

Reconstruction of Setting Pattern Relations between the Regional Head and the Deputy Head

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Abstract

Various problems arise in local governance in Indonesia. One of them is the problem coming from the regional head and deputy head of the region. Among these problems is a condition in which the head and deputy head of the region were often strained shortly after they elected. Between the head and deputy head of the region is often a conflict of interest because each feel have contributed the same in the process of winning the position of head and deputy head of the region. Of these conditions result in disturbing the effectiveness and efficiency of the regional administration. Thus arose the idea that the law required the reconstruction of the pattern of the relationship of head and deputy head of the region

Keywords: Regional Head, Deputy Head, Privileges, Elections

A. Preliminary

Post changes to the Constitution of the Republic of Indonesia 1945 (UUDNRI 1945), one of the important aspects in local governance is increasingly powerful role in the regional head of the regional administration. As stated in the provisions of Article 25 of Law No. 32 Year 2004 on Regional Government, that the duties and authority of the Regional Head has clearly detailed, as well as specified in Article 26 that the task of the Deputy Regional Head has also been mentioned, thus Regional Head has the duty and authority in the sense of having the power to govern the area and Deputy Head has a duty as helpers who helped Regional Head in the task and its authorities, or the position of Regional Head as ordinate and Deputy Head as subs.

Article 26 paragraph (1) in the above mentioned details of the task to the deputy head of the area but not accompanied by details of the authority necessary to carry out the task. The second field of conflict between the head region with deputy head of the region is on the content of the authority as a follow up of the implementation of the task. Deputy Head of the various tasks related to the verb: to assist, monitor, coordinate, follow up, implement, seek, evaluate, advise require the authority to implement them. Without any clear authority boundary between the Regional Chief Deputy Regional Head, various tasks will be blurred in accountability. The authority was mainly related to the activity to decide something. If the decision taken by the Deputy Regional Head countered back by the Regional Head, Deputy Head of the authority will fade.

Implementation of Article 26 paragraph (1) above, can be considered the weak position of deputy head is: First post of Deputy Head of its help and success in leading the Regional Head area, carrying out certain tasks, replacing the Regional Head when absent. But in the article is missing the essence that the presence of the Deputy Regional Head is an inseparable unity and selected pairs directly by the people and together lead the government held areas. Second, duty and authority Deputy Head of a general nature, full power in the Regional Head and eventually raises uncertainty in acting Deputy Chief daerah. Regional Head should build relationships with the Deputy Head of Regional and provide opportunities to the Deputy Regional Head in accordance with the political contract made when they departed into a pair of candidates Regional Head. Addressing this requires the formulation of a more applicable rules of the Ministry of Internal Affairs and the Council expressly set the pattern for the relationship of the tasks and authority in order to run a synergistic, unified, focused, and do not overlap. So that the problem of disharmony between Regional Head and Deputy Head of the area until the resignation of Deputy Chief daerah need not occur if there is a clear and detailed arrangements regarding the governance arrangements in the lead. Third, there are no indicators that reveal the Deputy Regional Head considered effective or ineffective work work. 1

In addition to the above probematika juridical, philosophical problem that arises is the absence of legal certainty, the regional heads to perform the duties and powers according to his own will, it negates the sense of justice to the Deputy Head. In terms of epistemology, the position of Regional Head only as a spare tire, which is just as maid of Regional Head. Ontologi terms, there is no clear authority that is on duty and authority attached to the Deputy Head. In terms of axiology, the position of Deputy Head of only as a supplement which negates the sense of justice for his position. It is indeed ironic because they (Regional Head and Deputy Head) selected one package / pairs.

From the theoretical side, based on the theory of the division of tasks and responsibilities that there is always displayed in the form of a clear and concrete, so the division of tasks between the description of the Regional Chief and his deputy is quite obvious, but often we encounter a conflict and not in line with the regional administration in the Head area and his Deputy, the impact on the government that is not conducive.

