts on the overall absolute existence, but fragmentation conflict softer and more easily addressed;
5. Fairness in the distribution of income should compensate the market system (capitalism) and ensure the participation of folk material. This principle aims to avoid the inequities that are too large, even though the benchmark of unacceptable inequality again different;
6. Cultural conflicts are civilized and free of violence; it means there is some sort of deal in the community and a strong desire to solve conflicts by peaceful means. This element is very important as the foundation of a modern political culture.

According Senghaas, the civilization that evolved in the western is not due to an intrinsic elements of such a culture, but rather "against the will" being forced by changing circumstances of modern society. In his thesis, a cultural essentialism (or culturalism) rejected, as if Western culture from the beginning are to get there. Based on the way the vision, Senghaas found that developing countries were inevitably have to take a similar path as it also was seized with the process of modernization, though perhaps by developing different institutions shape.

### **a. The Theory of Good Governance of Charles and Anne Donnelon**

In the era of 1965-1998, for the successful development of centralized government maintained that the development of the existing bureaucracy called bureaucratic-authoritarian industrializing regimes (Bair) that are extremely bureaucratic paternalistic and trends in the era of development of the Weberian ultranationalist who always oriented centralism and legisme and always saw the construction of part of the ideology.

While the era of the XXI century is called The End of Nation States as a post-bureaucratic type as expressed by Charles and Anne Donnelon, which suggests that the post-bureaucratic organization is an organization that is more menekankan importance of the collaboration between the people who have the authority having freedom (citizens), the requirements are more consensual and information more open, better known by the concept of good governance.<sup>10</sup>

## **4. DISCUSSION**

### **A. Legal Policy for use of Revenue and Expenditure (Budget) in the Election by Incumbent**

On the basis of decentralization in the administration of state government most of the power delivered to the governor / regent / mayor, as the regional finance manager. An area will be able to hold their own elections if it has adequate financial.

Improper grounding thinking and making the Act No. 17 of 2003 will not only be detrimental to the state and region, even a third party can be harmed in an unlimited amount. This happens because the country's financial statement in accordance with Article 2 letter i of Law No. 17 of 2003, in which the state finances as well as in the depth of the riches of others obtained by using the facilities provided by the state so that the body of civil law / private wealth obtained by using state facilities, is the country's finances. Thus, no longer distinguish between the financial state / local finance and private finance for all the other agencies that wealth obtained using state facilities designated as state finances.

Therefore, the formulation and understanding of public finance and financial areas, or other private legal entity financial needs to be redefined so as not to cause confusion in thinking, which can lead to state or regional losses that has no end.

State financial management as referred to in the Act of 1945 should be implemented in a professional, open, and responsible for the welfare of the people embodied in the State Budget (APBN) and Regional Budget (APBD).

### **a. The use of budgets in the elections by the incumbent has not been in accordance with the laws of politics in Indonesia**

Law No. 17 of 2003 to formulate the State Budget (APBN) and Regional Budget (APBD) clearly, as well as on the state but local finance is not formulated at all. Similarly, the financial entity such as a limited liability company whose shares are wholly or partly owned by the state or county is not clearly defined.

It is admittedly not easy to formulate the definition of the state or local finances if not done in a juridical approach correctly. When in fact, the definition can easily be described in a clear, if the approach is done through the construction of the law, especially regarding the rights and obligations of a legal entity as a legal subject, both legal entities of public (state and local) and regular private legal entities.

Therefore, it is absolutely necessary for judicial review against the three packages laws governing the country's finances to the Constitutional Court. This is due to the formula set forth in the third law that created big issues, both in terms of state administrative law and in terms of constitutional law.

Furthermore, having known the importance of changes in the law on fiscal balance between the central and local governments in terms of the constitution, it should also note the importance of changes in the legislation in terms of regulated substances and set forth in Law No. 33 of 2004.

Article substance changes outlined in Law No. 33 of 2004 can be seen clearly shows the difference between the reception area and local revenue. Regional Acceptance in Article 5 paragraph (1) of Law No. 33 of 2004 was formulated consisting of revenue and finance.

