

Juridic-Empiric Factors the Reason for Removal of Regional Head Official Position in Regional Government Systems in Indonesia

by Firdaus Arifin

Submission date: 20-Apr-2022 10:54AM (UTC+0700)

Submission ID: 1815140846

File name: 02_juridic-empiric_factors_the_reason.pdf (661.54K)

Word count: 7604

Character count: 41185



Juridic-Empiric Factors the Reason for Removal of Regional Head Official Position in Regional Government Systems in Indonesia

Firdaus Arifin

Lecturer in the Faculty of Law, Pasundan University, Bandung, Indonesia

<http://dx.doi.org/10.18415/ijmmu.v7i5.1713>

Abstract

The regulations governing regional government today determine that the Deputy Regional Head is responsible to the Regional Head. The implication is that the financial position and protocol position of the Deputy Regional Head are often considered unbalanced compared to the Regional Head. A further consequence is the development of a less harmonious working relationship between the Regional Head and Deputy Regional Head. This tendency is reflected in, among others, the expression of the desire of the Deputy Regional Head to become a candidate for the Regional Head in the next election only moments after sitting in office. This situation makes the leadership of regional government not conducive. This paper tries to develop ideas regarding the importance of removing the position of Deputy Regional Head in question.

Keywords: *Juridic; Empiric Factor; Reason; Removal; Regional; Head; Official; Position; Regional; Government System; Indonesia*

Introduction

In the context of democracy in the regions, to accelerate the ideals of regional autonomy that have been implied up to now requires political leaders (governors / regents / mayors) as *top managers* in strong and qualified regions to control the regional government bureaucracy in advancing regional people's prosperity (*human development*). Then the direct election model in Indonesia was then carried out since June 2005. What Colin Rallings and Michael Thrasher explained in his *Local Elections in Britain* expressed the implications of the electoral process at the local level on political developments at the national level. Rallings and Thrasher came to the conclusion that "local elections have both local and national outcomes. How well or badly a party performs has implications for both its political stake in local authorities and its nationally status"¹.

Direct elections do not automatically guarantee (*taken for granted*) improvement of the quality of democracy itself, but certainly open access to improving the quality of democracy. This can be seen after the implementation of the elections in each region. Access means the functioning of the guard and

¹ Colin Rallings dan Michael Thrasher, *Local Elections in Britain*, Routledge, London, 2003, p. 14.

balance mechanism (*checks and balances*). The dimensions of *checks and balances* include the relationship of the Regional Head with the people, the DPRD with the people, the Regional Head with the DPRD, the DPRD with the Regional Head, and the Regional Head and the DPRD with the judiciary and the Regional Government with the Central Government. Democracy in the process of policy formulation will be guaranteed if (*checks and balances*) between the figures and institutions of public policy makers (*stakeholders*), goes well².

The main goal of the implementation of direct local elections is the election of a democratic local political structure and a government system that is able to run effectively. Through the elections, the people have wider opportunities to determine the pairs of executive leaders in accordance with what is desired. The biggest hope is of course the leaders elected through the elections to be able to carry out their functions and roles in increasing the growth of democracy and the running of government in the regions. What happens if the pair of elected Regional Heads, DPRD and the bureaucracy and the community continue to experience internal, external, vertical and horizontal fractures?

This condition often colors the post-Pilkada power relations in the regions. There are several phenomena that often occur. *First*, internal cracks occur when the two pairs (read; Regional Head and Deputy Regional Head) are no longer harmonious³. *Second*, external cracks occur when both pairs, or one of them experiences tension and conflict with the leaders / members of the DPRD or other DPRD parties. *Third*, vertical rifts occur when the two pairs experience tension and conflict with bureaucratic leaders and bureaucratic structures at all levels. *Fourth*, horizontal cracks occur when the two pairs, or one of them continues to get a push back (delegitimate) from the community in the area they lead.

In the history of Regional Government³ the legal instruments governing regional households still position the Deputy Regional Head's position only as a complement to the Regional Head's position. The main task of the Deputy Regional Head is limited to assisting the Regional Head in carrying out his duties. In each of the laws that govern it, there are variations in how to fill the position of Deputy Regional Head. Law Number 22 of 1948 stipulates that the Deputy Regional Head is appointed if the Regional Head is unable. The regulation regarding the existence of the deputy head of the region during the old order period can be found in Presidential Decree Number 2 of 1960 concerning Deputy Head of the First Level Region, as stipulated in article 1 (1), (2), and (3) that:

The President may appoint⁷ Deputy Regional Head for the first level Region. The appointment of the Deputy Regional Head referred to in paragraph (1) shall be carried out keeping in mind the conditions applicable to the appointment of a Regional Head based on Presidential Decree No. 6

