

## Effectiveness of Impeachment Against Deputy Regent of Gorontalo Regency

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The purpose of this research is to know and analyze the Legal Regulation of The Impeachment of Regional Heads and/or Deputy Heads of Regions according to The Provisions of Law No. 23 of 2014 on Local Government and the effectiveness of impeachment against the deputy Regent of Gorontalo Regency. The type of research used by researchers in the preparation of this study is to use normative research types that are supported by the existence of field data (empirical) using 2 (two) approaches, namely the Legislative And Case Approach. The results of this study show that the effectiveness of impeachment against the deputy Regent of the Gorontalo Regency is influenced by 3 (three) factors that affect the effectiveness of dismissal against the deputy Regent of the Gorontalo Regency, namely: the legal factor. alone, where there is no normative framework that regulates the law of dismissal events in the head of the region, second, law enforcement factors, namely regarding the competence of judges in the break the case and the unclear involvement of legal counsel (advocate), third, the legal culture factor characterized by the disobedience of the Ministry of Home Affairs to the deadline which has been made imitatively in Law 23 of 2014 concerning Local Government.

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## 1. INTRODUCTION

One of the issues that arise from the implementation of decentralization policies and regional autonomy after reform is regarding *impeachment* and temporary dismissal (deactivation), as well as the resignation of regional heads and/or deputy regional heads. The proposed resignation of the regional head and/or deputy regional head does not cause much trouble, other than the proposed dismissal of the regional head and the temporary dismissal of the regional head and/or deputy head of the region which can potentially cause problems in each region.<sup>1</sup>

The term impeachment is relatively new to Indonesia after the second amendment of the 1945 Constitution as the equivalent of the term dismissal or dismissal of a person from office. Impeachment is the process of dismissing, dismissing, or dethroning a President or state official from the throne or office for a violation of the Law or because he no longer qualifies as an official of the State.<sup>2</sup>

In the current democratic era, many regional heads of state officials are eliminated from office, because the Regional Head is affected by corruption cases, violating the ban of regional heads as stipulated in the Law of the Republic of Indonesia Number 9 of 2015 concerning the second amendment to Law No. 23 of 2014 on Local Government, this Law determines the substance dismissal of regional heads.<sup>3</sup>

Corruption committed by regional heads or deputy regional heads undoubtedly causes losses to public finances in general, and especially to regional finances. But ideally, such losses must be proven through fair litigation before causing legal consequences for the perpetrator. The unlawful elements in it also need to be identified and proven through strict procedures. The corruption that is still potential should not be an excuse to punish a regional head or deputy regional head with certain legal consequences, such as in the form of dismissal from office.

Mid-October 2017 the people of Gorontalo Regency in Gorontalo Province were horrified by the alleged corruption efforts made by the Deputy Regent of Gorontalo Regency (Wabup Gorontalo). This case stems from a report from the community alleging that the deputy regional head has tried to make a profit, namely asking for a 30 percent commission to PT Asana Citra Yasa where the project value reaches 800 million like

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<sup>1</sup> Gamawan Fauzi, Stops Head Area <https://koran.tempo.co/read/304504/> Accessed At Moon February 2019.

<sup>2</sup> Zoelva Hamdan. (2011). *Impeachment President in Indonesia*, (Jakarta: Light Graphics,). Pp. 9

<sup>3</sup> Tim Constituent, (2016). *Amademen Law Government (UU RI No.9 year 2015)*, (Jakarta: Light Graphics), Pp vii.

regional spatial projects. from the tender process of development projects that take place in the district he leads. The complainant presented evidence of recordings taken secretly without the web's knowledge, which mentioned a nominal fee of 30 percent to help pass one of the bidders.<sup>4</sup>

In response to this report, the Gorontalo District House of Representatives (DPRD Kab. Gorontalo) immediately formed a committee. An examination at the committee level then determined that wabup was guilty. Through a plenary session on September 22, 2017, died Kab. Gorontalo officially proposed the dismissal of the Wabup. Deputy Regent of Gorontalo Regency (Wabup Gorontalo) is considered to have violated the oath of office as a deputy regional head. He is also accused of having neglected to carry out his duties as the head of the region and committing despicable acts. The proposal is stated in the Decree of the Dard Kab. Gorontalo Number 29 / KEP / DPRD / IX / 2017.<sup>5</sup>

As stipulated, that the regional head involved in the new corruption case can be temporarily dismissed if the case file has been submitted to the court and his status has become a defendant, the temporary dismissal for the Governor and/or Deputy Governor is carried out by the president, while for the Regent and/or Deputy Regent and Mayor and/or Deputy Mayor is done by the Minister.

