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by Sukri 01

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Implication of Adat Existence in Regionalisation of Politics

Sukri; Andi Ali Armunanto; Ariana Yunus; Sakinah Nadir; Dian Ekawaty
Department of Politics, Hasanuddin University – Makassar, Indonesia
sukripolitik@gmail.com

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Abstract : This paper aims to analyze how democratization through regional election has the potentiality to harmful the existence of an ethnic group that also recognizing as indigenous people in Indonesia. It seems to occur where the political dynamics happen in the regional area. Based on research in the Toraja ethnic group, there is tendency that regional election as regional political event was becoming an arena to protect their existence when faced the outside model to choose the regional head government. Based on tendency on the regional election in 2015, the fact shows that this ethnic group was created, their own unique way to follow the democracy event where in the same time they intend to protect their local values called *Adat* or custom as a shield in front of democracy. It's because, they identified democracy as outside value that tends to diminish even relieve their fundamental social identity as a unique community with their unique symbol of local identity.

1 INTRODUCTION

When the New Order regime led by Suharto who took control of Indonesia for about 32 years fell in mid-1998, it believed will influence democratically the system of social and political life in Indonesia. After experiencing authoritarianism for so long, democracy became an important demand of Indonesian people in the new era. Indonesian people believe that democracy is the best way to fix all problems occurred during the previous era. One of the main challenges in the New Order period was the strong control of state over the socio-political life of people. The condition causes most of interpretation of the good socio-political life was depend on the regime meaning that represented thru various policies of the central government. As an implication, the political life is depend on the needs and interests of the central government which means the ruling regime interest. In that case, the regional people were never really enjoyed freedom and substantive participation in many aspects of them, including in political field. Moreover, there were various regulations used by the regime had have marginalized the various fundamental values of local communities in the region where actually important for them as part of their social identity. As it consequences, many local values was revoked from its important roles including in the political field (see Aspinall, Edward and Fealy eds. 2003).

As a diverse country which consisting with many islands and many ethnic groups, Indonesia is rich in local values that are important for each certain community. The practices of local values in

the form of *adat* or custom and culture that still exist as part of their unique local identity was see as strong evidence that indigenous peoples were still underdeveloped. This regime views shows it effort to weaken the functions and variations customs and diversity towards existence of various communities that related to these matters.

That authoritarian situation then shifts important roles of *adat* in regulating various aspects of local people's life. Some regime regulations removed important position of *adat* and replaced it with a uniform structure according to the government perspective regarding the good form and structure for the entire territory in Indonesia (see Wardaya 2007). As its impact some traditional leaders who had played significant role in the context local community life whose legitimacy based on the local values believed then replaced by a new village leaders filtered by the state based the regime regulation. It showed limited participation of local people based on their unique local values in their land. The community seems as object of all the central government as the regime want. It showed how the local people were marginalized from the important process of their local context. The conditions then changing when Suharto resign as the president of Indonesia in 1998. In donesia then begin its new era called as *Era Reformasi* the "Reform Era".

This new era bringing new hope through various reform efforts based on the spirit of democracy in Indonesia (Tyson 2010). It also wish will changes the perception and treatment addressed for the indigenous people in Indonesia. Presence of

number of laws that explicitly regulate the existence of indigenous people, for example the law number 22 of 1999 concerning regional government, which was later replaced by the Act number 32 of 2004 which regulates the same thing. Both mentions existence of local communities includes the indigenous people. The latest law, the law number 2 of 2015 concerning regional government, also regulates the similar thing. It is believed as important point in shifting tendency of political centralization towards a decentralized political condition. As a shifting condition, it has influence on the political formation in the regions. It brings consequences associated to local values including the existence of *adat* and the contextual condition of local people. Based on observations of the the Toraja Ethnic group in South Sulawesi Province, this paper shows important effort to restore the important role of their *adat* in the political sphere, especially within the regional head election or *Pemilihan Kepala Daerah (Pilkada)*.

2 THEORETICAL

2.1 The Legal Pluralism

Basically legal pluralism closely to the understanding of the two key words "legal" and "plural". The word "legal" is strongly associated with the law or something that is justified or authorized by a law or rule. Usually it is associated with something that is legally established by a statute or regulation. That concept is always related to the existence of a set of rules to get the justification of a particular system of power in particular society. The trend so far has showed that it is something often associated with the existence of a legal system of state. This trend indicates that something is legal usually has received approval from the state or even from the state.