² There are two main concepts in the guardian and draw mechanism. The concept of escort or control (*checks*) comes from the classical theory of the separation of powers, in which the legislative, executive and judicial elements should be held by institutions that are separate from one another. While the balance of power (*balances*) is intended so that each of the ruling institutions in the daily policy formulation process has a balanced proportion of authority so that no one has absolute power. The theory of *separation of powers* was put forward by James Harrington centuries ago in his article titled *Oceana* (1656). Then, John Locke in his book titled *Civil Government* (1690) said that one way to prevent abuse of power is to make a separation between the legislative and executive powers. Baron de Montesquieu in his book entitled *Spirit of the Laws* (1748) added the judicial power as the third power so that the theory of separation of power is more famous with the theory of *trias politica*. In Montesquieu's thought, the separation of powers when it was supposed to occur between the king who held executive power, the parliament which held legislative power and the judiciary who held judicial power. (Deddy Ismatullah, *Gagasan Pemerintahan Dalam Konstitusi Madinah Ditinjau Dari Prinsip-Prinsip Negara Hukum*, Disertasi Pascasarjana Universitas Padjadjaran, Bandung, 2003).

³ These conflicts have become a reason for the government to revise Law Number 32 of 2004, from various reports, there are at least three crucial issues, namely: (1) elections in pairs often cause problems because the Regional Government and its representatives feel they have the same legitimacy and added with the same legitimacy and added with unclear division of roles between the Regional Head and his representatives; (2) Regional Heads and Deputy Regional Heads originating from different political parties often make both have different agendas and interests related to the interests of their respective political parties; and (3) conflicts between the Regional Head and his Deputy often spread to the regional apparatus so as to make the bureaucracy and regional apparatus compartmentalized.

of 1959 concerning Regional Government (perfected), the President may deviate from the requirements for the appointment of Deputy Regional Head as referred to in paragraph (2).

From the provisions above, it appears that the Deputy Regional Head is only for the province or level I Regional Government only and the appointment is carried out by the President. Appointment of Deputy Head of Level I Region on the basis of the consideration that for the smooth running of regional government and regional development for first level regions it is necessary to open the possibility to appoint a Deputy Head of Regional Level I. The term "may appoint" in Article 1 paragraph (1) above contains meaning, that not all Level I Regions have a Deputy Regional Head. For the first time the President considers it necessary for the administration to appoint a Deputy Regional Head level I for several regions without nominations.⁴

Then in Law Number 5 of 1974 article 24 paragraph (1) states that;⁵

Deputy head of the Level I region is appointed by the President of the Civil Servants who meet the requirements ", paragraph (3)" Deputy head of the Level II area is appointed by the Minister of Internal Affairs on behalf of the president of the civil servants who meet the requirements ". Filling in the position of deputy regional head is carried out according to need "(paragraph 5).

The appointment in the era of Law No. 5/1974 did not result in the birth of a new position (Deputy Regional Head) besides the position of Regional Head. Law Number 5 of 1974 regulates that the Deputy Regional Head is a permanent position with officials who are career officials. The number of Deputy Regional Heads according to this Law is in accordance with regional needs. Law Number 22 of 1999 stipulates that Deputy Regional Heads are nominated in pairs with candidates for Regional Heads and are elected through representation (by the DPRD). Law Number 32 of 2004 stipulates that Deputy Regional Heads are nominated in pairs and are directly elected.

Law No. 32/2004 creates a new practice in which candidates for Deputy Regional Head have a function that also has a political dimension, namely expanding the political support base of candidates for Regional Heads⁶. But this situation does not occur when the Regional Head and Deputy Regional Head have been appointed to sit in office. Since the time of inauguration, the Deputy Regional Head has been aides or even a "subordinate" of the Regional Head.⁷ This can be read from the formulation of Article 26 of Law Number 32 Year 2004.

Law Number 23 of 2014 concerning Regional Government in lieu of Law Number 32 of 2004 does not also confirm the need for the position of deputy regional head. This can be read in Article 63 as follows:

⁴ Explanation of Presidential Decree No. 2 of 1960 concerning Deputy Regional Head Level I

⁵ Article 24 paragraph (1), (3) and (5) of Law no. 5 of 1974 concerning the Implementation of Government in the Regions

⁶ If we look closely, the tasks of the deputy head of the region based on Law 32/2004 are several additions compared to Law Number 22 Year 1999. Namely, related to the additional task of carrying out the empowerment of women and youth, as well as striving for the development of social, cultural, and environmental preservation. Previously, in Law Number 22 Year 1999, the task was not contained. While the duties and authorities of Regional Heads, in accordance with Article 25 of Law 32 of 2004, are to lead the implementation of regional governments based on policies determined by the DPRD; submit a draft regulation; stipulate local regulations that have received DPRD approval. In addition, formulating submitting a draft Perda on APBD to the DPRD to be discussed and decided together; strive to fulfill regional obligations; represent the area inside and outside the court, and can appoint a legal representative to represent it in accordance with statutory regulations, and; carry out other duties and authorities in accordance with statutory regulations.