By the provisions in Law No. 23 of 2014 on Local Government (Pemda Law), the impeachment proposal must be followed up with an opinion application to the Supreme Court (MA). Through Decision No. 03 P/KHS/2017, ma stated that "The decision of the Regional People's Representative Council (DPRD) of Gorontalo Regency Number 29/KEP/DPRD/IX/2017, dated September 22, 2017, on The Statement of Opinion, is based on law." In other words, ma justifies the potential for corruption committed by Wabup. The panel of judges chose to ignore all the arguments of the respondent's defense, namely Wabup Gorontalo.<sup>6</sup>

The problem that then became a highlight was the length of time forged in the dismissal to the deputy regent of Gorontalo Regency (Fadli Hasan), whereas in the Local Government Law Article 80 paragraph (1) letter f expressly said that the Minister must dismiss the regent and/or deputy regent or mayor and/or deputy mayor no later than

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<sup>4</sup> <https://gorontalo.antaranews.com/berita/43772/dprd-usulkan-pemberhentian-wabup-gorontalo>, "DPRD Proposing Stops Wabup Gorontalo," Accessed on 20 June 2019.

<sup>5</sup> <http://hargo.co.id/berita/posisi-wakil-bupati-gorontalo-diujung-tanduk-dprd-usulkan-pemberhentian.html>, "Position Wakil Regent Gorontalo Of End Horn, DPRD Proposing Stops," Accessed on 20 June 2019.

<sup>6</sup> Verdict Court Great Number 03 P/KHS/2017, Pp. 25

30 (thirty) days since the Minister received the proposal of dismissal from the DPRK leadership. . If the minister of justice of the deadline for the proposed application submitted by the Gorontalo Regency DPRD dated September 25, 2017, the Supreme Court decided to accept the impeachment proposal against the deputy Regent of Gorontalo as stated in Decree MA Number: 03 P / KHS / 2017 / dated October 30, 2017. Then on November 9, 2017 DPRD Kab. Gorontalo proposed the dismissal of Fadli Hasan as deputy Regent to the Minister of Home Affairs, only then did the Minister of Home Affairs issue a dismissal decree dated March 12, 2018, which was poured in decree No. 131.75-409 of 2018 concerning the dismissal of Vice Regent Kab. Gorontalo. It should be by the provisions in the Local Government Law, that the Minister of Home Affairs must issue a decision no later than 30 days from receiving the proposal of termination. from the DPRD, but then it can only be realized after approximately 5 (five) months since the proposal was submitted to the Ministry of Home Affairs.

Thus, there is an expression of the General Principle of good governance in The Law of State Administration, precisely a violation of the principle of **legal certainty** in it. namely the principle in the State of law that prioritizes the basis of laws and regulations, propriety and justice in every policy of the State organizer, where the Ministry of Home Affairs made up the provisions stipulated in the Local Government Law Article 80 paragraph (1) letter f which expressly stipulates regarding the deadline for the issuance of a Dismissal Decree against the Vice Regent of Kab. Gorontalo.

## **2. PROBLEM FORMULATION**

Based on the background above, the author formulates several problem formulations that will be the main study of the author. There is a formulation of the problem is How effective is impeachment against the deputy Regent of Gorontalo Regency?

## **3. RESEARCH METHODS**

The type of research used by researchers in the preparation of this study is the use of normative research types that are supported by field data (empirical). The approaches used by researchers in compiling this study are, among others: The Legislative Approach and the Case Approach.

## **4. ANALYSIS AND DISCUSSION**

### **Efectifitas Impeachment Against Deputy Regent of Gorontalo Regency**

The reasons for the dismissal of the regional head in his term of office stem from a violation of duties, authorities, obligations, doing prohibited acts, or other violations stipulated in the law that are generally related to violations of the oath/appointment of the office of the regional head, then the DPRD can empower the function of supervision (*controlling*). ) by exercising the right of interpellation, the right of questioning, and the right to express its opinion towards the regional head until it continues in the next mechanisms (through authorized institutions) and has implications for the dismissal of regional heads. <sup>7</sup>In practice, the dismissal of regional heads is based on the various reasons above, divided into juridical (Legal) reasons, ethical or ethical reasons of leadership, and the influence of political dynamics in a local government.

