



THE FUNCTIONS OF THE REGIONAL PEOPLE'S REPRESENTATIVE COUNCIL IN TEMPORARY DISMISSAL OF REGIONAL HEADS AND/OR DEPUTY REGIONAL HEADS TO REALIZE GOOD GOVERNANCE ACCORDING TO LAW NO. 23, 2014 ABOUT REGIONAL GOVERNMENT

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Article history:	Abstract:
Received: 6 th January 2023 Accepted: 6 th February 2023 Published: 11 th March 2023	During his journey, Indonesia has undergone several changes, one of which is the government system in which the regions have the authority to manage their government. The regional head and / or deputy regional head is temporarily dismissed without a recommendation from the DPRD because they are charged with a criminal offense punishable by imprisonment of at least 5 (five) years, criminal acts of corruption, criminal acts of terrorism, treason, criminal acts against state security. This problem demands the existence and authority of the Regency / City Regional People's Representative Council which is regulated in Article 154 paragraph (1) number 5 of Law Number 23 of 2014 concerning Regional Government which states that the DPRD has the authority to propose the appointment and dismissal of regents / mayors to the Minister through the Governor as the representative of the central government to obtain ratification of appointment and dismissal. Based on this understanding, the DPRD as one of the institutions of government administration in the Region, is also politically responsible for the administration of government in the Region. The result of this research is the implementation of good governance according to Law No. 23 of 2014 on Local Government. DPRD should be more active and independent in running the wheels of government which as a legislative body the position of DPRD in the implementation of regional government should carry out its functions and roles as supervision, especially on the regional head and / or deputy regional head in the implementation of regional government to realize good governance. The DPRD should conduct a plenary meeting because the regional head no longer meets the requirements, violates the oath / pledge of office, does not carry out obligations and / or violates the offense.

Keywords: Temporary Dismissal, Regional Head, Deputy Regional Head and Good Governance.

INTRODUCTION

A series of events and actions that can be presented as a portrait of non-legal determinants of applicable law, such as the many cases that have befallen members of the DPR, DPD, DPRD, Governors, Regents/Mayors, law enforcement officials and other bureaucratic officials who have become suspects have even become suspects . convict. What is even more concerning is that there are several law enforcers who should be responsible and are VVIPs upholding the constitution and law, but daders (main actors) have worsened the image and ideals of a rule of law and democracy. For example, the former Chief Justice of the Constitutional Court, unscrupulous Public Prosecutors, members of the Police and members of the Constitutional Court judges have stumbled. Not only that, the pros and cons of the issue of the status of the Governor of DKI Jakarta who has become a defendant but was not temporarily dismissed is an example of differences in interpretation of the formulation of Article 83 of Law no. 23 of 2014 concerning Regional Government,

the contents of which are: regional heads and/or deputy regional heads temporarily dismissed without going through the recommendation of the DPRD because they were charged with committing a crime punishable by imprisonment for a minimum of 5 (five) years, criminal acts of corruption, criminal acts of terrorism, treason, criminal acts against state security, and/or other acts that can divide the Unitary State of the Republic of Indonesia.

This problem requires the existence and authority of the Regency/City Regional People's Legislative Council which is regulated in Article 154 paragraph (1) number 5 of Law Number 23 of 2014 concerning Regional Government which states that DPRD has the authority to "propose the appointment and dismissal of regents/mayors to The Minister through the Governor as the representative of the central government to obtain approval for the appointment and dismissal. Article 154 paragraph (1) number 8 states the authority to "request reports on the accountability statements of regents/mayors in the administration of district/city regional government.

As it is known that the balance of power leads more to the occurrence of "checks and balances" between power holders in carrying out government activities, development, and public services. The balance of power is an important matter, namely the balance of power between the Government (regional) as the executive branch, and the House of Representatives (regional), so that there will be "checks and balances".

This is emphasized by the term "Government", which means the mechanism for the exercise of power that is carried out by the cooperation of all institutions and apparatuses of power in the state (machinery of state), in which the people's representatives are also included (DPR, DPD and DPRD). On the basis of this understanding, the DPRD as one of the administrative institutions in the region is also politically responsible for the administration of governance in the region. The supervisory function of the DPR and DPRD gives birth to rights that can be used in running the wheels of government. This is because functions and rights that run in balance (balance) will create good governance (*good governance*).