⁷ Sragen Deputy Regent, Agus Faturrahman, at the seminar "Relationship between Regional Head and Deputy Regional Head and Government Effectiveness" as a result of a study by the Diponegoro University Social Sciences, on November 17, 2009 in Semarang expressed; "My experience as the deputy regent of Sragen is that I realize that the function of the deputy is not useful except to just waste the state budget. I have requested revision of Law Number 32 Year 2004 regarding Regional Government so that the deputy head of the region is given authority, not only given an assignment"

1. The regional head referred to in Article 59 paragraph (1) may be assisted by the deputy regional head.
2. The deputy head of the region as referred to in paragraph (1) for the provincial Region is called the deputy governor, the regency Region is called the deputy regent, and for the regional Region the deputy mayor

Although they have strong legitimacy because they are directly elected by the people, the political position of the regional head and deputy head of the region remains different. Article 66 (1) of Law No. 23 of 2014 still regulates the position of deputy regional heads as very limited. The assignments given position it as nothing more than a complement. It only helps the tasks of the regional head, about how technical procedures help him, not regulated in laws or other regulations. The duties and authorities of the deputy regional heads are all listed in Law Number 23 of 2014 in article 66 (1). The task of the deputy is very flexible, the other tasks are given in the form of an authority SK from the regional head. So, the task of the deputy head of the region is only to help the head of the region with no main tasks. It is quite firm that the vital functions of regional government are almost entirely carried out by regional heads. The position of the deputy head of the region in this case is truly subordinate, the deputy head of the region has less role in the decision making process, although it is possible to influence the process.

Problem Formulation

Based on the description stated above, then the problem can be identified as follows; *What is the form of Juridic-Empiric Factor Reasons for Elimination of Regional Head Position in Regional Government Systems in Indonesia?*

Discussion

In the relationship between the structure of government in the region and the efficiency and effectiveness of the direct local elections, removing the position of Deputy Regional Head that automatically does not fill the position of Deputy Regional Head is the most strategic and constitutional step. There are at least 4 (four) reasons that strengthen this thesis;

1. **Disharmonism Factors Relationship between Regional Head and Deputy Regional Head.** The unclear authority possessed by the Deputy Regional Head becomes one of the important factors in disharmony between the Regional Head and Deputy Regional Head
2. **Factors of constitutional aspects of the position of Deputy Regional Head.** Article 18 paragraph (4) of the 1945 Constitution as mentioned earlier does not mention the position of Deputy Regional Head. This is considered as a constitutional basis to eliminate the position of Deputy Regional Head, which is autonomous in the absence of filling the position of Deputy Regional Head.
3. **Factors Empirical practice in the administration of the direct election era government.** Reflecting on the current reality, with the presence of Deputy Regional Head, *conflicts of interest* and *conflict of politics* often occur with the Regional Head. Estuary, the effectiveness of the administration carried both did not work.
4. **Reasons for efficiency and effectiveness of government in the regions.** Regulations governing local government provide limited authority, and duplication of authority with other organs.

1. Disharmonism Factors ⁴ Relationship between Regional Head and Deputy Regional Head

One of the critical success factors¹¹ for the effectiveness of regional government is the good relationship (harmonization) between the Regional Head and Deputy Regional Head. In the context of the post-conflict local election, in the pattern of leadership of one package, the harmonious relationship must start from the nominating process⁸. Another factor is that personal background can also trigger the disharmony of the Regional Head pair, and the welfare facilities obtained to the distribution of the role of power that seems unbalanced. In terms of the amount of income, for example, it could potentially be a lighter jealousy.⁹

Apart from the above factors, other factors are due to differences in ideology in development planning and issues of political interests towards the end of the term of office. Three or two years before the end of the term of office, what often sticks out to the public is the scent of competition, friction, struggles for influence and rivalry that lead to conflict. Moreover, the Regional Head and Deputy Regional Head have only served one term. On one hand the Regional Head still wants the same position for the next period. The same thing is desired by the Deputy Regional Head¹⁰.

In many areas, usually, conflicts begin when filling structural positions in the ranks of government. Each of them is racing to put their people in strategic and "wet" posts. Because direct elections require expensive political costs. Success teams need to be accommodated to collect rupiah coffers, pay political spending beforehand and prepare for the next stage of political spending. The Public Works Office, the Education Office and the Health Office, which received a large enough budget allocation, often became a battleground for influence. The Regional Head and Deputy Regional Head compete to put the former success team, family, close people, and relatives in policy making positions. The goal is to control and control all projects in the agency.

¹ The results of research conducted by Warsito said that there have been various kinds of conflicts between the Regional Head and his representatives spread in 26 regions of Central Java as a sample. Many conflicts occur precisely because of differences in ideology in development planning. Although out of the 26 regions, 73 percent of the nominations of Regional Heads and their representatives are based on a coalition, only a few conflicts are motivated by differences in political ideologies¹¹.

⁸ In a routine discussion at the Ministry of Home Affairs Research and Development Agency, the Deputy Governor of West Java, Dede Yusuf, stated that the authority of the Deputy Regional Head as stipulated in Article 26 of Law Number 32 Year 2004 concerning Regional Government, was considered to be very limited and tends to be marginal. As a result, it triggers a harmonious relationship between the regional head and his deputy. In fact, the election of regional heads and their representatives is done in one package. (<http://www.indonesia-monitor.com/main/index.php>? accessed March 16, 2020).