### 1. Juridical Reasons (Law)

According to the local government, the law has regulated the reasons for the dismissal of regional heads are caused by violations of criminal law and administrative violations (state administrative law). The reason for dismissal based on the law is an objective reason in dismissing the regional head because it is clear that when some people violate the law it will get skis and his personal branded bad in the community.

Abuse of *Power* is an act committed by a public official or ruler with an agenda of certain interests, both for the benefit of individuals and the interests of groups or corporations. Some view that abuse of power is shared by the public policy which is only seen as a procedural and administrative error, but if it is done to benefit oneself or a group (corporation) that has an impact on the economic and financial losses of the country, it is a criminal act.<sup>89</sup>

The greater the power held, the greater the possibility of perversion. The abuse of power has largely had an impact on the occurrence of Corruption, Collusion, and Nepotism (KKN). To paralyze Lord Acton, *power tends to corrupt but absolute power to corrupt absolutely* (power tends to be abused but absolute power is inevitably abused).

Can the author exemplify, the form of lawlessness that often the head of the region is a crime of corruption as stipulated in Law No. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption and forms of administrative violations

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<sup>7</sup> Gosal, in .B. (2021). Stops Head Area Reviewed From Law Number 23 Year 2014 About Government Area. *Lex Administratum*, 9(4). Pp. 114

<sup>8</sup> Recommend Imam Al Hafis and Moris Adidi Yogia, *Abuse of Power: Review About Abuse Authority By Officials Audience In Indonesia*, Audience, Flight 3, No. 1, 2017, Pp. 2.

<sup>9</sup> *Ibid.*, Pp. 4

such as regional heads not complying with regulatory procedures in the bureaucracy, for example when regional heads ask for official permission from superiors when traveling abroad, The administrative procedure violated the law No? 23 of 2014 concerning Local Government.

## 2. Ethical Reasons or Leadership Ethics

In undergoing the leadership of Kapala region never escaped from ethical violations, it becomes an obligation of a leader must have at least some competence skills including personal abilities that include having high integrity (honest, loyal, faithful), having a clear vision, high intelligence creative and innovative, not easily satisfied, flexible, have insight and charisma, have idealism and love of the homeland.

As tough and smart as a leader is, the leader must still have high integrity so that his abilities and intelligence are not misused to manipulate every action taken. Normatively in the law of local government has regulated the ethical reasons for the dismissal of regional heads, namely:

- a. Declared in violation of the oath/promise of the position of regional head/deputy head of the region;
- b. Not carrying out the duties of the regional head and deputy head of the region;
- c. Violating prohibitions for regional heads and deputy heads of regions;
- d. Committing a despicable act.

Ethics is usually known as conscience. According to Bertens, conscience is an agency in man that judges the morality of human deeds. Not the following conscience means destroying personal integrity and betraying the deepest human dignity. It can also be said that conscience is moral awareness, an institution that makes a person aware of the good or the bad (morally) in one's behavior. <sup>10</sup>Ethics are always present on every side of a person's life and organization. Even from an early age to old age is always faced with how to live in harmony with ethics especially if the person is in the middle of the community in this case local government.<sup>11</sup>

Ethical values attached to public leadership or government leadership, especially local governments must be able to represent themselves as intelligent while having a personality that upholds ethical values. His integrity will not be at stake to commit actions that are contrary to applicable public ethical values. When ethics

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<sup>10</sup> Rumsari To Sumarto, *Ethics Audience For Leadership Government Area*, PUBLISIA (Journal Science Administration Audience), Volume 2, Number 2, October 2017, Pp. 115.

<sup>11</sup> *Ibid*

are violated by a person or organization, social and legal sanctions will be imposed on public leaders who commit such ethical violations.