Elaboration of the article is to clarify the meaning of the formula, as well as the scope of the reception area. Furthermore, in relation to the problems that caused the financial balance between horizontal and

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<sup>10</sup> Charles Hecksher , Anne Donnellon, The Post Bureaucratic Organization: New Perspective on Organization Change, 1994. Lihat juga makna Good governance dalam Soetandyo ...sebagai suatu praktik pengelolaan kekuasaan penyelenggaraan pemerintahan negara yang mendasarkan diri pada berlakunya prinsip the rule of law dan bersifat predictable, accountable, transparant dan participatory.

vertical imbalances imbalances resulting from the transfer of power of the central government in the region, this is due to the readiness of the management area in the field of natural resources or human resources are generally inadequate. Thus, it is necessary to join the central government's efforts to balance the ability of the economic and human resources areas both horizontally and vertically at the local level.

As is known, the key actors in the discussion of the budget consists of; Regional Head as budget authority, the Regional Secretary of the Regional Financial Management Officer (PPKD), the Regional Representatives Council (parliament), which has the function of the budget, and the Regional Election Commission (KPUD) in it is a power user's budget. Regional Election Commission (KPUD) often "held hostage" by the local head Election budgeting because it depends on the approval of the head of the area which is often also an incumbent candidate and political party supporters in the House of Regional Representatives (parliament). Meanwhile dependence Regional Election Commission (KPUD) on the disbursement of funds is often delayed, making the bargaining position of Regional Election Commission (KPUD) weak in the administration of elections of regional heads. Therefore, there is no doubt these two actors - regional head position incumbent and political party supporters - has a strong influence in the budget-making election of regional heads.

#### **b. The effect becomes stronger when the incumbent party is the majority of the supporters of incumbent parties in parliament**

With the enactment of the problem of financial balance between central and local government through Act No. 33 of 2004, in which the DAU is based on actual revenue, if the potential fiscal (fiscal capacity) greater than the need for fiscal (fiscal need). These areas will receive DAU allocation is relatively smaller, compared to the fiscal capacity of the area is smaller than fiscal necessity.

The DAU is allocated to regions based on the fiscal gap (fiscal gap) and basic allocation is calculated based on the number of civil service salaries by region. Meanwhile, the fiscal gap or fiscal gap is reduced local fiscal needs of local fiscal capacity.

An overview of the fiscal gap can be seen from the graph, where the triangle formed as a result of a reduction in the fiscal needs and the need for fiscal balance is the amount of funds needed by a particular region.

The region that balance between fiscal needs and fiscal capacity, theoretically would not have balanced fund or a balanced fund gained relatively smaller or equal allocation basis, compared to the fiscal needs of the area is greater than fiscal capacity. Further, in terms of management and accountability DAU and DAK, though the money comes from the state budget, management and accountability procedures are subject to the terms of the management of the budget, the Government Regulation Number 58 Year 2005 on Regional Financial Management has been amended by Act No. 39 of 2007 Management of Money Country / Region, where the DAU is set at least 25% of domestic revenues in the state budget. Distribution DAU conducted into each cash region by the Minister of Finance as financial management authority of state and state treasurer that the legal status of money from the state budget is already a regional currency and subject to the provisions of Government Regulation No. 58 of 2005, although it has been judicially going transformation of the legal status of a State Finance Financial. So it is with finances from the state budget devoted DAK, though used, among other things, to demand a commitment or a national priority, keep management and accountability is based on Government Regulation No. 58 of 2005..

In this scenario the Regional Representatives Council (DPRD) is often the incumbent candidate amplifier actor, especially when the local head election budget discussions. Meanwhile, if the incumbent local head and his deputy, go ahead and fight in their own package, the influence of the incumbent becomes less free because each party involved watching each other between the candidates. Meanwhile, the Regional Election Commission (KPUD) has the same interest that the election to the incumbent head the area can be done on time. This relates to the incumbent who did not want to influence regional head elections held after his term ends that made him no longer have an influence on budget policy.

#### **B. Ideal policy in the use of Revenue and Expenditure (Budget) in the Election by Incumbent**

The existence of the financial transformation of the legal status of the area, where the change in the legal status of local finance, has implications for the rights and legal obligations to the rights and obligations as a legal subject areas.

Similarly, the central tax from land and building tax (PBB) and Acquisition Cost of Land and Building (BPHTB) delivered by the central government to the regions, the remission made by the finance minister to the provincial treasury or cash districts / cities, when the money comes from the division of the PBB and regional BPHTB recorded as regional money, since then the legal position of the money from PBB

and BPHTB, the legal status of the money is no longer the state money, but it has changed its legal status to regional money. Thus, the management and accountability of the money is subject to Government Regulation No. 58 of 2005.