⁹ Provision of Operational Supporting Costs (BPO). Referring to PP 109 of 2000, regarding the Financial Position of the Regional Head and Deputy Regional Head, it turns out that the Regional Head at the Regency / City level receives operational support costs. The amount is adjusted to the original regency / city revenue. And, this BPO is much higher than the monthly incentive / routine salary that the Regional Head gets. Unlike the Regional Head, the Deputy Regional Head at the Regency / City level has no additional funds from the operational support costs. Article 9 paragraph (2) PP No. 109/2002 which only mentions the Regional Head can. That is, the Deputy Regional Head in writing did not get it. In fact, for the government at the provincial level, it was clearly stated that both the Regional Head (Governor) and Deputy Regional Head (Deputy Governor) were provided by BPO.

¹⁰ For example, Mayor of Padang Fauzi Bahar and Deputy Mayor Yusman Kasim, both nominated themselves as candidates for Padang Mayor in the August 2008 elections. This election was won by the couple Fauzi Bahar and Mahyeldi. In the Governor Election held in July 2010, Fauzi Bahar ran for Governor of West Sumatra 2010-2015.

¹¹ Source: <http://www.fisip.undip.ac.id/index.php?>. Accessed March 17, 2020. The survey was conducted with in-depth interviews with 114 informants consisting of 7% regional heads / representatives, 32% bureaucrats, 16% DPRD members, 16% political party administrators, 10% NGO activists, 7% CSO organizers, 10% chair / member of KPU in the area, and 1% of professional organizations. The areas studied included Kudus Regency, Pati Regency, Demak Regency, Purworejo Regency, Pemasang Regency, Banjarnegara Regency, Purbalingga Regency, Kebumen Regency, Boyolali Regency, Pekalongan Regency, Tegal City, Karanganyar Regency, Magelang Regency, Wonosobo Regency, Wonogiri Regency, Semarang, Jepara Regency, Sragen Regency, Semarang City, Kendal Regency, Brebes Regency, Pekalongan City, Salatiga City, Blora Regency, Batang Regency, and Grobogan Regency.

In addition to the aforementioned conflict, according to Warsito, the relationship between the Regional Head and his deputies actually made a lot of apparent harmonization. This finding is not easy to be captured by outsiders even though there is conflict inside. This is also due to the Javanese culture which tends to *ewuh pakewuh*, where the Deputy Regional Head will accept what is available even though he actually has a good regional development planning concept¹².

Disharmonies ¹ between the Regional Head and Deputy Regional Head due to factors leading up to the elections (where one or both are running again or *incumbent*) occurred in Bangkalan District, Madura. Considered unable to cooperate with Regent R KH Fuad Amin Imron in controlling the wheels of government, Deputy Regent Muhammadiyah was finally proposed to step down by the local DPRD. In fact, recent tensions have dragged into the turmoil of times. As a result, the wheels of government are now not conducive¹³.

A similar incident also happened in Surabaya, which finally put Deputy Mayor Bambang DH as Mayor replacing the late Sunarto Sumoprawiro. Tensions also occur in Gresik Regency. Gresik Regent Robbakh Mashum and Deputy Regent Sambari Halim are both fighting over support from political parties to become number one. The feud between the East Flores Regent Simon Hayon and Deputy Regent Yoseph Lagadoni Herin extended the list of Regional Heads and Deputy Regional Heads who were not harmonious in the middle of his tenure. This disharmony also occurs in the district of East Nusa Tenggara.¹⁴ Even the disharmony of the Regional Head and his partner has triggered the Ministry of Home Affairs to resolve conflicts that occur in the region. This is clearly a setback in the implementation of democracy in the regions.¹⁵

The rift regarding differences of opinion between the ⁶ Regional Head and Deputy Regional Head occurred in Medan City. The mutation of Medan City Government officials was opposed by the Mayor. To solve this problem, North ⁵ Sumatra Governor Rudolf M. Pardede was forced to intervene to solve it. The same dispute also occurred between the Regent and Deputy Regent of Asahan.¹⁶

In Jambi Province, the picture of rivalry and conflict of interest, at least, can be seen in the administration and development in Jambi City. Between the Mayor and Deputy Mayor competing for influence. It can't be imagined if this relationship continues. Confusing the Local Government apparatus underneath. The performance of regional governments has also been disturbed. Because, political competition eventually also penetrated into the government bureaucracy. SKPD Heads to the District Head are overwhelmed because they have to serve the interests of the Regional Head and Deputy ⁷ Regional Head whose relations are not harmonious. Bureaucracy was split into two camps and began to arise mutual suspicion¹⁷. This condition certainly affects public services in the regions. The issue of the

¹² *Ibid.*

¹³ During the 200 ¹ elections for example, as many as 68 Regional Heads and Deputy Regional Heads until July 2008 submitted their resignations to the Minister of Home Affairs for returning to the regional head election (pilkada). of the 68 incumbents who resigned, as many as 26 people are regents who are nominating again to be regents, 15 deputy regents nominating themselves as regents, seven mayors nominating mayors, five regents nominating governors, five deputy regents nominating deputy regents, four deputy mayors nominating the Mayor and three Governors nominating the Governor. In addition, each Deputy Governor nominates the Governor, one Deputy Governor nominates the Deputy Governor, one Regent nominates the Deputy Governor and one Deputy ⁴ Mayor nominates the Deputy Mayor.