The word "plural", usually contrasted with a single form, which means more than one. It can be applied to indicate the person or thing. It shows the existence of a particular unit consisting of a variety of individuals or objects. Therefore, the primary meaning of "pluralist" is something that is formed from plurality or something that varies.

Hooker defines legal pluralism as a situation in which two or more legal rules interact with each other (Lakin 2005). This definition seems to focus exclusively on a particular community that is particularly interested in the transfer law between cultures. In order to examine the plurality clearer in conditions of legal pluralism, the majority of thinkers tend to make the context of legal pluralism in colonial societies or post-colonial as an example. Processes that occur in colonial society were very clear in showing the equivalent power relations or not

the existence of two or more legal rules interact with each other.

This trend leads to the existence of two fundamental laws for people who are intertwined in a particular condition or event. It is usually associated with the state law and local law that simultaneously regulate society in a particular context. In terms of discussing the legal pluralism, Benda Beckmann et al. (2009) noticed that it has important relations between law and space. Thus multiple legal constructions of space open up multiple arenas for the exercise of political authority, the localization of rights and obligations, as well as the creation of social relationships and institutions that are characterized by different degrees of abstraction, different temporalities and moral connotations (Benda Beckmann et al. 2009). It means the legal pluralism is actually a condition where there are various laws exist in the same space, not only the formal law associated to the state but also some indigenous laws that are still obeyed by its people.

Thus, understanding of legal pluralism is made possible through the recognition of the existence of a set of rules that cover a wide range of norms or normative rules that is referred as law in certain contexts (Twining 2010). These conditions make the rule of law as managing people's behavior is no longer just seen as something that refers to the formal legal state, uniform for all persons, exclusive of all other law, and administered by a set of state institutions but also will refer to the context of local values that guide behavior for the local community as a real fact in the community associated with the existence of a particular legal system pertaining to a particular community. Thus, this view of the diversity of legal systems, which are legally supposed to distinguish from one another, sometimes even contradicts condition and reflects the description of the pattern of sub-groups related to the so-called social structure (Lakin 2005).

The consequence of the condition of legal pluralism is people are usually positioned between both laws. The people who have their own legal system that still believe as customary law should deal with formal law and customary law due to both regulate people's behaviors and attitudes where they accept it. At this point a community of people is possible to find a way of its own to avoid the implications if the violation or disregard of existing laws. It is likely there will be a level of understanding between the two laws that are likely to bring a second agreement against the law or bring a different law altogether with both of them.

The importance to looking the context of each community becomes important due to the possibility of "sflp" (Social fact of legal pluralism) due to the

reasons that it is (a) not limited to nation states, countries, or society understood as a unit; (b) extends the concept of the law to include at least some types of non-state law; (c) adopts the standpoint of legal observers that are beyond them, but take into account the point of view of the internals of the citizens, lawmakers, judges and others (Lakin 2005). Thus, "social fact legal pluralism" can be built upon contexts that are anthropological and socio-legal studies based on the understanding that the main thing of "social fact legal pluralism" is that local knowledge is essential.

3 METHOD

This Paper based on research was use qualitative method to analysis as case study of a certain indigenous community, The Toraja Ethnic Group. To analyze all data, this paper using the legal pluralism theory. The choice to use the legal pluralism is closely to the understanding of the two key words "legal" and "plural". It was because since beginning the community assumed life with two fundamental laws, the formal law and the adat as their local common law that locally still exist. The research It was focused to obey the dynamics of the toraja ethnic group associated with the presence of democracy which governed by the state law and adat as a set of beliefs that also serves the community as well as social and legal systems for this community. This research will combine two methods to grab the data namely in-depth interview and observation.

4 RESULT AND DISCUSSION

4.1 The Reform Era and Opening of a New Political Space

The Reform Era where came along with the spirit of democracy after 1998 seemed facilitated emergence of large effect related to issue of decentralization. It brought Indonesia from a very centralized political country to the most decentralized country in the world (Hofman & Kaiser, 2002 in Palmer and Engel 2007). As it evidence, the euphoria of regional people who ask for more widely opportunity to participate actively in various political field. Soon after the fell of New Order regime, tendency of political constellations become more democratic, where people saw it as big opportunity to get broader roles under the spirit of democracy. It encourages various demands related to importance of some reform in political, administrative, economic and so on, in Indonesia as for the local. It then led occurrence of major political and administrative transformations which resulted the great authority for local governments in decision-making processes in their regions (Resosudarmo 2004 in Palmer and

Engel 2007) as indicator of return of local political rights to the owner, the local people.