Unlike the management and accountability of funds from the state budget dedicated Tasks and deconcentration, under Article 3, paragraph (3) jo. Article 9, paragraph (1) of Government Regulation No. 7 of 2008 on Deconcentration and Tasks, said records and financial management in the organization of tasks shall be separate from the local budget and the village's budget of revenues and expenditures. Similarly, funds from the state budget devoted deconcentration in the implementation provisions applicable provisions of the State Budget execution as provided Section 8 Government Regulation No. 7 of 2008, the budget implementation of deconcentration and implementation of deconcentration funds made according to the provisions applicable to the state budget, except duty of assistance from the provincial to the district or city in the country is also funded from the local budget.

The scope of deconcentration and assistance duties under Article 8 Government Regulation No. 7 of 2008, on Deconcentration and Tasks include aspects of implementation, financial management, accountability and reporting, guidance and supervision, inspection, and sanctions in accordance with the provisions of the State Budget.

Local fiscal needs are the need of government funding to carry out the basic functions of basic public services such as health care and education, the provision of public infrastructure and poverty reduction, in which every basic funding requirement is measured by the number of population, land area, the construction cost index, gross domestic product per capita and human development index.

Furthermore, DAK, which is set each year in the state budget, are allocation of funds to specific areas to fund special activities that are local affairs, including general criteria that take into account local capacity in the budget, specific criteria established by taking into account characteristics such as coastal areas or islands, and technical criteria that include the standard / quality of construction as well as local and national benefits.

As mentioned earlier, which included a balanced fund is Revenue Sharing Fund (DBH) derived from taxes and natural resources. DBH that derived from tax is land and building tax (PBB), Acquisition tax of Land and Building (BPHTB) and income tax (PPh) of Article 25 and Article 29 taxpayers in the country and PPh 21.

At this time the management of the PBB and BPHTB still carried by the central government, although they are levied by local governments. For a long time to come, the PBB and BPHTB which was originally a center government tax should be left entirely to the regional government. Considering the location of the tax object is located in the area of the local government, local governments will be more quickly and accurately assess changes in the legal status of the land or building that was the object of land and property tax in their region.

Thus, the local government is given greater taxing power through the authority to set rates and tax bases. In addition, to increase the financial capacity, the central government should give authority to the regions to levy taxes superimposed on the center of the form *opcenten* the individual income tax and the State Revenue (non-tax revenues) that would later be a new revenue component, which intended to improve the ability of local fiscal and minimize local fiscal gap.

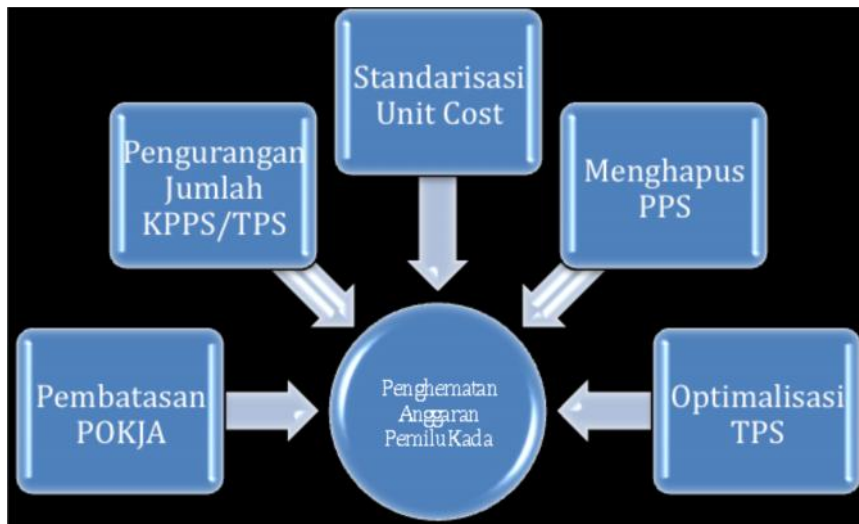
Local governments have to deal with all the potential to ease the maximum utilization for the benefit of the community. The plan of using financial resources and management will be used to finance local governance and development as outlined in the Local Budget (APBD).

In order to implement an ideal local election by the incumbent, it is necessary to reconstruct the use of Local Revenue and Expenditure (APBD), by making efficient financing of local elections and transfer the costs of local elections to the State Budget (APBN).