¹⁴ Source: http://www.jawapos.co.id/index.php?act=detail_c&id=159246. Accessed March 17, 2020.

¹⁵ The Ministry of Home Affairs Balitbang Team (Depdagri) with group leader Anwar Siregar, on May 29, 2008 visited North Tapanuli Regency to see the working relationship of Torang Lumbantobing Regent and Deputy Regent Drs Frans A. Sihombing MM. related to the partnership of Regent Torang Lumbantobing and Deputy Regent Drs Frans A Sihombing has broken up since they will re-run in the 2008 Taput regional election with the support of different political parties. (<http://hariansib.com/?p=33615>. accessed March 17, 2020).

¹⁶ Koran Seputar Indonesia, November 12, 2017.

¹⁷ The division of roles in the implementation of government and development tasks can also trigger conflict. Deputy regional heads as regional assistants often only become "spare tires". The direction is often not heard even though it is good. He also has

recent withdrawal of the Regional Secretary of Jambi City was also triggered by the rivalry and conflict of interest above.¹⁸

The practice of regional government in the direct election era shows that the harmonious relations of the majority of Regional Head pairs occur only in the first year of the remaining four years of leadership and they will compete with each other for influence. The rift between the Regional Head and his deputies reached the peak, especially ahead of the elections. Because, which often happens, the Regional Head still wants to advance or have his own champion and his representatives are also preparing to advance the elections.

Moreover, they came from different political parties that made them compete for the influence. If the relationship between the two leaders is not harmonious, it will certainly confuse the Regional Government officials below. The performance of the Regional Government has also been disrupted. Because, political competition eventually also penetrated into the government bureaucracy¹⁹.

In many areas, usually, conflicts begin when filling structural positions in the ranks of government. Each of them is racing to put their people in strategic and "wet" posts. Because direct elections require expensive political costs. Success teams need to be accommodated to collect rupiah coffers, pay political spending beforehand and prepare for the next stage of political spending. The Public Works Office, the Education Office and the Health Office¹¹ which received a large enough budget allocation, often became a battleground for influence. The Regional Head and Deputy Regional Head compete to put the former success team, family, close people, and relatives in policy making positions. The goal is to control and control all projects in the agency.

¹ The results of research conducted by Warsito said that there have been various kinds of conflicts between the Regional Head and his representatives spread in 26 regions of Central Java as a sample. Many conflicts occur precisely because of differences in ideology in development planning. Although out of the 26 regions, 73 percent of the nominations of Regional Heads and their representatives are based on a coalition, only a few conflicts are motivated by differences in political ideologies²⁰.

In addition to the aforementioned conflict, according to Warsito, the relationship between the Regional Head and his deputies actually made a lot of apparent harmonization. This finding is not easy to be captured by outsiders even though there is conflict inside. This is also due to the Javanese culture which tends to *ewuh pakewuh*, where the Deputy Regional Head will accept what is available even though he actually has a good regional development planning concept²¹.

no executive authority. SKPD remains oriented towards regional heads. Because the regional head who issued a decree (SK) appointment or dismissal in certain positions that could spread threats to all heads of SKPD.

¹⁸ Helmi, article, Rivalitas dan Konflik Kepentingan Kepala Daerah dan Wakil Kepala Daerah Catatan Akhir Tahun (Hukum dan Politik), Harian Jambi Ekspres Desember 31, 2019 edition.

¹⁹ Mardiyanto, former Minister of the Interior, in a working meeting between the Minister of Home Affairs and the House of Representatives Commission II June 3, 2009 commented; "Indeed, there are regional deputy heads who after sitting down, one or 40 years later wonder when the regional head is inactive," (Kompas, 4 June 2000. accessed at <http://www.jpnn.com/index.php?mib=berita.detail&id=18455#>, accessed March 17, 2020).

²⁰ Source; <http://www.fisip.undip.ac.id/index.php?>. Accessed February 5, 2020. The survey was conducted with in-depth interviews with 114 informants consisting of 7% regional heads / representatives, 32% bureaucrats, 16% members of the DPRD, 16% political party administrators, 10% NGO activists, 7% CSO organizers, 10% chair / member of KPU in the area, and 1% of professional organizations. The areas studied included Kudus Regency, Pati Regency, Demak Regency, Purworejo Regency, Pematang Regency, Banjarnegara Regency, Purbalingga Regency, Kebumen Regency, Boyolali Regency, Pekalongan Regency, Tegal City, Karanganyar Regency, Magelang Regency, Wonosobo Regency, Wonogiri Regency, Semarang, Jepara Regency, Sragen Regency, Semarang City, Kendal Regency, Brebes Regency, Pekalongan City, Salatiga City, Blora Regency, Batang Regency, and Grobogan Regency.