Democratization after New Order era has expanded political space for entire community. In fact, various groups or communities that previously marginalized then found opportunities to gain a greater authority for their existence their regions (Tyson 2010). In some areas the opportunities have led some social violence (Aspinall and Mietzner 2010). Although many of that dynamics have been encouraged by local elites, but it stil as symbols of entire people demands for more role after previously being as object of the central government want for long time.

It is then became one of important factors that led the changes in government policy to address the principle of decentralization. Thus it must be acknowledged that the spirit of democratization has become an important factor that pushed for policy changes and the government's attitude. If the decentralization during the New Order era did not really provide authority and autonomy for the local governments, in the Reform Era the local government has been given many authorities to regulate it own territory. It is part of the central government open participation gates for local people under the democracy circumstances to succeed its decentralisation policy.

Decentralization policy in the reform era has led focus of attention from the center to the regional level. It is to refocus attention from the dynamics in the center to the regional domain where it leave concept of strong state to support the fragmented governance model (Nordholt 2003). The polarization of spaces are more likely to provide opportunities for local people to involve based on their contextual condition. Thus, local people who considered knowing better of their context will develop their territory maximally as part of responsibly of their regions related to their better live. Therefore, it provides route for active community involvement in the effectiveness of political activities where greatly determine the sustainable surveillance of the community.

This condition then became a way for the rise of local communities in various regions. The resurrection is demonstrated through some concrete actions and symbols based on local values that characterize them. At the same time, the fact is seen as arise of civil society including indigenous people where their live still influenced by some local values that they believed (Wilson 2008). For the local people including certain indigenous communities, presence of various government regulations is seen as presence of formal state recognition for their existence. Although the message conveyed tends to

general, but local people reactions related to the presence of more real autonomy tend to vary. In a number of places outside Java and Madura, the policy created community enthusiasm. It is manifested in the form of a shift in meaning in seeing the areas where people lived. If it previously had relied on common standards such as villages in Java, the new era led changed to more contextually based on local people socio-geographical context (Holtzappel and Remastedt 2009).

In other regions, the increase of in the local people effort to restore their local values as important think emerged in more negative form. Some conflict occurs which encourage horizontal conflicts. that is often shows accompany with the process of regional blossoming and the regional election (Ramstedt & Thufail 2011). Many of dynamics related to the rise of locality has makes local values-based practices such as customary practices and norms rediscover the way to restore as important factor in social, economic, and political fields (Tyson, 2010). This situation has broadened availability of political space for local people in the region.

It is encouraged many indigenous people to strengthen their position by exploring their various socio-historical context to legitimize their intention to be accommodated in the context of decentralization and regional autonomy (Hauser-Schäublin 2013). The efforts to place local identity were also supported by amendments to the Constitution in 1998. It recognized and respected existence of indigenous peoples holistically. This also seems supported by some global movements to provide recognition of the existence and existence of indigenous peoples and their rights. It is not surprising that in this reform era some local identity-based justifications and customary values tend present to regain recognition of their existence, rights and including of land or territory which is considered as hereditary inheritance. Various claims arise to control certain regions by indigenous or local ethnic populations (Aragon 2007; Bertrand 2004).

Together with the shift of new opportunity provided by the reform era various parties will try to adjust and take advantage. The high power and authority formed by decentralization and regional autonomy has become a contested filed by people to expand their power, status and wealthy (see in Nordholt 2003). Thus, the presence of democracy along with the implementation decentraliaation could be seen as opportunity to restore social identity on local values that formally facilitated by the state.

4.2 Adat as The Toraja's Guidelines of Life

The term "Indigeneous" is interpreted as "Rare" in the Oxford English Dictionary. This

understanding is similar to the meaning of the word "aboriginality," which means "A quality of authenticity". This understanding is closely related to the history of the existence or ownership of land in an area since the initial stage of a community in a certain area. In my understanding, the word is interpreted as "indigenous" which comes from the word "native" which means naturally produced in a region (Waldron 2002: 1).