Regardless of the source of controversy / debate in accordance with laws and regulations, Deputy Head of nothing more than a maid named Regional Head office of the Head of Region and in governance (including local government) adheres to the principle of mono-executive and somehow Deputy Head must be selected in a single package in elections, that the destiny of a Regional Head (provincial and district / city) is merely a servant of Regional Head responsible to the Regional Head. Therefore, only the Regional Head deliver accountability to Parliament. As far as the scrutiny, that the Regional Head / Deputy Head of paired / fielded by political parties, are processed in the Regional Election Commission (Election Commission), in the General Election campaign as a candidate pair package Regional Head / Deputy Head of candidates, selected / elected as Regional Head couples / Deputy Head, and then why in ruling no clear division of authority except his destiny in laws and regulations or formal legal merely "helpers" Regional Head tasks / very limited authority and is responsible to the Head of the Region. 2

Referring to Article 25 and Article 26 of Law 32 of 2004 above, it is clear that the Act has not been explicitly set the division of authority between the Regional Head and Deputy Head. Ambiguity of authority between the Regional Chief and his deputy became one of the causes of the broken joint venture between them.

Deputy Head of the task rather firm only for the monitoring and evaluation of the administrative units under it. Beyond that, the Deputy Regional Head is positioned as a replacement for the current Regional Head is unable, either temporary or permanent. Based on this rule, the issue of disharmony Regional Head and Deputy Head of the vagueness problem seems to stem from the distribution of tasks and responsibilities that exist in both.

B. Formulation Of The Problem

Based on this background, the problems to be studied in this paper is the reconstruction of the pattern of the relationship between the Regional Head and Deputy Head. Of legal issues above, the legal question is why is necessary reconstruction of the pattern of the relationship between the Regional Head and Deputy Head?

C. Research Methods

Considering this is a legal research, the method is conducted legal research methods aimed at finding a solution to the legal issues and problems that arise in it, so the results will be achieved later is providing prescriptions about what should be on the issues raised. 3 Peter M . Marzuki in his law studies, the law states that research is the process of finding the rule of law, principles of law and legal doctrines in order to answer the legal issues faced.

Approach to the problem which will be used in the research of this law is the approach of laws (statute approach), and the conceptual approach (Conceptual approach). Approach law (statute approach) conducted by reviewing all laws and regulations relevant to local government regulation and local elections. While the conceptual approach to move out of sight and doctrines developed in the jurisprudence. By studying the views and doctrines of the stretcher is a backrest for research in building a legal argument in solving legal issues faced. Conceptual approach used to assess and analyze the framework or conceptual framework and theoretical foundation in accordance with the purpose of research. Material primary law and secondary legal materials that have been collected (inventory) then grouped and studied with the laws approach to obtain a synchronization of all the legal materials. sistimasi and classification is then performed later and examined and compared with the theoretical principles of law put forward by the experts, to finally analyzed normative.

D. Results and Discussion

Reconstruction is defined as an activity or process to rebuild / re-create / perform reorganization of something. In the legal context, the reconstruction legal means as a process to rebuild the law. If reconstruction is associated with the concept or idea or ideas about the legal means reconstruction of the law is interpreted as a process to rebuild or rearranging ideas, ideas or concepts of law 4 .

Reconstruction of the law is a step to enhance the existing legal rules to respond to changes in society. It also is a way to develop a legal substance or positive law through logical reasoning, so as to achieve the desired results. That is, the reconstruction of a restructure and synchronize several existing legal rules 5 .

An understanding of the law according Bismar rebuild Siregar is part of the Law of Political Development. According to him, is the Law Development Politics cover 3 (three) dimensional policy, among others:

1. Dimensions maintenance, a dimension to maintain the existing legal order, despite being no longer with the development of conditions within their (the majority of Dutch colonial heritage), but it is necessary to fill the legal vacuum, and therefore, must be given a new meaning.
2. Dimensions renewal, namely dimension to supplement what is not there and meyempurnakan what already exists.
3. The dimensions are the dimensions of the dynamics of creation and creativity, which creates the new legislation that previously did not exist to anticipate changes in social, political and economic development in line with the implementation of 6

Based on this statement, the reconstruction of law that must be built on the pattern of the pattern of relations with the Regional Chief Deputy Regional Head enter the dimensions of renewal.

To see some reform legislation so that there will not be separated from the dynamics of the tidal system of local governance in Indonesia has been started since the independence of the Republic of Indonesia Year 1945. It is characterized by a wide range of products enactment of legislation for regulating these Local Government. This view can be understood that almost any change in the system of regional governance will certainly be followed by changes in laws and regulations that govern local governments. A change in the system of governance of the area, the other is not affected by the situation of the integration of the power of the national political regime.