²¹ *Ibid.*

Disharmonies between the Regional Head and Deputy Regional Head due to factors leading up to the elections (where one or both are running again or *incumbent*) occurred in Bangkalan District, Madura. Considered unable to cooperate with Regent R KH Fuad Amin Imron in controlling the wheels of government, Deputy Regent Muhammadiyah was finally proposed to step down by the local DPRD. In fact, recent tensions have dragged into the turmoil of times. As a result, the wheels of government are now not conducive.²²

A similar incident also happened in Surabaya, which finally put Deputy Mayor Bambang DH as Mayor replacing the late Sunarto Sumoprawiro. Tensions also occur in Gresik Regency. Gresik Regent Robbich Mashum and Deputy Regent Sambari Halim are both fighting over support from political parties to become number one. The feud between the East Flores Regent Simon Hayon and Deputy Regent Yoseph Lagadoni Herin extended the list of Regional Heads and Deputy Regional Heads who were not harmonious in the middle of his tenure. This disharmony also occurs in the district of East Nusa Tenggara²³. Even the disharmony of the Regional Head and his partner has triggered the Ministry of Home Affairs to resolve conflicts that occur in the region. This is clearly a setback in the implementation of democracy in the regions.²⁴

The rift regarding differences of opinion between the Regional Head and Deputy Regional Head occurred in Medan City. The mutation of Medan City Government officials was opposed by the Mayor. To solve this problem, North Sumatra Governor Rudolf M. Pardede was forced to intervene to solve it. The same dispute also occurred between the Regent and Deputy Regent of Asahan.²⁵

In Jambi Province, the picture of rivalry and conflict of interest, at least, can be seen in the administration and development in Jambi City. Between the Mayor and Deputy Mayor competing for influence. It can't be imagined if this relationship continues. Confusing the Local Government apparatus underneath. The performance of regional governments has also been disturbed. Because, political competition eventually also penetrated into the government bureaucracy. SKPD Heads to the District Head are overwhelmed because they have to serve the interests of the Regional Head and Deputy Regional Head whose relations are not harmonious. Bureaucracy was split into two camps and began to arise mutual suspicion²⁶. This condition certainly affects public services in the regions. The issue of the recent withdrawal of the Regional Secretary of Jambi City was also triggered by the rivalry and conflict of interest above.²⁷

The practice of regional government in the direct election era shows that the harmonious relations of the majority of Regional Head pairs occur only in the first year of the remaining four years of

²² During the 2008 elections for example, as many as 68 Regional Heads and Deputy Regional Heads until July 2008 submitted their resignations to the Minister of Home Affairs for returning to the regional head election (*pilkada*). of the 68 *incumbents* who resigned, as many as 26 people are regents who are nominating again to be regents, 15 deputy regents nominating themselves as regents, seven mayors nominating mayors, five regents nominating governors, five deputy regents nominating deputy regents, four deputy mayors nominating the Mayor and three Governors nominating the Governor. In addition, each Deputy Governor nominates the Governor, one Deputy Governor nominates the Deputy Governor, one Regent nominates the Deputy Governor and one Deputy Mayor nominates the Deputy Mayor.

²³ Source: http://www.jawapos.co.id/index.php?act=detail_c&id=159246. Accessed February 5, 2020.

²⁴ The Ministry of Home Affairs Balitbang Team (Depdagri) visited North Tapanuli Regency to see the working relationship of the Torang Lumbantobing Regent and Deputy Regent Drs Frans A. Sihombing MM. related to the partnership of Regent Torang Lumbantobing and Deputy Regent Drs Frans A Sihombing having broken up since they will re-run in the 2008 Taput regional election with the support of different political parties. (<http://hariansib.com/?p=33615>. accessed on February 5, 2020).

²⁵ Koran Seputar Indonesia, 12 November 2007. Accessed 5 February 2020.

²⁶ The division of roles in the implementation of government and development tasks can also trigger conflict. Deputy regional heads as regional assistants often only become "spare tires". The direction is often not heard even though it is good. He also has no executive authority. SKPD remains oriented towards regional heads. Because the regional head who issued a decree (SK) appointment or dismissal in certain positions that could spread threats to all heads of SKPD.

²⁷ Helmi, artikel, Rivalitas dan Konflik Kepentingan Kepala Daerah dan Wakil Kepala Daerah Catatan Akhir Tahun (Hukum dan Politik), *Harian Jambi Ekspres* December 31, 2009 edition. Accessed February 5, 2020.

leadership and they will compete with each other for influence. The rift between the Regional Head and his deputies reached the peak, especially ahead of the elections. Because, which often happens, the Regional Head still wants to advance or have his own champion and his representatives are also preparing to advance the elections.

Moreover, they came from different political parties that made them compete for the influence. If the relationship between the two leaders is not harmonious, it will certainly confuse the Regional Government officials below. The performance of the Regional Government has also been disrupted. Because, political competition eventually also penetrated into the government bureaucracy.²⁸

2. Factors of constitutional aspects of the position of Deputy Regional Head

As explained earlier, the direct election is a political decentralization that aims to improve the efficiency and effectiveness of regional government by paying more attention to aspects of the relationship between the composition of government and between regional governments, the potential and diversity of the region, opportunities and challenges of global competition by giving broadest authority - the extent to regions is accompanied by the granting of the rights and obligations to carry out regional autonomy in a unified system of the administration of the state government.