Based on the arguments above, the researchers see that several things affect the effectiveness of the dismissal of the deputy Regent of Gorontalo, this refers to the opinion expressed by Soerjono Soekanto, According to Soerjono Soekanto that the effectiveness or not of a law is determined by 5 (five) factors, namely: Faktor Hukumnya, faktor law enforcement, means or facilities that support law enforcement, Factors of society and Cultural Factors of Law.<sup>12</sup>In this study, researchers successfully identified several factors regarding the ineffectiveness of impeachment against the Deputy Regent of Gorontalo, namely:

### 1. Factor Hukum

Although it has been designed and idealized as a complete system, the system of dismissal of Regional Heads / Deputy Regional Heads embraced by No. 23/2014 still leaves problems, especially related to the role of the main system. Within the

*access to justice framework*, these issues will be analyzed based on the following indicators:<sup>13</sup>

- a. Clear, open, *fair*, *consistent*, and measurable law enforcement procedures;
- b. The procedure allows for discourse space and debate between interested parties equally.
- c. There is a channel for legal assistance for anyone who needs it, to ensure *a fair law* enforcement process;
- d. Professional, competent and responsible law enforcement officers; and
- e. Access to influence the process of legal formation throughout the power.<sup>14</sup>

In addition, the main root of the entire *access to justice* crisis in cases of dismissal of Regional Head / Deputy Regional Head in Indonesia is the void of event law that regulates the standard mechanism of judicial testing of DPRD opinion on the dismissal of Regional Head / Deputy Regional Head. In other words, there is no clear, open, *fair*, *consistent*, and measurable law enforcement procedure. This provision is in no way regulated in Law No. 23/2014.

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<sup>12</sup> Ria Ayu Novita dkk, (2017). *Effectiveness Implementation Law Number 2 Year 1960 About Covenant For Land Products Agriculture (Land Dry) Of Village Bringin, District Town, Regency Purworejo*. Diponegoro law journal volume 6 number 2). Pp. 26

<sup>13</sup> Rahman, S., Qamar, N., & Kamran, M. (2020). Effectiveness Division Map Together Post Divorce: Studies Case Marriage Polygamy. *SIgn Journal Law*, 1(2), 104-118.

<sup>14</sup> Azis, A. P. (2019). Void The Law of Events and Crisis Access To Justice Deep Cases Stops Head Region/Deputy Head Area in Indonesia. *Journal Law & Development*, 49(1), 1-43.

In-Law No. 23/2014, the only formal aspect that is regulated is the length of the trial, which is for 30 days. Within that time, the Supreme Court must examine, adjudicate, and break the dark proposal. MA sendiri did not take the initiative to fill the legal void. MA does not form PERMA to regulate the judicial testing of DPR opinions about the dismissal of regional heads/deputy regional heads. Whereas Law No. 12 of 2011 (Law No. 12/2011) allows this to be done by the Supreme Court because of its authority. The only formal legal reference in this type of case is to allow the respondent to answer in writing.<sup>1516</sup>

If constantly ignored, this can make the legitimacy of the decision of the SUPREME Court questioned. Regulation of the law of events is important in the State of Law. It is related to the means of social institutions and conflict management. It became the cultural foundation of the legal system and helped determine the *system space given* to legal, political, religious, or other institutions in the history of society. This is in line with the important function of event law according to scholars from various branches of legal science, whether criminal, civil or state administration, namely as an instrument that must exist for the enforcement of material law, to find substantive truths. <sup>17</sup>The existence of the event law will ensure order in the process and decisions resulting based on justice.

The only way to condition this is to form a PERMA sendiri about the dpr opinion testing event on the dismissal of the Regional Head / Deputy Regional Head. The establishment of PERMA is the most realistic alternative, given that changing the law requires political commitment and a lengthy process. Currently, most of the MA event laws are listed in Law No. 14 of 1985 concerning the Supreme Court, which has been amended once through Law No. 3 of 2009. Another law that is also relevant in this type of case is Law No. 23/2014 itself. The existence of PERMA can at least codify the event law spread across the various regulations, fill the remaining legal gaps, and affirm what principles can be used as a basis for speech.<sup>18</sup>

Stricter event law will also further strengthen the bargaining position of the Regional Head / Deputy Regional Head in front of the dismissal system. This condition is in combination with the large legitimacy of the Regional Head /

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<sup>15</sup> Indonesian Law Number 12 Year 2011 about Formation Regulation Legislation, Article 7 verse (2).

