

RESPONSIBILITY OF HEAD OF LOCAL GOVERNMENT TO LOCAL HOUSE OF REPRESENTATIVE IN ORGANIZING OF LOCAL GOVERNMENT

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Abstract

The responsibility of regional heads to the Regional house People's Representative Council is one of the crucial issues in the administration of regional government which has philosophical, juridical, sociological and theoretical problems. This research aims firstly, to discover the nature of regional heads' accountability to the Regional People's Representative Council in the administration of regional government, secondly, to discover the form of regional heads' accountability in the administration of regional government, thirdly, to find the ideal concept of regional head accountability in the administration of regional government. The method used in this research is a normative legal research method with a statutory regulation approach, a historical approach and a case approach. The research results found that, first, philosophically the nature of the relationship between regional heads and regional government administration aims to create a harmonious relationship based on the principles of equality, partnership and balance between two institutions with the ultimate goal being to implement regional autonomy and assistance tasks for regional development. Second, the form of accountability of regional heads in the administration of regional government is vertical accountability to the central government, horizontal accountability to the DPRD in the form of LKPJ and accountability for implementing the APBD, accountability to the community, and legal accountability. Third, a new concept of the relationship between regional heads' responsibility to the council. Representatives of regional people in the administration of regional government, namely the concept of a comprehensive corrective-evaluative accountability relationship.

Keywords: Partner, Equal, Supervision.

INTRODUCTION

Since the constitutional changes began in 1999-2002, the pattern of relations between Regional Heads and the Regional People's Representative Council (DPRD) is regulated in the Government Administration Law, experiencing dynamics and is interesting to study. Under Law Number 22 of 1999 concerning Regional Government, Regional Heads are elected by the DPRD. As a consequence, institutionally the DPRD is placed as a Regional Legislative Institution and the Regional Head is the Regional Executive.

Institutionally, the DPRD as a Regional Legislative Body has an equal position and is a partner of the Regional Government. The relationship between the Regional Head and the DPRD is mutually monitoring and balanced (checks and balances) as well as being partners in the administration of Regional Government¹. However, if we look in detail at the two rights that the DPRD has institutionally, namely holding the Governor, Regent and Mayor accountable and asking for information from the Regional Government, this actually shows a subordinate

relationship between the Regional Head and the DPRD. The Regional Head must be responsible for the administration of political government to the DPRD².

The functional relationship between DPRD and Regional Heads under Law Number 22 of 1999 concerning Regional Government, in running the government is carried out by implementing DPRD functions such as legislative functions, budget functions and supervisory functions³. The legislative function is carried out in conjunction with joint discussion of Draft Regional Regulations, the budget function is carried out with the authority to determine the budget, and the supervisory function is carried out with supervision of implementation of Regional Regulations and other statutory regulations, implementation of Governor, Regent and Mayor Decrees, implementation of Regional Revenue and Expenditure Budgets, and Regional Government policies⁴.

After 5 (five) years the enactment of Law Number 22 of 1999 concerning Regional Government, was replaced by Law Number 34 of 2004 concerning Regional Government. The replacement of this law has had a significant impact on the pattern of relations between Regional Heads and the DPRD.

Functional relationships in the fields of legislation, budgeting and supervision have not experienced significant substantive changes⁵. However, the political relationship between these two institutions experienced fundamental changes. The Regional Head is no longer responsible to the DPRD. The regional head's accountability to the DPRD is no longer in the form of an accountability report, but in the form of an Accountability Information Report (LKPJ).

The paradigm of the Regional Head's Accountability Report (LPJ) to the DPRD and LKPJ is different philosophically and has legal impacts. Accountability means that the Regional Head is politically responsible to the DPRD and if this accountability is rejected by the DPRD then the Regional Head can be dismissed from office. While LKPJ is not political accountability, but only administrative and routine accountability, the Regional Head cannot be dismissed as Regional Head because the LKPJ was rejected by the DPRD⁶.

In 2014, or precisely after 10 (ten) years of Law Number 32 of 2004 concerning Regional Government, the Government and DPR evaluated the implementation of Regional Government by promulgating Law Number 23 of 2014 concerning Regional Government. The paradigm of the relationship between Regional Heads and DPRD has also experienced significant changes.

Functional relationships in the areas of forming Regional Regulations, budget functions and supervisory functions have not experienced significant changes, however the form of accountability of Regional Heads has experienced significant changes. Article 69 paragraph (1) regulates "...Regional Heads are obliged to submit reports on the implementation of Regional Government, accountability reports and summary reports on the implementation of Regional Government".

Article 71 (1) explains the substance of the LKPJ, namely containing the results of the implementation of Government Affairs carried out by the Regional Government. Article 71 paragraph (2) regulates the LKPJ mechanism for the DPRD which is carried out 1 (one) time

in 1 (one) year no later than 3 (three) months after the end of the budget year. The mechanism for discussing the Regional Head's LKPJ with the DPRD is discussed by the DPRD for recommendations for improving the implementation of Regional Government⁷.

Submission of the Regional Head's LKPJ to the DPRD is the Regional Head's legal obligation in the implementation of the Regional Head. Article 73 paragraph (1) of Law Number 23 of 2014 regulates "If the Regional Head does not submit a report on the implementation of Regional Government, a summary of the report on the implementation of Regional Government is subject to administrative sanctions in the form of a written warning by the Minister for the Governor and by the Governor, as a representative of the Central Government, for the Regent/ Mayor⁸".

This provision shows that the DPRD as a Regional People's Representative Institution does not have the authority to supervise the Regional Head directly, but rather through the authority of the Governor or Minister. In the end, legally the DPRD cannot dismiss the Regional Head because the LKPJ was rejected.

From a review of the development of relations between Regional Heads and DPRD since Law Number 22 of 1999 concerning Regional Government, Law Number 32 of 2004 concerning Regional Government, and Law Number 23 of 2014 concerning Regional Government, it shows that the relationship pattern of Regional Heads and DPRD, namely a subordinate relationship and a corrective relationship. If you read more deeply, both the subordinate relationship and the corrective relationship between the Regional Head and the DPRD have a dangerous impact on the implementation of a clean and dignified government.