METHOD

The type of research used in this study is normative juridical research, which means that all the issues studied in this research always refer to legal reviews, both normatively and based on the views of legal experts and are also included in the legal dogmatic scope that examines or examine laws. Dogmatic jurisprudence has a "*sui-generis*" character. In qualitative research, humans are research instruments and the writing results are in the form of words or statements that are in accordance with the actual situation. Existing objects are then examined with a problem approach consisting of:

1. Legislative Approach, Statute approach is carried out by examining all laws and regulations that are related to the legal issues being handled. For research for practical activities, this statutory approach will open up opportunities for researchers to study the consistency and compatibility between a law and other laws or constitutional law with regulatory laws and statutes.
2. The Conceptual Approach, departs from the views and doctrines that develop in the science of law. By studying the views and doctrines in the science of law, researchers will find ideas that give rise to legal notions, legal concepts and principles relevant to the issues at hand.
3. Historical Approach, carried out by examining the background of what was learned and the development of arrangements regarding the issues at hand. Such studies are needed by researchers when researchers really want to reveal the philosophy and mindset that gave birth to something being studied. This historical approach is needed if indeed the researcher considers that the philosophical expression and mindset when something learned is born does have relevance to the present.
4. The case approach is carried out by conducting a study of cases related to the issues at hand which have become court decisions that have permanent force.
5. Analysis approach, is an approach by analyzing legal material to find out the meaning contained by the terms used in statutory regulations conceptually (*statute approach*);
The statutory approach is carried out by examining all laws and regulations that are related to the legal issues being handled.

The Authority of the People's Legislative Assembly in the Administration System in the Regions

Based on Law Number 23 of 2014 concerning Regional Government, normative arrangements are made starting from mapping government affairs which are regional priorities in implementing the widest possible autonomy. Through this mapping, a synergy of ministries/non-ministerial government agencies is created whose government affairs are decentralized to the regions. The synergy of government affairs creates institutional synergy between the Central and Regional Governments because each ministry/non-ministerial government agency knows who are the stakeholders from the ministry/non-ministerial government agency at the provincial and district/city levels nationally. The synergy of government and institutional affairs creates synergy in development planning between ministries/non-ministerial government agencies and the regions to achieve national targets. The next benefit is the creation of directed assistance distribution from ministries/non-ministerial government agencies to the regions.

The Regional People's Representative Council (DPRD) in accordance with Article 1 paragraph (2) is part of the regional government. Rights and Authorities of the Regional People's Representative Council (DPRD) in Law of the Republic of Indonesia Number 2 of 2015 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2014 concerning Amendments to Law Number 23 of 2014 concerning Regional Government to Become Laws.

Article 101 (1) The provincial DPRD has the following duties and authorities: namely; 1) establish provincial regulations with governors; discuss and give approval for the Draft Provincial Regulation on Provincial APBD submitted by the governor; 2) carry out supervision of the implementation of provincial regulations and provincial budgets; 3) propose the appointment and dismissal of governors to the President through the Minister to obtain approval for the appointment and/or dismissal; 4) provide opinions and considerations to the Provincial Regional Government regarding plans for international agreements in the Provincial Region; 5) give approval to plans for international cooperation carried out by the provincial Regional Government; 6) request a report on the accountability of the governor in the implementation of provincial regional administration; 7) give approval for cooperation plans with other regions or with third parties that burden the community and provincial regions; and 8) carry out other duties and authorities regulated in the provisions of laws and regulations.

Furthermore, the authority of DPRD is also regulated in MD3. Law of the Republic of Indonesia Number 17 of 2014 Concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council (or MD3) in Part Three, namely the Authority and Duties of Article 317 (1), states that the provincial DPRD has powers and duties: 1) to form provincial regional regulations with the governor; 2) discuss and give approval for the draft regional regulation regarding the provincial regional revenue and expenditure budget proposed by the governor; 3) carry out supervision of the implementation of regional regulations and provincial revenue and expenditure budgets; 4) propose the appointment and dismissal of the governor and/or deputy governor to the President through the Minister of Home Affairs to obtain approval for the appointment and/or dismissal; 5) elect the deputy governor in the event of a vacancy in the post of deputy governor; and others.

The Functions and Authorities of the Regional Representatives Council to Realize Good Governance in the Temporary Dismissal of Regional Heads and/or Deputy Regional Heads

With regard to their authority and responsibility for managing regional resources, the DPRD provides an example of how a regional government agency operates in the context of political decentralization. Referring to the framework of government decentralization, DPRD is a unitary state body that represents the central government in every region of the Unitary State of the Republic of Indonesia (NKRI).