<sup>16</sup> BUT Verdict No. 01 P/KHS/2017, thing. 15; BUT Verdict No. 02 P/KHS/2017, thing. 8; BUT Verdict No. 03 P/KHS/2017, thing. 3

<sup>17</sup> etnowulan Sutantio and Iskandar Oeripkartawinata, *Event Law Civil deep Theory and Practice*, (Bandung: Mandar May, 2005), thing. 1

<sup>18</sup> Appropriate Conditions of the deep constitution, the law in Indonesia Formed by DPR with assent President. This means, second arm authority country aforementioned necessary to have Perception Subjective that same to a law get Formed. RE Elson, *The Idea of Indonesia: History Thought and Idea [The Idea of Indonesia: A History]*, Translated by Zia Anshor, (Jakarta: Veranda, 2009), thing. 441

Deputy Regional Head in the current regional government regime, considering that both are directly elected by the people. Like the DPRD, both are representations of the people of the region itself. The people as owners of sovereignty can also get more concrete parameters in evaluating the course of the judicial process of dismissing their leaders.

## 2. Law Enforcement Factors

In cases of testing the card opinion on the dismissal of the regional head/deputy head of the region lies in the legal considerations section of the judge (*ratio decidendi*) and the resulting verdict. As Umar Haris Sanjaya postulated, "(p) the judgment of a good judge is a consideration there is a law and concern for the value of justice." The reconstruction of the judge of the course of the trial taking into account the arguments of the applicant and the respondent is the basis for the formulation of the verdict. Judges must be observant in identifying legal references in the "wilderness" of Indonesian legislation, and how they are relevant to a case.<sup>19</sup>

In the future, a legal consideration will often become a jurisprudence and a sustainable source of law. The use of *the dividend ratio* as the main legal source is mainly embraced in countries that adhere to the Anglo-Saxon legal system. In these countries, there is a binding force of *precedent*, where the judge is bound by past rulings in similar cases. However, Indonesian legal discourse generally accepts jurisprudence as a source of law.<sup>20</sup> In Indonesia, jurisprudence is accepted with persuasive binding power.<sup>184</sup> Therefore, the consideration must be comprehensive, thorough, wise, and just. From here, the individual quality and capacity of a judge can be assessed.

Although it resulted in a similar verdict, each case of the DPRK's opinion on the dismissal of the Regional Head / Deputy Regional Head in 2017 has endemic considerations. This is despite the different reasons for the request. This uniqueness appears to be the legal argument built by the judge in making the verdict. Some of the arguments in one case seemed quite progressive, but in others, they also raised questions about the competence of judges.

The issue of competence and authority to prosecute also actually surfaced in the case of the Gorontalo Regency DPRD vs. The Gorontalo Regent. In its legal considerations, the panel of judges commented on the respondent's argument that the DPRD application had been negotiated because it was submitted more than

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<sup>19</sup> Umar Haris Sanjaya, Justice Law deep Consideration Judge deep Break Rights Foster Son, "Son." *Yurika*, Theft. 30 No. 2, 2015, thing. 356.

<sup>20</sup> Ibid

three days after it was decided the issue of competence and authority to prosecute also actually came to the fore in the case of the Gorontalo Regency DPRD vs. Gorontalo Regent. In its legal considerations, the panel of judges commented on the respondent's argument that the DPRD's application had been negotiable because it was submitted more than three days after it was decided.<sup>21</sup>The respondent's argument is based on the DPRD's Code of Conduct governing the mechanism of follow-up to the DPRD's statement of opinion. But the assembly argued that:

The provision does not regulate the legal consequences of the enactment of a decision if the grace period is exceeded. This means that by exceeded the grace period does not necessarily result in the alleged violation of the respondent guy your. It is therefore unfair if the applicant's formal error in the application that exceeds the grace period of 3 (three) working days causes the Respondent to be free from errors and legal liability for alleged violations of oaths/appointments, not carrying out the obligations of the Deputy Regional Head, prohibition for the Deputy Head of The Region, committing despicable acts.<sup>22</sup>

As for the subject of the application, the assembly only gives full approval to the applicant's argument without giving adequate legal consideration. The judge did not elaborate in detail how the violation of the violation committed by the Deputy Regent is a form of violation of oath/promise of office and reprehensible acts, or any laws and regulations that have been harmed by its implementation straight.<sup>23</sup>

Some things need to be straightened out in the case, related to the individual competence of the judges and the absolute competence of the MA in handling did complaints. At the individual level, judges should need to prove that they have the qualifications to examine the application for dismissal of the Regional Head/Deputy Regional Head due to alleged corruption. On the one hand, this intersects with criminal law issues. In its ruling, the assembly acknowledged that the background to the dismissal of Deputy Regent Gorontalo was an alleged crime of corruption. In other words, similar cases should be examined by judges who have the qualifications and expertise of criminal law.<sup>24</sup>Matters of dismissal are always registered into the TUN room, which means it is considered a matter of state administration only.<sup>25</sup>Padahal, the case of the Gorontalo Regency DPRD vs.