The argument from this proposal is that the actual constitution does not mention the position of the Deputy Regional Head included in the object chosen in the elections. Article 18 paragraph (4) of the 1945 Constitution states that the Governors, Regents and Mayors as Heads of Provincial, Regency and City Regional Governments shall be democratically elected.²⁹ In this constitution there is no mention of the positions of Deputy Governor, Deputy Regent, and Deputy Mayor. Therefore, the existence of this position is not imperative according to the Constitution. If it will be removed (eliminated), the arrangement is very dependent on the laws that govern it. Thus, in the context of the effectiveness of the local election system, the elimination of the position of Deputy Regional Head is constitutional.

3. Factors Empirical practice in the administration of the direct election era government.

Often between the Regional Head and Deputy Regional Head there is a relationship that is less harmonious and not conducive to the smooth development of the region. Even though the unity of vision between the Regional Head and Deputy Regional Head is an important factor in ensuring the implementation of *good governance*. Many regions immediately post-election conflict and disharmony relations between the Regional Head and Deputy Regional Head. The weak presence of the Deputy Regional Head can also be due to differences in the political basis between the two, and this will have an impact on increasing the potential for conflict between them which causes ineffective governance.

4. Reasons for efficiency and effectiveness of government in the regions.

The set of laws governing regional government generally stipulates that the Deputy Regional Head is responsible to the Regional Head. The arrangement of responsibilities shows the unequal position between the Regional Head and Deputy Regional Head, and even implies the position as "subordinate."

²⁸ Mardiyanto, former Minister of the Interior, in a working meeting between the Minister of Home Affairs and the House of Representatives Commission II June 3, 2009 commented; "Indeed here are regional deputy heads who after sitting down, one or two years later wonder when the regional head is inactive," http://www.jpnn.com/index.php?mib=berita_detail&id=18455#, accessed February 11, 2020).

²⁹ In addition to the mechanism for electing regional heads, the provisions in Article 18 paragraph (4) also give a message that the constitution only mandates the election of regional heads without mentioning the position of deputy regional head. Governor, Regent and Mayor are the names of positions for regional heads both at the Provincial and Regency / City levels. Thus, the legislator has the discretion to regulate the position of deputy regional head. This means that the governor, regent and mayor can be elected and hold office without a representative, or the regulation regarding the election of regional deputy head in the law may be different from the regional head election mechanism.

All tasks and functions of the Deputy Regional Head can actually be carried out by other SOTKs, such as the Regional Secretary for example.

Because, who manages the government bureaucracy wheel is the Regional Secretary, not the Deputy Governor, Deputy Regent or Deputy Mayor. If the deputy head of the regional office is removed, we will save trillions of rupiah in state money that has been allocated to the post of deputy to the regions. Existing sources of funds can be utilized by the state to build facilities and infrastructure that support people's economic growth to improve their standard of living. Because government functions can be carried out by the bureaucracy under the command of the Regional Secretary. If the Regional Secretary performs political maneuvers because he wants to target the position of the Regional Head, he will "die in step" if he is transferred by the Regional Head. Unlike the deputy head of the region can not be dismissed regional head.

The unequal position and tends to be "subordinate" reminds that candidates for regional head and deputy regional head should not be nominated in pairs. Such nominations provide a huge moral and resource burden for candidates for deputy regional head to win the elections. In this context, winning the election is a shared burden for the candidate pair. Whereas when the victory is won, and the candidate pair is appointed, the relationship between the two is no longer a partnership but has become hierarchical.

The law stipulates that the Deputy Regional Head is responsible to the Regional Head. The implication is that the financial position and protocol position of the Deputy Regional Head are often considered unfair by the Deputy Regional Head. A further consequence is the development of a less harmonious working relationship between the Regional Head and Deputy Regional Head. This tendency is reflected in part from the expression of the desire of the Deputy Regional Head to become a candidate for the Regional Head in the next election only moments after sitting in office. This situation makes the leadership of regional government not conducive. The Deputy Regional Head *latently* becomes an unhealthy competitor for the Regional Head. This situation is reflected in, among others, cases in which the Deputy Regional Head was permanently absent, many positions of the Deputy Regional Head were not sought to be filled by the *incumbent* regional head³⁰.