The concept of "Indigeneous" can also be defined in people who are described as "indigenous" in relation to certain lands or regions. In this case, those who are native or who first occupy an area. The meaning will also mean that there is a connection between a particular land or region in relation to other communities that arrives after the indigenous people have been there in the land or the area before (Waldron 2002: 7). The meaning links to particular community with the initial history of its existence in a particular area as the first time the community occupies the area and continues for generations. Community who came later, could not recognize the land as their territory. They tends to be seen as migrants community. Therefore the concept of indigenous people is related to the differentiation of a particular ethnic or tribal community based on other communities.

Furthermore Turpel (1992: 550) sees indigenous peoples as a community group in the midst of a different dominant society that has special and unique characteristics related to culture, language, politics and spirituality. These various interpretations of "indigenous people" appear to be emphasized in the existence of strong relationships with ancestors related to their land from generation to generation. This understanding is closely related to their ancestors who occupied certain regions since ancient times that were passed on to the current generation (Waldron 2002: 3).

Li (2000) sees that the meaning of indigenous peoples is associated with the fact that every society has its own dynamics of socio-political history. This has an effect on the formation of social identities of certain communities in society. The uniqueness of the community context and the historical dynamics that accompany the development of society is unique to every community that can be used as a basis for legitimacy in claiming to be an indigenous community. The basic legitimacy differences that are used by each community group will certainly give birth to certain unique characteristics in giving birth to certain identities as well as indigenous forms that are different from one community to another. Therefore, articulation of aspects of the natives is absolutely necessary (Dove

2006: 208) in an effort to gain a more comprehensive understanding.

In Indonesia, for centuries the understanding of adat has always been associated with a set of social rules, customs, politics, perceptions of justice, and even individual habits (Tyson 2010: 1). In addition, Adat can also represent a system of government based on oral tradition, antecedents and customary law, which provides a set of rules for ceremonies for marriage and funerals, houses and harvests, or mechanisms for rights and land use (Hooe 2012: 1). This shows that selalin is a fundamental set of values, adat is also something that has a broad dimension in people's lives because it involves various aspects of people's lives. Adat is not only related to a system of rituals or certain symbols, but more than adat becomes a system that is trusted by the community based on a certain belief system that can make people's lives better and more harmonious. This understanding makes many communities in Indonesia basically be categorized as "indigenous People". One that is well known is the Toraja indigenous people.

The Toraja indigenous people are basically an ethnic group in the southern Sulawesi region. Most of the ethnic groups occupy the Toraja region which is divided into two Tana Toraja and North Toraja districts since 2008. Tana Toraja Regency is in the south with its capital, Makale. The North Toraja is in the north of this region, whose capital is in Rantepao. Until now, it is estimated that the Toraja ethnic population ranges from 1 million with around 500 thousand including those living in the Toraja region, namely in Tana Toraja Regency and North Toraja Regency. The Toraja tribe is a tribe that settled in the mountains north of South Sulawesi, Indonesia. The population is estimated to be around 1 million, with nearly 500,000 people still living in the Tana Toraja Regency, North Toraja Regency, and in Mamasa district which is one of the districts in the West Sulawesi Province which borders the Toraja region in the province of South Sulawesi.

For the Toraja community, labeling as an indigenous community tends combination of myths, origins, legends, and the transfer of memories from the past verbally to the present in society. The transformation and sustainability of local values in the minds of the Toraja people are manifested in many daily life practices (Kombong et.al 1992: 113). The values that underlie adat in the Toraja Ethnic community are closely related to a memory that is embedded in the mind about the place and the symbolic stories that are significant compared to history in the conventional formal sense, in the form of a collection of writings about the past (Waterson 2009). Adat is a building of belief system that is

formed from internal experience of the Toraja community which has a close connection with what is called "aluk". For Toraja people "aluk" and "ada" are two words that contain very broad meanings and meanings. The mention of these two words will always be related to various aspects of the life of the Toraja community because they cannot be separated (Kombong et.al., 1992: 19). This "Aluk" or *adat* is considered complete and perfect because it was created by gods that bringin to the land by the "Tomamurun" (Kombong et.al., 1992: 20). The *Tomamurun* are believed as the heaven people believed as clever and wise figure. They then guided many people both for farming and farming as well as worshipping and worshipping to the Creatoras based on the guidelines of *aluk*.