Decentralization is a key component of effective government management. The ability of the Central Government in granting authority to Regional Governments has an impact on how well its governmental tasks are carried out. According to theory, the notion of decentralization is used to increase government capacity by transferring authority hierarchically from the organizational level to its subordinates.

Because the Regional Government is the institution that is most familiar with the situation and conditions, as well as the opportunities that exist in their area, an effective delegation of authority can maximize the success of the government's task of providing services to the community. Thus, the role of the DPRD as the representative of the central government with the authority to manage the regions is further strengthened.

DPRD is a regional government institution, as can be seen from the sentence above. Judging from the deconcentration function, DPRD in the regions are formed so that the government is not centralized at the center. Central government representatives in central government, called DPRD, are tasked with resolving local government disputes.

Regional administrators maintain the balance of the DPRD as a government organization. Throughout the history of Indonesian constitutionalism, the position of DPRD in its interactions with regional heads has experienced several variations of patterns. The DPRD is sometimes in alliance with the regional head to facilitate effective cooperation between the two, while at other times it is under the control of the regional head and acts as a distinct unit of local government.

Both at the provincial and district/city levels, the DPRD's heavy duty is to oversee the running of government. Due to its important position, it has the same powers as the local or regional government, which cooperates to fulfill its duties. Referring to the three tasks of the DPRD, namely supervision, legislation and budgeting. Regency/Municipal DPRD has the right:

1. The right of interpellation is the right to ask the regent/mayor for information regarding district/city regional government policies that are important and strategic and have broad implications for the life of society and the state. This is in line with what was written by Prof. Andi Pangerang and Syafa'at Anugrah in their book entitled "The Principles of Law of Regional Government" that the right of the Provincial DPRD and Regency/Municipal DPRD to request information from regional heads regarding important and strategic provincial and district/city government policies and broad impact on the life of society and the state.
2. The right of inquiry is the right to carry out investigations into policies of the district/city regional government which are important and strategic and have a broad impact on the life of the people, the region and the country which are suspected of contravening statutory provisions.
3. The right to express an opinion is the right to express an opinion on the regent/mayor's policies or on extraordinary events that have occurred in the district/city area accompanied by recommendations for resolution or as a follow-up to the implementation of the right of interpellation and the right of inquiry.

The DPRD can exercise its main jurisdiction over regional heads, among others, because of the powers mentioned above. This supports the extra oversight responsibilities the DPRD carries out. As a supervisory body, DPRD has duties and rights. Rights and Obligations of DPRD Members DPRD members have the authority to elect, organize elections, evaluate suggestions and opinions, participate in studies related to orientation and duties, and issue draft regional regulations. In addition, they are protected from punishment. The following is regulated in Article 159 of Law Number 23 of 2014 concerning Regional Government as the rights and obligations of the district/city DPRD. Therefore, legislative review can be considered as a process

in which the DPRD reviews the Raperda before ratifying it as a Perda. Legislative review is rarely carried out in practice because it requires qualified DPRD members.

These three roles are operationalized with the rights and obligations of members of the DPRD institutions, all of which must be specifically regulated in the DPRD regulations. Executors of rights and obligations must be accountable to themselves, society, the environment, and especially constituents who have placed full trust in them to advance the political system in the direction desired by the entire nation and state. This is a manifestation of the trifunctional nature of rights and duties.

In the case of dismissing a regional head, the rights and obligations of the DPRD include the right to interrogation, the right to inquire, and the right to criticize the performance of the regional head. To carry out its duties, namely obeying Pancasila and carrying out the mandate of statutory regulations, the DPRD must exercise these rights and opinions. DPRD that seek to dismiss regional heads from their positions must also comply with the rules regarding dismissal and reasons for dismissal which must be clear, as stated in Article 78 paragraph (2) of Law Number 23 of 2014 concerning Regional Government concerning nine reasons for regional heads, deputy heads regions, and deputy regional heads were dismissed from their positions. This article also defines the terms "temporarily dismissed" and "dismissed" for dismissal of regional heads and/or deputy regional heads. This indicates that the legal process is still ongoing. The regional head or deputy regional head will no longer serve if the criminal charges against him have been upheld by the court, according to Article 83 paragraph 4.

Good Governance, as explained by the Institute for State Administration (LAN) quoted by Arisaputra, that the meaning of "good" in "good governance" according to LAN contains two meanings. *First*, values that uphold the wishes/will of the people and values that can increase the ability of the people to achieve (national) goals of self-reliance, sustainable development and social justice. *Second*, the functional aspects of government that are effective and efficient in carrying out their duties to achieve these goals. The form of *good governance* according to LAN is the administration of state government that is solid and responsible as well as efficient and effective by maintaining the "synergy" of constructive interactions between state domains, the private sector and society.