When the Regional Head is responsible to the DPRD, as if the DPRD has a higher position over the executive and the Regional Head's accountability report is the entry point for the dismissal of the Regional Head, then there tends to be political unrest and disharmony between the Regional Head and the DPRD. Meanwhile, the corrective paradigm of the relationship between Regional Heads and DPRD through LKPJ also shows that the relationship between Regional Heads and DPRD is just an administrative relationship and lip service.⁹

An interesting thing in the pattern of the relationship between the Regional Head and the DPRD is the relationship between the responsibility of the Regional Head to the DPRD. What is behind the rationality of the Regional Head's accountability to the DPRD, is it because the Regional Head is elected by the DPRD that he must be accountable to the DPRD? Isn't the relationship between the Regional Head and the DPRD based on the principle of checks and balances? If the regional head's accountability is rejected by the DPRD, can the regional head be dismissed from his position?

The unclear paradigm of the relationship between the Regional Head and DPRD in the administration of Regional Government apparently still leaves academic problems, especially philosophical problems, theoretical problems, juridical problems and sociological problems that need to be resolved. The relationship between Regional Heads and DPRD in the implementation of Regional Government in the construction of Law Number 23 of 2014, still leaves philosophical problems.

The philosophical basis for the implementation of Regional Government cannot be separated from the values of Pancasila as the base values¹⁰ and legal value¹¹ implementation of the rule of law and Regional Government. The values contained in the third principle, namely the unity of Indonesia and sovereignty of the people in the 4th principle, cannot be realized if in the implementation of Regional Government the relationship between the Regional Head and the DPRD tends to be free and does not fight for the aspirations of the people as owners of people's sovereignty.¹²

The issue of the relationship between Regional Heads and DPRD in the administration of Regional Government also has problems from a theoretical perspective. The theory of a unitary state with an emphasis on decentralization and deconcentration as the basis for the implementation of Regional Government, will become blurred when the implementation of Regional Government is still heavily intervened by the Central Government through the Governor and Minister of Home Affairs, including in the LKPJ.

Likewise, the theory of the relationship between the DPRD and the Regional Head, which is a check and balance, is also not reflected when the relationship between the Regional Head and the DPRD tends to be subordinate, the Regional Head can be dismissed by the DPRD or is corrective, indicating the weak position of the DPRD in supervising the implementation of Regional Government.

Juridical problems will also arise when Article 18 of the NRI Constitution does not clearly regulate the paradigm of the relationship between the Regional Head and the DPRD. Article 18 paragraph (1) - paragraph (5) of the NRI Constitution does not clearly regulate the accountability relationship between the Regional Head and the DPRD in the administration of Regional Government, which is different from the relationship between the president and the DPR RI as intended in Article 7B of the 1945 NRI Constitution.

Article 18 paragraph (6) only provides a basis for statutory delegation to regulate Regional Government affairs, including the relationship between implementing Regional Head accountability and the Law. As a result, the three laws governing regional government after the amendment to the 1945 Constitution of the Republic of Indonesia have different paradigms and regulations. Legal uncertainty and empty norms in Article 18 of the 1945 Constitution of the Republic of Indonesia are problems in the administration of Regional Government. So, studies are needed that can fill the legal gaps in the constitution and clarify the paradigm of the relationship between Regional Heads and DPRD in the administration of Regional Government¹³.

From a sociological perspective it is also no less important to discuss. Political unrest in the Region because the position of the Regional Head is vulnerable to being dismissed by the DPRD while in office is something that cannot be avoided when the Regional Head's accountability report is rejected and becomes the entry point for the impeachment of the Regional Head.

On the other hand, the DPRD will be deemed unable to fight for the aspirations of the people it represents, if it is unable to fully supervise the Regional Head in the administration of government to realize his campaign promise to improve the welfare of the people.¹⁴

This article will examine the current construction of the relationship between Regional Heads and DPRD in the administration of Regional Government and build a construction of thinking about the relationship between Regional Heads and DPRD in the administration of Regional Government in the form of a new concept of the relationship between Regional Heads in the administration of Regional Government.

METHOD

The method used in this research is normative legal research. The approaches used are the statutory regulatory approach, the historical approach, and the conceptual approach. The statutory regulatory approach is carried out by reviewing various statutory regulations that are relevant to the accountability of Regional Heads to the DPRD. A historical approach is taken by examining the history and development of regional head accountability arrangements to the DPRD, since Indonesia's independence until now. Conceptual approach by examining the ideal concept of Regional Head responsibility to the DPRD. Conclusions are drawn using qualitative juridical analysis.

RESULTS AND DISCUSSION

The Nature of the Relationship between Regional Heads and DPRD in the Implementation of Regional Government

Understanding the relationship between Regional Heads and DPRD in the administration of Regional Government will relate to basic principlesThe administration of government, in Provincial and Regency/City Regional Governments, is carried out according to one principle as regulated in Article 18 paragraph (2) "Provincial, Regency and City Regional Governments regulate and manage government affairs themselves according to the principle of autonomy and assistance duties". The principle of regional autonomy gives regional heads the authority to regulate and manage their own government based on regional conditions and the aspirations of regional communities. Co-administration tasks provide space for Regional Governments to participate in regional development through deconcentration¹⁵.