### **I. Election Financing Efficiency**

Regional Head Election budget savings can be accomplished by reducing the number of voting organizer group (KPPS) at all polling stations (TPS), to optimize the number of voters per polling stations (TPS), standardization of unit cost, reducing spending socialization, and apply one sources of financing (only from the State Budget (APBN), to avoid double financing.





- **Working Group Restrictions**  
The findings showed the greater the number of working groups, the greater the carrier's salary unit cost. The modes of expanded the number of Working Group is also found to acquire an additional salary. Variant number of inter-regional working group indicates there are no limit to the number WG. Therefore, we should limit the amount of adjustment in terms of the working group. Number of Working Group can be restricted to activities that did require special attention or simply based regional head election phase, a total of three Working Groups.
- **Reduce The Number of Officers of Voting Organizers Group**  
Reducing the number of Voting Organizer Group (KPPS) from seven to five people, has been proven by the Bandung District to reduce organizer's salary. It can be done, considering the local election is not as complicated as legislative elections. However, optimization of the voters in the polling stations (TPS) - such as access of citizens to use their voting rights - must be considered in order not to reduce the quality of the regional head elections.
- **Unit Cost Standardization**  
The reference standard salary which vary from one region to the other, enabling waste budget. Organizer's salary of the Regional Election Commission (KPUD) which is a monthly, potentially double financing, because the Election Commission has received salary from the State Budget (APBN). It is therefore necessary setting standard salary and adequate financing sourced from the State Budget (APBN), in order to avoid double funding.  
Permendagri No. 57 of 2009 which regulates nomenclature head Local Election Head financing sufficient to accommodate the types of activities the local head election. However, it is still necessary to standardize logistics unit cost that is definitely the standard price and needs, such as printing and supplies polling stations (TPS). The standardization of unit cost or elections cost per voter will ease the Regional Election Commission (KPUD) in planning budgets and avoid wastage election budget.
- **Optimization of polling stations (TPS), Increase Voters List (DPT) per polling stations (TPS).**  
Most budget elections to "Voting Organizer Group" (KPPS) can also be reduced by optimizing the number of voters per polling stations (TPS). The greater the number of voters per polling stations (TPS), the organizers will save expenditure. However, voter access to polling stations (TPS), which can affect voter participation, should be the primary consideration. In many cases, the implementation of voting can be completed before deadline closure of polling stations (TPS). Villages that also conduct direct election of village's head especially the areas of Java, for example, provides only one polling stations (TPS) for the residents of one village. But it is difficult in urban areas, although population density and access to polling stations (TPS) easier. Therefore, the establishment of polling stations (TPS) and the number of voters per polling stations (TPS) is determined based on previous voter turnout by optimizing the number of voters at each polling stations (TPS).
- **Removing Voting Committee (PPS)**  
In the elections, the Voting Committee (PPS) has no significant role. Voting Committee (PPS) does not do calculations or voting. Removal of the Voting Committee (PPS) will not be having an effect on the quality of the elections
- **Establish a Reserve Fund**

The implementation of local elections is a burden to Local Budget (APBD). Areas that will hold the Local Election, it is necessary to form a reserve fund at least two years before the election executed.

- **Sharing Concurrent Financing Election**

Election simultaneously can be done to save the budget, with a note, there should be a legal basis for the sharing of financing between the provincial government and the local organizing elections. By using the principle of proportional integration and loading between the provincial and district / city.

## **II. Transfer of Election Expenses Costs On A Budget Revenue and Expenditure (Budget)**

Election funding diversion of Local Revenue and Expenditure (APBD) borne by the State Budget (APBN), demanding a change in legislation that currently regulates the financing elections, such as Article 112 of Law No. 32/2004 and Article 114 paragraph (5) Law no. 22/2007. Here are a few reasons for the importance of funding the election comes from the State Budget (APBN):

- **Avoid overlapping budget.**

Overlap budget elections occur at regular financing Regional Election Commission (KPUD) and holding elections simultaneously. State Revenue and Expenditure (APBN) has been a routine finance Regional secretariat of the General Elections Commission (KPUD), while the Local Revenue and Expenditure (APBD) as a source of financing elections, partly finance the Regional Election Commission (KPUD) as a routine administrative and salary. The same thing happened in the case of a fund holding simultaneous elections of the same types of goods, such as voter cards and invitations. Therefore, with the funding sources of the State Budget (APBN), can avoid overlapping in the budget, including the organization of the elections simultaneously.