In realizing good governance, the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) mentions 8 (eight) characteristics of good governance that must be met as follows:

1. participation.

Stakeholder participation is the main foundation of good governance. Participation can be direct or through intermediary institutions or legitimate representatives. Participation is important to show that democracy is realized by taking into account the concerns of the most vulnerable people in society to be considered in decision making.

In relation to the ideal function of the DPRD, the presence of the DPRD to carry out the supervisory function is a form of DPRD participation in carrying out good governance in the local government. The DPRD must participate in running regional government according to its own duties and authorities. Efforts to dismiss regional heads by the DPRD are also a form of DPRD participation in carrying out their duties as regional government institutions.

2. Rules of Law

Good governance requires a fair legal framework that is enforced impartially. This also requires full protection of human rights, especially those of minorities. Impartial law enforcement requires an independent judiciary and an impartial and incorrupt police force.

In relation to the ideal DPRD function, it is hoped that Law number 13 of 2014 concerning Regional Government will become DPRD signs in dismissing regional heads. This is done of course to realize good governance in the region.

3. transparency

Transparency means that the decisions taken and their enforcement are carried out in a manner that follows the rules, and the resulting information is freely and directly accessible to all parties. In relation to the ideal DPRD function, all policies, including efforts to dismiss regional heads, are known to the public.

4. Responsiveness

Good governance also requires that all institutions and processes serve all stakeholders within a reasonable period of time.

In relation to the ideal function of the DPRD, the responsibility of the DPRD as a regional government institution is to carry out the three functions that have been attached to it.

5. Consensus oriented

Good governance also requires the mediation of various interests, because there are several actors and many points of view in society. Consensus demands the achievement of the interests of the whole society. Consensus also requires a broad perspective and a long-term view of what is needed for sustainable human development and how to achieve these development goals.

In relation to the ideal DPRD function, the decision to dismiss the regional head must of course be agreed upon by other members based on considerations of the public good.

6. Equity and inclusiveness

A welfare society must ensure that all its members feel they have a stake in it and do not feel excluded. This of course requires the presence of all groups, especially the most vulnerable, in order to improve or maintain their welfare.

In relation to the ideal DPRD function, the decision to dismiss regional heads is not based on group interests but together.

7. Effectiveness and efficiency

Good governance means that the institutions and processes carried out produce results that meet the needs of society by making the best use of the resources they have. The concept of efficiency in the context of good governance also

includes the sustainable use of natural resources and environmental protection.

In relation to the ideal DPRD function, the decision to dismiss regional heads is for the sake of effectiveness and efficiency for the benefit of the public.

8. Accountability

Accountability is the main requirement of good governance. Not only government agencies but also the private sector and civil society organizations must be accountable to the public and their institutional stakeholders. In general, an organization or institution is accountable to those who will be affected by its decisions or actions. Accountability cannot be enforced without transparency and the rule of law.

In relation to the ideal DPRD function, accountability, which is a policy principle, must rely on laws or regulations.

Impulse case

The position of the DPRD as a government institution that is equal to the regional head and as an institution that represents the people in government is thus represented by the people who are members of the DPRD. Within the DPRD itself is a form of government democracy, this is what constitutes a representative and its existence is a representative of the people in an institution and the embodiment of indirect democracy. As a regional legislature and people's representative, the DPRD is also a means of extending political parties, therefore the DPRD is positioned as the institution for forming regional regulations (Perda) together with the regional head. DPRD has a position that is not independent, because it is run jointly by the regional legislature and the regional executive body.

DPRD functions, namely the functions of legislation, supervision and budgeting. The form of good governance is the administration of state government that is solid and responsible as well as efficient and effective by maintaining the "synergy" of constructive interactions between state domains, the private sector and society. As a supervisory body DPRD is given rights and obligations. To realize good governance, DPRD carries out its function as supervision and runs regional government in accordance with its duties and authorities. The rights and obligations of the DPRD are related to the context of temporary and/or permanent dismissal of the regional head, so the DPRD has the right of interpellation, the right of inquiry and the right to express opinions on the performance of the regional head, so the DPRD should do this for the sake of its obligations, namely to practice Pancasila and carry out the mandate of the law. and laws and regulations. The DPRD which makes efforts to dismiss the regional head, of course, must also obey the rules regarding the dismissal, such as the reason for the dismissal which must be clear as stipulated in Article 78 paragraph (2) of Law Number 23 of 2014.

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