Article 18 of the NRI Constitution not only lays down the principles of a unitary state with a decentralized model, but also determines regional government administrators. Article 18 paragraph (4) regulates Governors, Regents and Mayors as heads of government and Regional Heads in the administration of Regional Government. Then Article 18 paragraph (5) of the NRI Constitution regulates other organizers of Regional Government, namely the Regional People's Representative Council (DPRD). "Provincial, Regency and City Regional Governments have Regional People's Representative Councils whose members are elected through general elections." The Constitution does not fully regulate the pattern of functional relations between two Regional Government Organizing Institutions. The implementation of the provisions of

Article 18 paragraph (4) and paragraph (5) is then translated into the Regional Government Law¹⁶. According to Bagir Manan, the existence of Regional Government represented by the Regional Head and DPRD shows the scope of the definition of Regional Government. Regional Government in the narrow sense is only defined as the Regional Head and his apparatus, while the term Regional Government will include the DPRD as an element of Regional Government administration.¹⁷ Thus, the existence of the Regional Government and DPRD in administering Regional Government constitutes joint implementation of Regional Government.¹⁸ The pattern of relationship between the Regional Head and the DPRD will determine the form and mechanism of the Regional Head's accountability to the DPRD. According to Juanda, the relationship between the DPRD and the Regional Head has a one-way or two-way style in order to carry out government affairs which are distributed and delegated from the Central Government as regional autonomy matters and assistance tasks. Juanda explained in more detail that the relationship between the Regional Head and DPRD basically has 5 (five) characteristics:

1. The relationship between the Regional Head and the DPRD is a relationship of authority in carrying out regional autonomy and assistance tasks;
2. The relationship between the Regional Head and DPRD is an administrative relationship, not a constitutional relationship like the President and DPR RI;
3. Relationships can be one-sided (one way) and can also be two-way;
4. Relations between Regional Heads and DPRD within the framework of the Republic of Indonesia; And
5. The relationship between the two institutions is equal and does not dominate each other¹⁹.

Philosophically, the nature of the relationship between the Regional Head and the DPRD in the administration of Regional Government aims to create a harmonious relationship based on the principles of equality, partnership and balance between these two institutions with the ultimate goal being to implement regional autonomy and assistance tasks for regional development. If the relationship between the Regional Head and the DPRD is not harmonious, there is the potential for regional development to be hampered. On the other hand, if the relationship between the Regional Head and the DPRD is not mutually critical then the implementation of Regional Government will also be hampered because of the potential for joint abuse between the Regional Head and the DPRD.

Law Number 23 of 2014 concerning Regional Government, builds a paradigm between Regional Heads and DPRD in the form of functional and institutional relationships by mentioning the term work relationship. The principle established by these two institutions in their working relationship is "The working relationship between the DPRD and the Regional Head is based on an equal partnership". Based on the general explanation of Law Number 23 of 2014, the meaning of the position of DPRD and Regional Heads as equal partners is interpreted as two institutions having equal positions and having different functions. In this way, the DPRD and Regional Heads are positioned as equal partners who have different

functions. The DPRD has the function of forming regional regulations, budgets and supervision, while the regional head carries out the function of implementing regional regulations and regional policies²⁰. Article 207 of Law Number 23 of 2014 concerning Regional Government, then details the form of partnership relationship between DPRD and Regional Heads, namely:

- a. Mutual agreement in the formation of Regional Regulations;
- b. Submission of accountability information reports to the DPRD;
- c. Approval of cooperation to be carried out by the Regional Government;
- d. Regular DPRD consultation meetings with Regional Heads; And
- e. Other forms are in accordance with statutory provisions.

Looking at the partnership and equal relationship in the construction of Law Number 23 of 2014 concerning Regional Government, shows that the paradigm built in the relationship between the Regional Head and DPRD is a check and balance relationship which gives birth to a pattern of parallel relationship and mutual supervision between the two institutions.²¹. These two institutions have the same position with different functions within the framework of the Regional Government implementation partnership, but when these institutions have the same position there is no higher institution between the DPRD and the Regional Head. The further impact is that these two institutions cannot overthrow each other, the DPRD cannot overthrow the Regional Head from his position, nor can the Regional Head dissolve the DPRD²².

The paradigm of the relationship between DPRD and Regional Heads which is a check and balance in the implementation of Regional Government is not as beautiful as what is outlined in Law Number 23 of 2014 concerning regional government, according to Siti Zuhro "The ideal system of checks and balances is if the legislature and executive have equal power balanced which allows the two institutions to have a relationship that controls, complements and balances each other. In reality, the relationship between the executive and legislature is not ideal. The relationship between the two experiences ups and downs due to the amount of power held by both the legislative and executive during a particular government period."²³

The balance of positions between the DPRD and the Regional Head of course has an impact on the accountability system of the Regional Head to the DPRD. So the question will arise, is the Regional Head politically responsible to the DPRD or not? Article 207 paragraph (2) of Law Number 23 of 2014 concerning Regional Government, recognizes that one form of partnership relationship between the DPRD and the Regional Head is the submission of accountability reports to the DPRD. The follow-up question is whether when the DPRD does not receive the regional head's accountability report, can a regional head be dismissed from his position as regional head? Cannot be used as a means of dismissing the Regional Head." The existence of Article 207 paragraph (3) not only emphasizes the nature of the relationship between Regional Heads and DPRD which has changed from a paradigm of political accountability to legal accountability. A Regional Head cannot be dismissed from the position

of Regional Head when the Annual LKPJ is rejected by the DPRD but rather with legal responsibility when he violates the law²⁴.

Forms of Regional Head Accountability in the Implementation of Regional Government

Construction of Law Number 23 of 2014 concerning Regional Government, regarding the position of Regional Head placing the Regional Head (Governor/Regent/Mayor) as head of Regional Government followed by duties and authority²⁵. The position of the Regional Head as leader of the implementation of government affairs is inherent in his authority.²⁶ When carrying out these duties and authorities, the Regional Head is also attached to the responsibility for implementing government.

In Regional Government law, the responsibility of the Regional Head takes the form of accountability implementation of Regional Government, accountability report, Summary Report on Implementation of Regional Government, and accountability for the implementation of the APBD to the DPRD²⁷. Based on the general provisions of the Republic of Indonesia Government Regulation Number 13 of 2019 concerning Reports and Evaluation of Regional Government Implementation, the Regional Government submits a report to the Central Government containing the performance achievements of Regional Government administration and implementation of assistance tasks for 1 (one) budget year. Accountability Information Report is a report submitted by the Regional Government to the Regional Ralryat Representative Council which contains the results of the implementation of government affairs involving performance accountability carried out by the Regional Government during 1 (one) budget year. Summary of the Government Administration Report, is information submitted by the Regional Government to the public which contains the performance achievements of Regional Government administration during 1 (one) fiscal year. Accountability for the implementation of the APBD to the DPRD²⁸.