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<sup>21</sup> BUT *Verdict No. 03 P/KHS/2017*, thing. 24.

<sup>22</sup> *Ibid*

<sup>23</sup> *Ibid.*, thing. 24-25

<sup>24</sup> Admin, "Ada Addition 6 People, Now Supreme Court Justice Numbered 53," <http://www.pndenpasar.go.id/?content=detail&mode=f7efa4c06093a9cd054b2496973b2f1a>, Accessed November 20, 2021.

<sup>25</sup> Same room Applied by MA since year 2011. Deep system this, ma judges Divided Wed deep 5 room, that is punishment, civil, religion, order effort the country, and military. Each of them only adjudicate Things appropriate

The Gorontalo Regent is an example of the opposite of the budget. This case confirms that the dismissal of the Regional Head / Deputy Regional Head is not only a matter of state administration alone, can intersect with elements of criminal law. Therefore, the handling should also be intervened by judges who are also experts in the criminal field.

Latent problems in the internal MA have anticipation in Law No. 23/2014 itself. The law regulates the mechanism of separate dismissal caused by the Regional Head / Deputy Regional Head dealing with alleged criminal acts. Law No. 23/2014 stipulates that the Regional Head / Deputy Regional Head be temporarily dismissed without going through the dark proposal because he is charged with a criminal offense that is threatened with imprisonment of at least 5 (five) years, criminal acts of corruption, terrorism, treason, criminal acts against state security, and/or other acts that can divide the Unitary State of the Republic of Indonesia.<sup>26</sup>

If the Regional Head / Deputy Regional Head is then proven to commit a criminal act based on a ruling that has permanent legal force, then he is dismissed permanently from his position. This mechanism does not require proposals from the DPRD. The adjudication function and the nature of ma judicial intervention in the previous system was replaced by criminal justice proceedings.<sup>27</sup>

The dismissals of regional heads based on criminal charges should be consistently resolved through the mechanism in Article 83 of Law No. 23/2014, instead of going through the political process in the DPRD and the intervention of the ma that is reduced in the TUN room. Its superiority, allegations, and allegations of criminal acts allegedly committed by the Regional Head / Deputy Regional Head can be proven by the judge who is indeed in the capacity in the criminal field itself. The examination of objective and subjective elements of the act criminally minimizes the possibility of the negligence of judges in applying the law, which is counterproductive to the spirit of the institutional basis of the Regional Head / Deputy Regional Head post-reform. Thus, true justice is expected to be achieved.

In addition to judges, mentoring by lawyers is one of the essential elements in any event law. Because of his profession, advocates can guarantee "the implementation of an honest, fair, and legal certainty trial for seekers of justice in upholding law, truth, justice, and human rights." The state recognizes its position as one of the important elements of the state of law that is heavy on the rule of law, side by side

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with Field and room place she sheltered. For judge too Required to become Members and specialist deep field aforementioned. Appreciation Rahmadi, "System Room deep Court Great: Attempt Build Unity The law." <https://www.mahkamahagung.go.id/id/artikel/2141/sistem-kamar-dalam-mahkamah-agung-upayamembangun-kesatuan-hukum-profdrtdir-rahmadi-sh-ilm>, Accessed November 21, 2021.

<sup>26</sup> Indonesian UU No. 23/2014, Article 83 verse (1). 201

<sup>27</sup> *Ibid.*, Article 83 verse (4).

with other law enforcement officials. Within that framework, advocates provide services for justice seekers, empower communities, and advocate for the fulfillment of their fundamental rights before the law.<sup>2829</sup>

In cases of dismissal of regional heads/ deputy heads of regions, the role of advocates in the law of bright events is increasingly urgent. It should be remembered that the adjudication process in the MA is the second stage in the system of dismissal of regional heads/deputy heads of regions as a whole. Before that, the Head of Deborah / Deputy Regional Head must face an examination process in the DPRD that is thick with political nuances. In this stage, the Regional Head / Deputy Regional Head must defend himself in the face of political rules based on negotiations and consensus. <sup>30</sup>So researchers see this to be one of the sororantans that need to be improved in the future.