As a guide to life that is believed by the Toraja people for century, the values contained in adat are always passed down from generation to generation. The curen generations receive *adat* from their parents, where the same thing happens to their parents. This happened continuously which made *adat* as an important inheritance from the ancestors of the Toraja people. The scope of coverage contained in the "aluk" teaching and guidance includes: 1) *Aluk mellolo* (concerning human birth to adulthood); 2) *Aluk Rambu Tuka* (concerning the marriage party); 3) *Aluk Rambu Solo* (concerning the death, burial party); 4) *Aluk Bua* (Concerning joy party); 5) *Aluk Tunanan pasa* (involving market); 6) *Aluk Tedong* (regarding Buffalo); 7) *Aluk Pare* (involving Rice); 8) *Alukna Banua* (concerning the construction of the house); 9) *Aluk Padang* (concerning land) (see in Kombong et.al 1992: 20-21); The aspects regulated in "aluk" or *adat* show the wide range of aspects. Each has what they call as *pemali-pemali* (restrictions). this is related to the existence of religious aspects in each *aluk* (Kombong et.al 1992: 20-21). Thus, everything must be based on that. A violation of this principles believed will bringing sorrow while an obedience will obtaining happiness.

Therefore, for the Toraja people, the existence of adat is not only seen as a ritual that refers to any traditional tenets. The custom also a tools at once that considered having ideal values as a guidance towards harmonious order of their life. Various ethical rules, rites and symbols are believed to connect humans in a typical way with factual order, both with the Divine, as well as with fellow humans and nature. It is this belief that shapes the life view of the Toraja people and forms a culture is firmly attached to their minds. *Adat* is a set of beliefs that are considered have truthiness values. Therefore customary at the same time are a set of rules and

orders covering various fields of people's lives that demand obedience

One consequence of the existence of adat is the existence of a social hierarchy system in the Toraja community. This system divides the social strata of the Toraja community in several levels. Each level has consequences for certain social positions and the roles that should be played in harmony one to another. The social caste of the Toraja people is divided into *Tana 'Bulaan* (Golden Caste) which is the highest caste filled by the nobility of the top layer. *Tana 'bassi* (Iron Caste) is a caste containing middle class nobles. *Tana 'Karurung* (Ordinary People caste) is a layer of ordinary people who are free and are not governed directly by nobles. *Tana 'Kua-kua* (Slaves Caste) are those who come from the slave of Sahaya, as heirs of servant responsibility to Tana' Bulaan and Tana 'Bassi. Thus, each caste has each responsibility where the nobles have the responsibility to lead the Toraja people to goodness according to customary teachings (Kombong 1992). It made them as the most appropriate people to be the leader in this land.

4.3 Decentralization of Politics and the Emergence of the Toraja Contextual Democracy Form

One of implications of the democratic spirit of decentralization after the new order has been the direct election of regional heads. When this has shifted with the use of the direct election system since 2005, it basically has been shifted the dynamics of political relations in the region. When previously process was done by the political elites exclusively, in the reform era it expanded by including people as the most determinant factor. It then changes the candidates behaviour from more elitist approaching to the people based method.

It means, even a candidate is as great candidate but without people support through their rights to vote then they could not be able to win the elections. The facts then become important factor that has triggered candidates to know deeply the various socio-cultural tendencies of the people. Therefore, the issue of appropriateness based on people's preferences is important in the election. Thus, understanding the context and fundamental values of a society is important.

Basically, under the formal circumstances, all adult people potentially to be nominated or involved in the competition as far as they could fit themselves to the formal requirements. All requirements are basically intended to result in a candidate who has integrity and does not have legal problems. The formal requirements for an individual are placed in accordance with the rule of law,

integrity, and capabilities. Thus, ideally, the regulation seeks to ensure that candidates who will participate in the contestation are those who are appropriate with the formal regulation. Since the regulation basically set under the equality of people then all people have their opportunity to involve as the candidate even came from variety social, economy and political background. But in the context of the Toraja community the concept of equality under the terminology of liberalism cannot be applied properly. It is because their *adat* regulate different requirements.