- **Standardized unit cost of election**

With funding of the State Budget (APBN), the Government, the National Election Commission (KPU) and the Center House of Representatives (DPR) can establish a standard price per Election Voters List (DPT), thus avoiding wastage. Standard setting prices can be based on the Regional Election Commission (KPUD) which will hold the elections, taking into account geographical conditions, the index of relative cost, and the population density.

- **Avoid reduction in public expenditure.**

Limitations of local financial capacity, causing region to reduce public spending, such as education and health to finance elections. With funding of the State Budget (APBN), the region can still allocate public spending. Election Funding in State Budget (APBN), also will not interfere with other funding and burdensome, considering the sources of financing the State Budget (APBN) is more extensive and increasing faster than Local Budget (APBD). With an average cost of elections Rp25 billion per district / city and Rp. 100 billion per province (for one round), then the required fund of the State Budget (APBN) is Rp. 17 trillion over the past four years or Rp. 4.2 trillion a year. Assuming performed as described above, the efficiency and operation simultaneously.

- **Avoid delays election stage**

As described previously, many regions late of organizing the stages of elections. This happens because there are no synchronization between the phases of the elections with the budget cycle and presence of the pull of the region actors in the discussion of the budget. Financing the State Budget (APBN) for the elections, could provide a source of funding certainty Budget (APBN) without having to wait for the cycle discussion of Local Budget (APBD).

- **Reduce intervene against the independence of the Regional Election Commission (KPUD) and clarify oversight mechanisms**

Election Funding in Budget Revenue and Expenditure (Budget), making the Regional Election Commission (KPUD) "hostage" in proposed the budget of region political actors who have an interest in the election. Funding the Regional Election Commission (KPUD) becomes a means of bargain that can affect the independence of the Election Commission. Funding State Budget (APBN), can avoid the intervention of the Regional Election Commission (KPUD). Conflict monitoring of Regional Election Commission (KPUD) as vertical agencies can also be avoided with funding from the State Budget (APBN).

- **Election funding mechanism from the State Budget (Budget)**

Election funding from the State Budget (APBN), also includes the cost of securing and Integrated Law Enforcement Center (Gakumdu). General Election Financing and funding related to the Revenue and Expenditure (Budget) should be strictly prohibited. Election financing mechanisms of the State Budget (APBN), not unlike the Presidential Elections. General Elections Commission (KPU) budgeted costs of conducting elections in sworks unit of Regional Election Commission (KPUD) that hold

elections Based on the proposed Regional Election Commission (KPUD) taking into account the local Voters' List (DPT), geography and relative cost indices.

Departing from the above recommendations, the proposed changes to the Act as described in the following table:

Current Act	Proposed Amendment
Article 112, Law no. 32 of 2004 on Regional Government: "The cost of election activities of regional head and deputy regional head charged to the Revenue and Expenditure (APBD)"	<ul style="list-style-type: none"> <li>• "Implementation of General Election budgeted in the State Budget (APBN)"</li> <li>• Election Funding in State Budget (APBN) will be following the steps in the General Election.</li> </ul>
Article 114 paragraph (5) Law no. 22 of 2007 concerning General Election: "General Election Funding Regional Head and Deputy Head shall be allocated in the Budget Revenue and Expenditure (APBD)"	<ul style="list-style-type: none"> <li>• State Revenue and Expenditure (APBN) is not allowed to budget-related activities Implementation Election</li> <li>• Election funding mechanism similar to the Presidential Election, based on proposals from the Regional Election Commission (KPUD).</li> </ul>

## 5. CONCLUSIONS AND RECOMMENDATIONS

### A. CONCLUSION

1. In financial management, public finance should be used as much as possible for the sake of public welfare.
2. Conditions of use of state finances, regulated in Law so that the use of State Revenue and Expenditure (APBD) in the election by incumbent does not comply with state financial system.
3. In order to implement an ideal local election by the incumbent. it is necessary to reconstruct the use of Revenue and Expenditure (APBD), by making efficient financing of elections and transfer costs elections in the State Budget (APBN).

### B. ADVICE

1. It should be the policy of the election law by using the APBD by the incumbent in accordance with existing law.
2. With the use of APBD in the election by incumbent can be adjusted with the politics of law in Indonesia.
3. With political reconstruct the election law by using APBD funds by incumbent can realize the prosperity election and equitable society.

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