The issue of inconsistency is what comes to the fore in the rulings of the Supreme Court in testing the DPRD's opinion on the dismissal of regional heads/deputy regional heads throughout 2014. In the case of the Gorontalo Regency DPRD vs. Gorontalo Deputy Regent, the DPRD as the applicant was not accompanied by a lawyer, while the Deputy Regent of Gorontalo was accompanied by 4 lawyers from Bahtin R Tomayahu & Rekan Law Offices. <sup>31</sup>At this point, the parties, especially the respondents who must defend themselves, have been in an unequal and asymmetrical position.

### 3. Legal Cultural Factors

From the results of observations of the impeachment process against Vice Bupati Kabupaten Gorontalo, researchers saw that one of the things that ordered the researcher was not carried out properly was the observance of the provisions. the law as stipulated in Law 23 of 2014 on Local Government.

The problem that then became a highlight was the length of time forged in the dismissal to the deputy regent of Gorontalo Regency (Fadli Hasan), whereas in the Local Government Law Article 80 paragraph (1) letter f expressly said that the Minister must dismiss the regent and/or deputy regent or mayor and/or deputy mayor no later than 30 (thirty) days since the Minister received the proposal of dismissal from the DPRK leadership. . If the minister of justice of the deadline for the proposed application submitted by the Gorontalo Regency DPRD dated

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<sup>28</sup> Indonesian Law Number 18 the Year 2003 about Lawyer, Part Weigh letter b

<sup>29</sup> *Ibid.*, Part Explanation Subsection Common.

<sup>30</sup> Problem Politicization this again with a problem that caused result half Stops President that Embraced in time before Amendment UUD 1945, where Stops aforementioned become rights prerogative MPR Fully. Fauzan, "Authority," thing. 77.

<sup>31</sup> BUT Verdict No. 03 P/KHS/2017, thing. 1.

September 25, 2017, the Supreme Court decided to accept the impeachment proposal against the deputy Regent of Gorontalo as stated in Decree MA Number: 03 P / KHS / 2017 / dated October 30, 2017.

Then on November 9, 2017 DPRD Kab. Gorontalo proposed the dismissal of Fadli Hasan as deputy Regent to the Minister of Home Affairs, only then did the Minister of Home Affairs issue a dismissal decree dated March 12, 2018, which was poured in decree No. 131.75-409 of 2018 concerning the dismissal of Vice Regent Kab. Gorontalo. It should be by the provisions in the Local Government Law, that the Minister of Home Affairs must issue a decision no later than 30 days from receiving the proposal of termination. from the DPRD, but then it can only be realized after approximately 5 (five) months since the proposal was submitted to the Ministry of Home Affairs.

With the disobedience to the time limit as stated and limited in the Local Government Law, the researchers see one of the causes is the factor of legal culture, which has been becoming a habit that occurred among state organizers, that they always felt their position was always above the law, let alone that the provisions were not about legal provisions that require criminal provisions and if reading the provisions as concerned with the limit of the time limit of settlement of disputes for the impeachment of the regional head and or deputy's head there is no provision of sanctions given by the parties as mentioned in the Law.

Thus, the researcher concluded that the legal culture factor is still a very important issue in the law enforcement process, especially regarding the culture of obedience to the law. Which seems to have become a culture that occurs in the community that seems to be a habit that has become entrenched in the community, especially the organizers of government.

Based on textual and contextual arguments on the effectiveness of the impeachment or dismissal of Deputy Regent Kabupaten Gorontalo, it can be concluded that there are 3(three)factors that affect the effectiveness of dismissal. against the deputy Regent of Gorontalo Regency, namely: the legal factor itself, where there is no normative framework that sorts about the law of dismissal of regional heads, second, the law enforcement factor, which is about the competence of judges in deciding cases and the unclear involvement of legal advisors (advocates), third, the factor of legal culture that is marked with the disobedience of the Ministry of Home Affairs to the deadline that has been made imitatively in Law 23 of 2014 on Local Government.

## 5. CONCLUSION

The conclusion is that the effectiveness of impeachment against the deputy Regent of Gorontalo Regency is influenced by 3(three)factors that affect the effectiveness of dismissal against the deputy Regent of Gorontalo Regency, namely: the legal factor itself, where there is no normative framework that handles the law of dismissal events in the head of the region, second, the law enforcement factor, namely regarding the competence of judges in deciding cases. and the unclear involvement of legal advisors(advocates), third, the factor of a legal culture characterized by the disobedience of the Ministry of Home Affairs to the deadline that has been made imitatively in Law 23 of 2014 on Local Government.