As a result of the strong existence of *adat* in people's lives, the issue of appropriateness for candidates is not only seen under the formal circumstances. The Toraja people have their own standards of appropriateness based on *adat* guidance (Wellenkamp 1988). Based on it, only restricted people could be nominated. Based on the caste system, they should be the nobles' descent. As the highest, the nobles stand as the principal people who claim as the most appropriate people to manage the land through their fundamental principles. It is not surprising that in every election, especially after 2005 in the Toraja region (both in Toraja and North Toraja), the all candidates who involved in the election were the nobles' descent.

It is possible due to the occurred of decentralisation has opened opportunity for the basis of local political legitimacy which not only relies solely on a formal basis (Yunus and Sukri 2014). The shift in the space of interaction and political dynamics in the local sphere has opened the way for another basis of legitimacy which is related to the contextual people's preference. As an implication, *adat* then emerged as one of the important aspects in influencing the dynamics of local politics that occurred in this region. *Adat* seems to become the structural factor that determines the local political dynamics. When the political process asks for a political attitude according to the preferences of the Toraja people, the local uniqueness appears as a determinant. This is very much related to the fundamental belief of the Toraja people that cannot be separated from obedience to the *adat*. In this point, presence of *adat* is intended to prevent the Toraja community from the effects that might arise if it violates the provisions outlined by their ancestors on their territory as well as to guarantee the chosen leader will be appropriate to the gods' tenet. Thus, no matter how the local election process is bound by formal laws, the substance of leadership and people's involvement is shaped by traditional values.

Therefore, in the context of Toraja people there are difficulties in placing egalitarian democratic values and upholding the equality of rights of every

human in the context of elections. This is because for toraja people, the election is not just a formal process of choosing a leader. Local election is an arena for selecting appropriate leaders for their territory who still highly respect adat as part of their existence. As a result, democracy that took place in Toraja seems to indicate a uniqueness. For those who see egalitarianism and equality as the basic spirit of the operationalization of democracy, what happens in the Toraja may be perceived as a denial of democracy. However, if this is seen as a manifestation of their interpretation in implementing government by the people, however, the process and dynamics that occur to the extent that this is a manifestation of the will of the people Toraja regional election has given way to preferences that include adat as a justifying factor in the necessity for democracy to represent the wishes of the people as the owners of democracy. They have own way to justify the election result based on their situation which should faced two fundamental laws in the same time. Moreover the way that occur actually also to assure the legitimation of the formal leader based on the fundamental position of the both laws (Yunus and Tamma 2014).

5 CONCLUSION

The changes in the regime from the New Order to the Reformation Order have brought many implications for the life system of the Indonesian people, including in the Political realm. The spirit of democratization that encompasses the reformation era has provided an opportunity for the demands of broader involvement from the community in the political sphere including the people in the region. This has led to a shift in part from the space of political dynamics from the center to the regions through the decentralization policy scheme. As an implication, local people get a new space that allows them to enter and engage further in determining the future of their territory. Furthermore, the new space provides an opportunity for the return of the important role of the local values of the people in regions that are unique in the political sphere after being marginalized for a long time in the new order period. This condition then paved the way for many local values including adat to be re-present as an important factor in the political sphere in the region. For many indigenous communities, this is certainly a valuable opportunity to safeguard adat and the importance of its existence for identity and their political social context in their respective regions.

As one of the indigenous communities that still exists, decentralization of the political space that occurs for the Toraja ethnic community has implications for a fairly typical attitude. This can be seen from the response to the local election to elect

regional heads directly as an effort to realize popular sovereignty based on understanding democracy. In light of the importance of adat and the existence of regional heads for their territories, the local election has become an arena of proof of their unique democratic model.

By considering some unfortunate conditions was when they were experienced lack of state respect, that regional election in the reform era was as this community struggle to get acknowledgement back of their existences. Therefore, the toraja ethnic group experience was provided how their involving some of their customary laws in some steps during the election that shows how regional election that regulate thru formal still influenced by customary laws as important laws for the toraja ethnic group. 2

That toraja ethnic group experience shows a real pictures about how indigenous people react to the implementation democracy within their unique context. Even regional election as regulate thru formal laws as base for the result legitimacy, but since it implemented in the unique context of them this then it was done also under the deep influence by adat. It means, the torajas was showed their own way to create their model of democracy that provided by the decentralization of politics in Reform era. It possibly does not fix maximally to the general spirit of democracy that promote equality for all. But since the Toraja model has been produce from their interpretation of people need then it actually a part of effort to show then *Demos* and *Kratos* ala Toraja.

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