The form of regional head accountability, if sorted based on the functional relationship between institutions, there will be 3 types of regional head accountability, namely first, regional head accountability to the central government, second, regional head accountability to the DPRD, third, regional head accountability to the community and fourth, accountability law²⁹.

a. Accountability of Regional Heads to the Central Government/vertical accountability.

The form of accountability of Regional Heads to the Central Government/vertical accountability is an Accountability Information Report containing the results of the administration of Government affairs carried out by the Regional Government. The report contains a unified result of measuring the performance of Regional Government which consists of the performance achievements of Regional Government Administration and the performance achievements of implementing co-administration tasks. Regional Government Implementation Performance Achievements: a. macro performance achievements; b. performance achievements in administering Regional Government affairs; and c. achievement of regional government performance accountability. If analyzed more deeply, the Regional Government Implementation Report (LPPD) is a form of supervision by the Central Government over Regional Heads to measure and evaluate the performance achievements of the Regional

Government and is used as material for evaluating and guiding the implementation of Regional Government by the Central Government.

b. Accountability of Regional Heads to the DPRD.

The accountability of the Regional Head to the DPRD/horizontal accountability is the responsibility of the Regional Head to the DPRD as an equal partner in running Regional Government. There are two types of regional heads' accountability to the DPRD, namely, accountability statements and reports accountability for implementing the APBD. First, the LKPJ is submitted by the Regional Government to the Regional People's Representative Council which contains the results of the implementation of government affairs involving performance accountability carried out by the Regional Government during 1 (one) fiscal year. Procedurally, the LKPJ is discussed by the DPRD and then the DPRD provides recommendations for improving the implementation of Regional Government to the Regional Head. Second, accountability for implementing the APBD. Accountability for the implementation of the APBD is submitted to the DPRD in the form of a draft Regional Regulation concerning accountability for the implementation of the APBD which is accompanied by a financial report that has been examined by the Supreme Audit Agency no later than 6 (six) months after the end of the fiscal year.

c. Accountability of Regional Heads to the Community.

The regional head's accountability to the community is carried out in the form of: Summary of the Regional Government Implementation Report (RLPPD) in the form of information submitted by the Regional Government to the public containing the performance achievements of Regional Government administration during 1 (one) fiscal year. RLPPD contains: a. macro performance achievements, b. summary of performance achievements in basic service matters, c. EPPD results and opinions on the previous year's Regional Government financial reports, d. summary of the realization of regional budget revenues and expenditures, and e. regional innovation. The RLPPD must be published by the Regional Head to the public through print media and/or electronic media. The community has the right to provide responses to the RLPPD to the Regional Head as input for improving the implementation of Regional Government.

d. Legal Accountability of Regional Heads.

The legal accountability of Regional Heads in the administration of Regional Government occurs because the Regional Head is dismissed from his position through the impeachment process. The involvement of the DPRD in the process of dismissing the Regional Head is because the DPRD has the authority to submit a statement to the Supreme Court, that the Regional Head: a. violates the oath/promise of office of Regional Head/deputy Regional Head; d. does not carry out the obligations of the Regional Head and deputy Regional Head as intended in Article 67 letter b; e. violates the prohibitions against Regional Heads and deputy Regional Heads as intended in Article 76 paragraph (1), except for letters c, i and j; f. commit disgraceful acts. Next, the Supreme Court then examines, adjudicates and decides on the DPRD's opinion no later than 30 (thirty) days after the DPRD's request is received by the

Supreme Court and its decision is final. The form of legal accountability of Regional Heads constructed in Article 80 of Law Number 23 of 2014 shows two things, first, the reasons for dismissal of Regional Heads are based on reasons for violating the law, not political reasons such as the rejection of LPJ as per the accountability paradigm constructed in Law Number 22 1999 concerning Regional Government, so that Regional Heads cannot be dismissed while in office for political reasons but for legal reasons, secondly, the dismissal of Regional Heads is not carried out by the DPRD but through a dismissal process (*forum provegatum*) involving the Supreme Court and the Ministry of Home Affairs.

Concept of Ideal Regional Head Accountability to the Regional People's Representative Council in the Implementation of Regional Government

In legal science, accountability originates from two terms, namely accountability and responsibility. The term accountability refers to an individual's responsibility to be accountable for what they have done, for example criminal liability and civil liability. Meanwhile, the term responsibility refers to responsibility due to the position a person holds or political responsibility. Responsibility is an obligation that arises from the need to carry out tasks assigned to him by statutory regulations or an obligation that arises because these duties are attributed to him by statutory regulations.³⁰

According to Ridwan, the responsibilities of public officials in law contain two aspects, namely internal aspects and external aspects. Internal aspects of accountability are only realized in the form of reports on the exercise of power. Responsibility with an external aspect is responsibility towards a third party, if the exercise of that power causes suffering or loss³¹.

Ridwan further explained that in a democratic rule of law, this accountability appears in two dimensions, namely the legal dimension and the political dimension. Accountability in the legal dimension means a form of accountability in the use of authority whether or not it is in accordance with the law as proven through a judicial process before a judge, while accountability in the political dimension is carried out in the form of a "report" on the use of authority before the people. Political accountability before the people is necessary in connection with the use of authority originating from the people which has been outlined in the form of law. It is the right of the people, through their representatives in Parliament, to have the right to assess whether or not the use of authority by the government is in accordance with the law, which is the crystallization of the people's will and wishes. Of course, these two dimensions of responsibility will give rise to two consequences for authority holders, legal consequences and political consequences.