## 6. RECOMMENDATIONS

*First*, it is necessary to draft a provision governing the law of the impeachment of regional heads and/or deputy heads of regions through supreme court regulations. *Kedua*, it is necessary to add sanctions provisions if the parties as classified in Law 23 of 2014 on Local Government if do not implement the provisions regarding limitations time of settlement of the impeachment case of the regional head and/or deputy head of the region.

## REFERENCE:

- Azis, A. P. (2019). Kekosongan Hukum Acara Dan Krisis Access To Justice Dalam Kasus-Kasus Pemberhentian Kepala Daerah/Wakil Kepala Daerah Di Indonesia. *Jurnal Hukum & Pembangunan*, 49(1).
- Daniel S Lev, *Politik dan Hukum di indonesia: Kesenambungan dan Perubahan*, (Jakarta: LP3ES, 2013).
- Etnowulan Sutantio dan Iskandar Oeripkartawinata, *Hukum Acara Perdata dalam Teori dan Praktik*, (Bandung: Mandar Maju, 2005).
- Gamawan Fauzi, Pemberhentian Kepala Daerah, <https://koran.tempo.co/read/304504/> diakses Pada Bulan Februari 2019.
- Gosal, W. B. (2021). Pemberhentian Kepala Daerah Ditinjau Dari Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah. *Lex Administratum*, 9(4). Hlm. 114
- Raden Imam Al Hafis dan Moris Adidi Yogya, *Abuse of Power: Tinjauan Tentang Penyalagunaan Kekuasaan Oleh Pejabat Publik Di Indonesia*, PUBLIKA, Vol 3, No. 1, 2017.

- Rumsari Hadi Sumarto, *Etika Publik Bagi Kepemimpinan Pemerintah Daerah*, PUBLISIA (Jurnal Ilmu Administrasi Publik), Volume 2, Nomor 2, Oktober 2017, Hlm. 115.
- Ria Ayu Novita dkk, (2017). *Efektivitas Pelaksanaan Undang-Undang Nomor 2 Tahun 1960 Tentang Perjanjian Bagi Hasil Tanah Pertanian (Tanah Kering) Di Desa Bringin, Kecamatan Bayan, Kabupaten Purworejo*. Diponegoro law journal volume 6 nomor 2).
- Rahman, S., Qamar, N., & Kamran, M. (2020). Efektivitas Pembagian Harta Bersama Pasca Perceraian: Studi Kasus Perkawinan Poligami. *SIGN Jurnal Hukum*, 1(2).
- Zoelva Hamdan. (2011). *Pemakzulan Presiden di Indonesia*, (Jakarta: Sinar Grafika).
- RE Elson, *The Idea o Indonesia: Sejarah Pemikiran dan Gagasan [The Idea of Indonesia: A History]*, diterjemahkan oleh Zia Anshor, (Jakarta: Serambi, 2009). Umar Haris Sanjaya, Keadilan Hukum dalam Pertimbangan Hakim dalam Memutus Hak Asuh Anak, "Yuridika," Vol. 30 No. 2, 2015.
- Tim Penyusun, (2016). *Amademen Undang-Undang Pemda (UU RI No.9 tahun 2015)*, (Jakarta : Sinar Grafika).
- Admin, "Ada Tambahan 6 Orang, Kini Hakim Agung Berjumlah 53," <http://www.pndenpasar.go.id/?content=detail&mode=f7efa4c06093a9cd054b2496973b2f1a>, diakses pada 20 November 2021.
- Desi Hartini, 2018, Mendagri Copot Fadli Hasan sebagai wakil bupati Gorontalo, diakses dari: <https://www.kompas.tv/index.php/article/22416/mendagri-copot-fadli-hasan-sebagai-wakil-bupati-gorontalo> diakses pada 20 Mei 2018.
- <https://gorontalo.antaranews.com/berita/43772/dprd-usulkan-pemberhentian-wabup-gorontalo>, "DPRD Usulkan Pemberhentian Wabup Gorontalo," diakses pada 20 Juni 2019.
- <http://hargo.co.id/berita/posisi-wakil-bupati-gorontalo-diujung-tanduk-dprd-usulkan-pemberhentian.html>, "Posisi Waki Bupati Gorontalo Di Ujung Tanduk, DPRD Usulkan Pemberhentian," diakses pada 20 Juni 2019.