Conclusion

Removing the position of Deputy Regional Head who automatically does not fill the position of Deputy Regional Head, is the most strategic and constitutional step. There are at least 4 (four) reasons that strengthen this argument, namely; *first*, Disharmonism Factors Relationship between Regional Head and Deputy Regional Head. The unclear authority possessed by the Deputy Regional Head is one of the important factors in disharmony between the Regional Head and Deputy Regional Head, *second*, the constitutional aspect factor of the position of Deputy Regional Head. Article 18 paragraph (4) of the 1945 Constitution as mentioned earlier does not mention the position of Deputy Regional Head. This is considered as a constitutional basis to eliminate the position of Deputy Regional Head, which is autonomous in the absence of filling the position of Deputy Regional Head, *thirdly*, the factor of empirical practice in the administration of direct local election era. Reflecting on the current reality, with the presence of Deputy Regional Head, *conflicts of interest* and *conflict of politics* often occur with the

³⁰ In practice and protocol, it is evident that the deputy head of the region is not included in the Muspida (Regional Leadership Deliberation) which consists of the regional head, the Head of the District Attorney's Office, the Chief of Resort Police, the Kodim Commander and the Chair of the District Court. Deputy regional head is only included in the ranks of Muspida if the regional head is unable. Likewise, in the installation of official vehicle number signs where the regional head is given number 1 (one) while the deputy regional head is given number 5 (five). This means, protocolually, the deputy head of the region not only becomes the second person after the regional head but instead becomes the fifth person after the regional head (1), the chairman of the DPRD (2), the Prosecutor's Head (3) and the Chief of the Court (4).

Regional Head. Estuary, the effectiveness of government carried both are not running, and *fourth*, reasons for efficiency and effectiveness of governance in the region. Regulations governing local government provide limited authority, and duplication of authority with other organs.

References

- Deddy Ismatullah, *Gagasan Pemerintahan Dalam Konstitusi Madinah Ditinjau Dari Prinsip-Prinsip Negara Hukum*, Disertasi Pascasarjana Universitas Padjadjaran, Bandung, 2003.
- Colin Rallings dan Michael Thrasher, *Local Elections in Britain*, Routledge, London, 2003
- Hamid S. Attamimi, *Teori Perundang-undangan Indonesia; Suatu Sisi Ilmu Pengetahuan Perundang-Undangan Indonesia Yang Menjelaskan Dan Menjernihkan Pemahaman*. Pidato Guru Besar Tetap, Universitas Indonesia, Jakarta, 1992
- Haedar Nashir, *Gagasan dan Gelombang Baru Demokrasi*, dalam Mahfud MD, et.all, *Wacana Politik dan Demokrasi Indonesia*, Pustaka Pelajar, 1999
- Hans Kelsen, *General Theory of Law and State*, New York Russell & Russell, 1973
- Lili Rasjidi & IB Wiyasa, *Hukum sebagai Suatu Sistem*, Bandung, Remaja Rosdakarya, 1993
- Mahfud MD, *Politik Hukum di Indonesia*, LP3ES, Jakarta, 1998
- Montesquieu, *The Spirit of The Laws*, translated by Thomas Nugent, Hafner Press, New York, 1949
- Rukmana Amanwinata, "Pengaturan dan Batas Implementasi Kemerdekaan Berserikat dan Berkumpul Pada Pasal 28 UUD 1945" disertasi Pascasarjana Unpad Bandung, 1996
- Rian Nugroho, *Otonomi Daerah Desentralisasi Tanpa Revolusi (Kajian dan Kritik atas Kebijakan Desentralisasi di Indonesia)*, Elek Media Komputindo, Jakarta, 2000
- Richard C. Crook and James Manor, *Democracy and Decentralisation in South Asia and West Africa: Participation, Accountability and Performance*, Cambridge, Cambridge University Press, 2002.
- Sri Soemantri, *Demokrasi Pancasila dan Implementasi Menurut Undang-undang Dasar 1945*, Alumni Bandung, 1969
- Syahran Basah, *Ilmu Negara*, Alumni, Bandung, 1986
- Soetidjo, *Hubungan Pemerintahan Pusat dan Pemerintahan Daerah*. Rineka Citpta, Jakarta 1990

Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal.

This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/4.0/>).

Juridic-Empiric Factors the Reason for Removal of Regional Head Official Position in Regional Government Systems in Indonesia

ORIGINALITY REPORT

12%

SIMILARITY INDEX

12%

INTERNET SOURCES

5%

PUBLICATIONS

4%

STUDENT PAPERS

PRIMARY SOURCES

1	hukum.studentjournal.ub.ac.id Internet Source	2%
2	Submitted to Monash University Student Paper	2%
3	Submitted to Universitas 17 Agustus 1945 Surabaya Student Paper	2%
4	documents.mx Internet Source	2%
5	igsspublication.com Internet Source	1%
6	journal.uinjkt.ac.id Internet Source	1%
7	www.ijrrjournal.com Internet Source	1%
8	aacc-asia.org Internet Source	1%

9

gssrr.org
Internet Source

1 %

10

www.irphouse.com
Internet Source

1 %

11

en.mkri.id
Internet Source

1 %

Exclude quotes Off

Exclude matches < 1%

Exclude bibliography On

Juridic-Empiric Factors the Reason for Removal of Regional Head Official Position in Regional Government Systems in Indonesia

GRADEMARK REPORT

FINAL GRADE

/0

GENERAL COMMENTS

Instructor

PAGE 1

PAGE 2

PAGE 3

PAGE 4

PAGE 5

PAGE 6

PAGE 7

PAGE 8

PAGE 9

PAGE 10

PAGE 11