Based on the description of the development of relations between Regional Heads and DPRD since Law Number 22 of 1999 concerning Regional Government, Law Number 32 of 2004 concerning Regional Government, and Law Number 23 of 2014 concerning Regional Government, it shows that the relationship pattern of Heads Regions and DPRD are a subordinate relationship and a corrective relationship. The subordinate relationship established by Law Number 22 of 1999 concerning Regional Government, has a political impact of political instability in the region, the DPRD can every year demote the Regional Head for the

reason of rejecting the Regional Head's Accountability Report. The paradigm of parallel and balanced relations between Regional Heads and DPRD in Law Number 23 of 2014, gave birth to 3 (three) types of Regional Head accountability, namely Regional Head Accountability to the Central Government with the Regional Head accountability report instrument, Regional Head accountability to DPRD in the form of LKPJ and accountability for APBD implementation, regional head accountability to the community and legal accountability.

If you read more deeply, both the subordinate relationship and the corrective relationship between the Regional Head and the DPRD both have weaknesses in the implementation of good and conducive government. When the Regional Head is responsible to the DPRD as if the DPRD has a higher position over the executive and the Regional Head's accountability report is the entry point for the dismissal of the Regional Head, then there tends to be political unrest and an unharmonious relationship between the Regional Head and the DPRD. Meanwhile, the corrective paradigm of the relationship between the Regional Head and the DPRD through the LKPJ and the Accountability Report for the implementation of the APBD also shows that the relationship between the Regional Head and the DPRD is just an administrative relationship and lip service. Therefore, an ideal concept of the accountability relationship between the Regional Head and the Regional People's Representative Council is needed in the administration of Regional Government.

The author offers a new concept of the accountability relationship of Regional Heads to the Regional People's Representative Council in the administration of Regional Government, namely the concept of a corrective-comprehensive accountability relationship. This concept is based on the idea that the relationship between the Regional Head and the DPRD is based on a relationship that is equal and mutually supervises (check and balance). A parallel relationship (balance) means that the institutional relationship between the DPRD and the Regional Head does not have a subordinate position, but is coordinative and partnership in the administration of Regional Government. The Regional Head and DPRD are Regional Government administrators who have the same goal of running Regional Government well. However, at the same time, the relationship between these two institutions is of a supervisory nature. The supervisory right rests with the DPRD, which is used to supervise the running of Regional Government carried out by the Regional Head and regional apparatus. Constitutionally, the supervisory instrument has been determined using the rights possessed by the DPRD, namely the right to interpretation, the right to inquiry and the right to express an opinion.

Based on the above paradigm of thinking about the nature of the institutional relationship between the DPRD and the Regional Head, the accountability of the Regional Head to the DPRD is based on a corrective-evaluative-comprehensive concept. This means that the concept of Regional Head accountability in Law Number 23 of 2014 concerning Regional Government through LKPJ, Accountability for the Implementation of the APBD and Legal Accountability is carried out to make corrections and evaluations of the implementation of Regional Government which can be carried out comprehensively. Article 71 (1) explains the substance of the LKPJ, namely containing the results of the implementation of Government Affairs carried out by the Regional Government.

Article 71 paragraph (2) regulates the LKPJ mechanism for the DPRD which is carried out 1 (one) time in 1 (one) year no later than 3 (three) months after the end of the fiscal year. The mechanism for discussing the Regional Head's LKPJ with the DPRD is discussed by the DPRD for recommendations for improving the implementation of Regional Government. Submission of the Regional Head's LKPJ to the DPRD is the legal obligation of the Regional Head in administering Regional Government.

Likewise, accountability for the implementation of the APBD which is set out in the form of Regional Regulations shows that when the accountability of the Regional Head is set out in the form of a Regional Regulation of course the substance of the report is processed starting from discussion and determination based on the results of the Regional Head's agreement with the DPRD, not the results of discussions and recommendations for improvement from DPRD to the Regional Head.

According to the author, the concept of Regional Head accountability in Law Number 23 of 2014 concerning Regional Government needs to be replaced with a concept of Regional Head accountability which is corrective-evaluative-comprehensive in nature. Therefore, according to the author, the corrective-evaluative-comprehensive concept can be realized by improving the form and process of regional head accountability. The form of accountability which has been in the form of LKPJ and Regional Regulations for Implementing the APBD, needs to be replaced by changing the form of Regional Regulations for Implementing the APBD from Regional Regulations to DPRD decisions. So that the outcome of the LKPJ and the accountability of the Regional Head takes the form of a DPRD decision.

As a consequence, the form of responsibility for implementing the APBD has an impact on the discussion process for the APBD implementation accountability report which no longer requires joint discussion and approval between the DPRD and the Regional Head. Recommendations for improvements to DPRD decisions regarding LKPJ and accountability reports for APBD implementation must be followed up and implemented by the Regional Head, if they are not implemented by the Regional Head then the DPRD has the authority to follow up using the right of interpretation, the right to inquiry or the right to express opinions to supervise the running of the Regional Government.

These three rights are carried out in stages. This means that if the results of the DPRD's evaluation and corrections in the LKPJ or the implementation of APBD which are important and strategic and have a broad impact on social and state life are not implemented by the Regional Head, then the DPRD can apply for the use of the right of interpretation to the Regional Head.

Likewise, if the results of the DPRD's evaluation and corrections in the LKPJ and the implementation of the APBD relating to Provincial Government policies which are important and strategic and have a broad impact on the lives of the community, region and state which are alleged to be in conflict with the provisions of statutory regulations are not implemented by the Regional Head, then DPRD can use the right of inquiry.

The DPRD can exercise the right to express an opinion if the results of the DPRD's evaluation and correction in the LKPD or the implementation of the APBD are related to the Regional Head's policy or regarding extraordinary events that occur in the Region accompanied by recommendations for resolution are not implemented by the Regional Head and there are allegations that the Regional Head is carrying out his policies. carry out actions: a. violates the oath/promise of office of Regional Head/deputy Regional Head; b. does not carry out the obligations of the Regional Head and deputy Regional Head as intended in Article 67 letter b; c. violates the prohibitions against Regional Heads and deputy Regional Heads as intended in Article 76 paragraph (1), except for letters c, i and j; d. commit disgraceful acts.

CONCLUSION

Philosophically, the nature of the relationship between the Regional Head and the DPRD in the administration of Regional Government aims to create a harmonious relationship based on the principles of equality, partnership and balance between the two institutions with the ultimate goal being to implement regional autonomy and assistance tasks for regional development. If the relationship between the Regional Head and the DPRD is not harmonious, there is the potential for regional development to be hampered.

On the other hand, if the relationship between the Regional Head and the DPRD is not mutually critical then the implementation of Regional Government will also be hampered because of the potential for joint abuse between the Regional Head and the DPRD. The forms of accountability of Regional Heads in the administration of Regional Government are vertical accountability to the Central Government, horizontal accountability to the DPRD in the form of LKPD and accountability for the implementation of the APBD, accountability to the community and legal accountability.

The new concept of the regional head's accountability relationship to the Regional People's Representative Council in the administration of regional government is the concept of a comprehensive corrective-evaluative accountability relationship.

This concept is based on the idea that the relationship between the Regional Head and the DPRD is based on a relationship that is equal and mutually supervises (check and balance). A parallel relationship (balance) means that the institutional relationship between the DPRD and the Regional Head does not have a subordinate position, but is coordinative and partnership in the administration of Regional Government.

The Regional Head and DPRD are Regional Government administrators who have the same goal of running Regional Government well. However, at the same time, the relationship between these two institutions is of a supervisory nature.

The supervisory right rests with the DPRD which is used to supervise the running of Regional Government carried out by the Regional Head and regional apparatus. Constitutionally, the supervisory instrument has been determined using the rights possessed by the DPRD, namely the right to interpretation, the right to inquiry and the right to express an opinion.

Footnotes

- 1) Article 18 (1) Law Number 22 of 1999 regulates the duties and authorities of the DPRD:
 - a) Elect the Governor/Deputy Governor, Regent/Deputy Regent, and mayor/Deputy Mayor;
 - b) Elect members of the People's Consultative Assembly from the Utusan Area;
 - c) Propose the appointment and dismissal of the Governor/deputy governor, Regent/Deputy Regent, or Mayor/Deputy Mayor;
 - d) Together with the Governor, Regent, or Mayor to form local regulation;
 - e) Together with the Governor, Regent or Mayor to determine
 - f) Regional Revenue and Expenditure Budget;
 - g) Carry out supervision over: 1) implementation of Regional Regulations and other laws and regulations; 2) implementation of Governor, Regent and Mayor Decrees; 3) implementation of the Regional Revenue and Expenditure Budget; 4) Regional Government policies; and 5) implementation of international cooperation in the Region. G. Provide opinions and considerations to the Government regarding plans for international agreements involving regional interests; And
 - h) Accommodate and follow up on regional aspirations and public.
- 2) Bagir Manan, welcoming the dawn of regional autonomy, UII Press, Yogyakarta, 2000, p.25
- 3) Berny R. Mambu, Authority Relationship Between DPRD and Regional Heads in the Regional Government System, Vol.XX/No.3/April-Juni/2012, https://repo.unsrat.ac.id/272/1/Hubungan_Keweran_Antara_Dprd_Dan_Kepala_Daerah_dalam_sistem_Pemanan_Daerah.pdf, p. 65.
- 4) Bambang Sugianto, Juridical Analysis of the Relationship between Regional Government and the Regional People's Representative Council According to Law Number 23 of 2014, Volume 15, Number 3, September, 2017, p.343-358.
- 5) Dyan Dwi Ferry F, Relationship between Regional Government and Regional People's Representative Council (DPRD) in the Implementation of Regency/City Government According to Law Number 32 of 2004 concerning Regional Government, Thesis, https://repository.unej.ac.id/bitstream/handle/123456789/1765/Skrip_dyan%20d_1.pdf?sequence=1&isAllowed=y, p. xv.
- 6) Galuh Ayu Tresnaning Tyas, The Relationship Between the DPRD and the Regent Regarding the Accountability Report of the Regional Head of Wonogiri Regency for the 2007 – 2008 Fiscal Year, Thesis, P.5 <https://Law.Uii.Ac.Id/Wp-Content/Uploads/2013/01/Fh-Uii-Hubungan-Antara-Dprd-dengan-Bupati-Berkaitan-dengan.Pdf>
- 7) Fauzan, Relationship between Regional Heads and DPRD in the Process of Forming Regional Regulations in Magelang Regency, Thesis, Legal Studies Program, Faculty of Law, Muhammadiyah University of Magelang, 2018, p.59
- 8) The mechanism for imposing administrative sanctions on Regional Heads who do not submit LKPJ is regulated in Article 73 of Law Number 23 of 2014:
 - 1) Regional Heads who do not submit reports on the implementation of Regional Government as intended in Article 70 paragraph (4) and summary reports on the implementation of Regional Government as intended in Article 72 are subject to administrative sanctions in the form of written warnings by the Minister for the Governor and by the Governor, as a representative of the Central Government, for the Regent. /Mayor.
 - 2) In the event that the written warning as intended in paragraph (1) has been delivered 2 (two) times in a row and is still not implemented, the Regional Head is required to take part in a special development

- program for deepening the field of government carried out by the Ministry and his duties and authority are carried out by the deputy Regional Head or by appointed officials.
- 3) In the event that the Regional Head does not carry out the obligation to submit an accountability report as intended in Article 71 paragraph (2), the Provincial DPRD can use the right of interpellation to the Governor and the Regency/City DPRD can use the right of interpellation to the Regent/Mayor.
 - 4) If the Regional Head's explanation regarding the use of the right of interpellation as intended in paragraph (3) is not accepted, the Provincial DPRD reports the Governor to the Minister and the Regency/City DPRD reports the Regent/Mayor to the Governor as a representative of the Central Government.
 - 5) Based on the report from the DPRD as intended in paragraph (4), the Minister gives a written warning sanction to the Governor and the Governor as a representative of the Central Government, gives a written warning sanction to the Regent/Mayor.
 - 6) If the sanctions as intended in paragraph (5) have been conveyed 2 (two) times in a row and are still not implemented, the Regional Head is required to take part in a special development program for deepening the field of government carried out by the Ministry and his duties and authority are carried out by the deputy Regional Head or by an official designated.
- 9) Soebandi, Rym (2012) Working Relations between Regional Heads and DPRD in Regional Government. Master thesis, Brawijaya University, <http://repository.ub.ac.id/id/eprint/156136/p.6>
 - 10) Darji Darmodiharjo and Shidarta, Explanation of Pancasila Values in the Indonesian Legal System, (Rajawali Pers, Jakarta, 1996), p.110
 - 11) Bernard Arif Shidarta, Pancasila Legal Philosophy: in Rudi M.Rizki, et.al., Reflections on Legal Dynamics: A Series of Thought in the Last Decade, (Perum Perprintan Negara RI, Jakarta, 2008), p.18.
 - 12) Jimly Asshiddiqie, Ideology, Pancasila, and the Constitution, (Jakarta, Paper, 2006), p.5
 - 13) Juanda Nawawi, Analysis of the Relationship between DPRD and Regional Government in the Making Poverty Policy in West Sulawesi Province, Journal of Government Science Volume 8, Number 1, January 2015 (27-42) ISSN 1979-5645, p.28.
 - 14) Purnomo, Didik (2018) The relationship between the authority of the Regional Head and the DPRD in the process of preparing the Regional Revenue and Expenditure Budget (APBD) in Malang City /. Diploma thesis, State University of Malang.<https://repository.um.ac.id/52264/>, p.
 - 15) Catur Wido Haruni, Normative Juridical Review of the Relationship between the Authority of Regional Heads and Deputy Regional Heads in the Implementation of Regional Government, Humanity Journal, ISSN 0216-8995, p.160.
 - 16) Jimmy Asshiddiqie, Principles of Post-Reformation Indonesian Constitutional Law, Jakarta: PT Bhuana Ilmu Popular, 2007 p.150.
 - 17) Article 1 number 2 of Law Number 23 of 2014 concerning Regional Government defines that Regional Government is the implementation of government affairs by the Regional Government and regional people's representative councils according to the principle of autonomy and assistance duties with the principle of the widest possible autonomy within the system and principles of the Unitary State of the Republic of Indonesia as intended in the 1945 Constitution of the Republic of Indonesia.
 - 18) Bagir Manan, op.cit, p.100
 - 19) Juanda, Regional Government Law, Bandung: Bandung Alumni, 2004. p.132.
 - 20) Nasution, A. 2016. Government Decentralization Program in Indonesia. ADBI Working Paper 601. Tokyo: Asian Development Bank Institute. Available <https://www.adb.org/publications/government-decentralization-program-indonesia>, p. 1
 - 21) RI MPR Study Body, Checks and Balances in the Indonesian Constitutional System First Printing, December 2017, p. 26

- 22) Inna Junaenah, Model Of Local Government In Indonesia: What Did The 1945 Constitution Intent? Petita: Journal of Law and Sharia Studies Volume 6, Number 1, 2021 P-ISSN: 2502-8006 E-ISSN: 2549-8274 DOI: <https://doi.org/10.22373/petita.v6i1.107>,p.14
- 23) R. Siti Zuhro, "Relations between DPRD and Regional Heads in the Pilkada Era", Journal of Government Science, Edition 40, 2013, p. 60.
- 24) Muhammad Bahrul Ulum, (2020) "Indonesian Democracy And Political Parties After Twenty Years Of Reformation: A Contextual Analysis," Indonesian Law Review: Vol. 10 : No. 1 , Article 3.DOI: 10.15742/ilrev.v10n1.577 Available at: <https://scholarhub.ui.ac.id/ilrev/vol10/iss1/3>
- 25) Article 65 paragraph (1) determines the duties of Regional Heads:
 - a. Lead the implementation of Government Affairs which fall under the authority of the Region based on the provisions of laws and regulations and policies established together with the DPRD;
 - b. Maintaining public peace and order;
 - c. Prepare and submit a draft Regional Regulation on the RPJPD and a draft Regional Regulation on the RPJMD to the DPRD for discussion with the DPRD, as well as prepare and determine the RKPD;
 - d. Prepare and submit a draft Regional Regulation on the APBD, a draft Regional Regulation on changes to the APBD, and a draft Regional Regulation on accountability for the implementation of the APBD to the DPRD for joint discussion;
 - e. Represent the region inside and outside the court, and can appoint a legal representative to represent him in accordance with the provisions of the laws and regulations;
 - f. Propose the appointment of deputy Regional Heads; And
 - g. Carry out other duties in accordance with the provisions of laws and regulations.
- 26) Article 65 paragraph (2) determines the authority of the Regional Head:
 - a. Submit draft regional regulations;
 - b. Enact regional regulations that have received joint approval from the DPRD;
 - c. Determine regional regulations and regional head decisions;
 - d. Take certain actions in urgent situations that are really needed by the region and/or the community;
 - e. Carry out other authorities in accordance with the provisions of laws and regulations.
- 27) Firdaus, Accountability of Regional Heads According to Law Number 32 of 2004, <https://media.neliti.com/media/publications/229175-peranggaran-Head-region-menrut-e8570129.pdf>, p. 12
- 28) Alan Bayu Aji, Political and Legal Implications of Regional Head Performance Accountability Regulations Post-Reformation, *Lex renaissance*, 32 No. 2 VOL. JULY 2, 2017 p. 231 – 258.
- 29) HA Komari, Implications of Rejection of the Report on Regional Head's Accountability from the Perspective of Constitutional Law.
- 30) Ridwan H R. (2006). State Administrative Law. Revised Edition. Jakarta. PT. Raja Grafindo Persada.
- 31) Ridwan, Government Public Accountability in the Perspective of State Administrative Law, *Law Journal*. No. 22 Vol 10. January 2003: V – 38

References

- 1) Alan Bayu Aji, mplikasi Politik Hukum Pengaturan Pertanggungjawaban Kinerja Kepala Daerah Pasca Reformasi, *Lex renaissance*, 32 No. 2 VOL. 2 JULI 2017
- 2) Badan Pengkajian MPR RI, *Checks And Balances* Dalam Sistem Ketatanegaraan Indonesia
- 3) Bagir Manan, menyongsong fajar otonomi daerah, UII Press, Yogyakarta, 2000.

- 4) Bambang Sugianto, Analisis Yuridis Hubungan Pemerintah Daerah Dan Dewan Perwakilan Rakyat Daerah Menurut Uu Nomor 23 Tahun 2014, Volume 15, Nomor 3, Bulan September, Tahun 2017.
- 5) Bernard Arif Shidarta, , *Filsafat Hukum Pancasila*: dalam Rudi M.Rizki, et.al., *Refleksi Dinamika Hukum: Rangkaian Pemikiran Dalam Dekade Terakhir*, (Perum Percetakan Negara RI, Jakarta, 2008
- 6) Berny R. Mambu, Hubungan Kewenangan Antara DPRD Dan Kepala Daerah Dalam Sistem Pemerintahan Daerah, Vol.XX/No.3/April-Juni/2012
https://repo.unsrat.ac.id/272/1/Hubungan_Kewenangan_Antara_Dprd_Dan_Kepala_Daerah_Dalam_Sistem_Pemerintahan_Daerah.pdf, p.
- 7) Catur Wido Haruni, Tinjauan Yuridis Normatif Hubungan Kewenangan Kepala Daerah Dengan Wakil Kepala Daerah Dalam Penyelenggaraan Pemerintahan Daerah, Jurnal Humanity, ISSN 0216-8995, p.160. Cetakan Pertama, Desember 2017 , p. 26
- 8) Darji Darmodiharjo dan Shidarta, *Penjabaran Nilai-Nilai Pancasila dalam Sistem Hukum Indonesia*, (Rajawali Pers, Jakarta,1996)
- 9) Dyan Dwi Ferry F, Hubungan Tata Kerja Antara Pemerintah Daerah Dan Dewan Perwakilan Rakyat Daerah (DPRD) Dalam Penyelenggaraan Pemerintahan Kabupaten/Kota Menurut Undang-Undang Nomor 32 Tahun 2004 Tentang Pemerintahan Daerah, Skripsi,
https://repository.unej.ac.id/bitstream/handle/123456789/1765/Skripsi_dyan%20d_1.pdf?sequence=1&isAllowed=y, p.xv.
- 10) Fauzan, Hubungan Kepala Daerah Dan DPRD dalam Proses Pembentukan Peraturan Daerah Di Kabupaten Magelang, Skripsi , Program Studi Ilmu Hukum Fakultas Hukum Universitas Muhammadiyah Magelang, 2018, p.59
- 11) Firdaus, Pertanggungjawaban Kepala Daerah Menurut Undang-Undang Nomor 32 Tahun 2004,
<https://media.neliti.com/media/publications/229175-pertanggungjawaban-kepala-daerah-menurut-e8570129.pdf>, p.12
- 12) Galuh Ayu Tresnaning Tyas, Hubungan Antara DPRD Dengan Bupati Berkaitan Dengan Laporan Keterangan pertanggungjawaban Kepala Daerah Kabupaten Wonogiri Tahun Anggaran 2007 – 2008, Skripsi, P.5 <https://Law.Uii.Ac.Id/Wp-Content/Uploads/2013/01/Fh-Uii-Hubungan-Antara-Dprd-Dengan-Bupati-Berkaitan-Dengan.Pdf>
- 13) Inna Junaenah, Model Of Local Government In Indonesia: What Does The 1945 Constitution Intend? Petita: Jurnal Kajian Ilmu Hukum dan Syariah Volume 6, Number 1, 2021 P-ISSN: 2502-8006 E-ISSN: 2549-8274 DOI: <https://doi.org/10.22373/petita.v6i1.107>,p.14
- 14) Jimly Asshiddiqie , *Pokok-Pokok Hukum Tata Negara Indonesia Pasca Reformasi*, Jakarta : PT Bhuana Ilmu Populer, 2007 p.150.
- 15) Jimly Asshiddiqie , *Ideologi, Pancasila, Dan Konstitusi*, (Jakarta, Makalah, 2006).
- 16) Juanda Nawawi, Analisis Hubungan DPRD dan Pemerintah Daerah dalam Pembuatan Kebijakan Kemiskinan di Provinsi Sulawesi Barat, Jurnal Ilmu Pemerintahan Volume 8, Nomor 1, Januari 2015 (27-42) ISSN 1979-5645, p.28.
- 17) Muhammad Bahrul Ulum, (2020) "Indonesian Democracy And Political Parties After Twenty Years Of Reformation: A Contextual Analysis,"Indonesia Law Review: Vol. 10 : No. 1 , Article 3.DOI: 10.15742/ilrev.v10n1.577 Available at: <https://scholarhub.ui.ac.id/ilrev/vol10/iss1/3>
- 18) Nasution, A. 2016. Government Decentralization Program in Indonesia. ADBI Working Paper

- 19) Purnomo, Didik (2018) *Hubungan kewenangan Kepala Daerah dengan DPRD dalam proses penyusunan Anggaran Pendapatan dan Belanja Daerah (APBD) di Kota Malang* /. Diploma thesis, Universitas Negeri Malang. <https://repository.um.ac.id/52264/>, p.
- 20) R. Siti Zuhro, “Relasi Antara DPRD dan Kepala Daerah Era Pilkada”, *Jurnal Ilmu Pemerintahan*, Edisi 40 Tahun 2013, p. 60.
- 21) Ridwan H R. (2006). *Hukum Administrasi Negara*. Edisi Revisi. Jakarta. PT. Raja Grafindo Persada.
- 22) Ridwan, Pertanggungjawaban Publik Pemerintah dalam Perspektif Hukum Administrasi Negara, *Jurnal Hukum*. No. 22 Vol 10. Januari 2003: V - 38
- 23) Soebandi, Rym (2012) *Hubungan Kerja antara Kepala Daerah dengan DPRD dalam Pemerintahan Daerah*. Magister thesis, Universitas Brawijaya, <http://repository.ub.ac.id/id/eprint/156136/p.6>