Historically arrangements concerning local government noted that until the beginning of 2015, has experienced a 10 (ten) times the change since the post-independence of the Republic of Indonesia Year 1945, in which any changes to load a different setting both the concept and the policy direction of the regional administration. Of any changes to the product of the legislation is clear that will result also in the pattern of the relationship between the Regional Head and Deputy Head.

Discussion about the reconstruction of the pattern of the relationship between the head of the Regional Deputy Regional Head, can not be separated from development of national laws. Conceptually understanding Indonesian national law, can be distinguished from positive law of Indonesia. As stated by Sunaryati Hartono, explaining that:

Indonesian national legal sense is not the same as understanding the positive law of Indonesia, because national law is used in the sense of *ius constituendum*, while positive law, can not be other than a *constitutum ius*. 7

Further to shed light on the understanding of national law and positive law of Indonesia above, described as follows:

Degan other words Indonesian positive law is the law that now exist and prevail in Indonesia, while the Indonesian national law is a law that is not (entirely) in Indonesia, and because it still had to think about how to shape it and what and how the framework and foundation (and *filasafah* and material). 8

From the description above it is clear how close the relationship between local government law and policy in the field of regional administration in the process of national development. More conceptually related to the policy can not be separated by the policy of the State in the process of development of national law, as explained by Asshiddiqie which states that:

The bow means the direction of the road or guidance, so that the policy of the State means the policy or policies. State Policy are guidelines for the implementation of the State direction. State Policy may be political direction both in economic, cultural or legal. Thus this term can be associated with a political sense in a broad sense, as reflected in the terms of political economy, political culture, political or legal. In the areas in more detail, we used to also refer to the bow or government policy in the field of energy as a political energy, food field called the politics of food, and sebagainya. 9

Further to explain the deeper conception of policy, that the policy of the State, political or governmental policies and development can be used as a handle that bind to the public along poured in the form of specific legislation or at least in the form of a policy rule or policy rules. Therefore, all policies in the organization of regional pemerintahan be manifested in a particular law, where there is the highest law in the formulation of the constitution. 10

From the description above it is clear that the discussion on the reconstruction of the pattern of the relationship

between the head of the Regional Deputy Regional Head, can be done with the political approach of the law through the discussion of all forms of legislation and include policy rules contain legal norms which are abstract and general (abstract and general norms) as a whole legal policy containing state policy, governance and development that govern it. All forms of legislation, both general and specific, and that fall into the category of policy rules, always contains a policy and law (legal policies). 11 For more on the development policy of the pattern of the relationship between the Regional Head and Deputy Head regions in local governance, described as follows.

1. Act No. 1 of 1945 on the Regulation Concerning the Status of the National Committee of Regions

This law is the product of Local Government Act was first after the Independence of the Republic of Indonesia August 18 of 1945, which was signed by President Sukarno in Djakarta and announced on 23 November 1945 organized by the National Committee Central (BP KNIP). 12 This law is very simple and short, only consists of 6 (six) article, it is given that the Act seentara nature and will only be applied to the implementation of the General Election. 13

Formulation of Law No. 1 of 1945 on the Regulation Concerning the Status of the National Committee of Regions are based on the provisions of Article 18 of the 1945 Constitution (before amendment) which confirms that the Indonesian Regional Distribution over large areas and small, with the structure of government established by law. By viewing and considering the consultative basis in the state government system, and the rights of origin in areas that are special.

Direction of Act No. 1 of 1945 on the Regulation Concerning the Status of the National Committee of Regions is the establishment of a National Committee of the Regions established at every level except in Surakarta and Yogyakarta Region. As stipulated in Article 1 which states that the National Committee of Regions held ketjuali in Surakarta and Yogyakarta Region - dikarisidenan, ber otonomi City, county and other areas deemed necessary by the Minister of the Interior. 14

A National Committee used weeks to elect the Board of Regional Representatives together with local leaders in organizing local governance as stipulated in Article 2 and Article 3 which states as follows: Article 2 of the National Committee of the Regional People's become the Regional Representative Council, which together with and led by the Regional Head of the household running the work of his region, insofar as not inconsistent with the regulation of the Central Government and Local Government broader than Padanja. Article 3 states by the National Committee of the Region's chosen few, sebanjak-banjakja 5 as Executief Agency, which together with and led by the Head of the Regional Government run daily in that area. 15

Of the provisions of Article 2 and Article 3 of Regulation Concerning the Status of the National Committee of the Regions serves as the legislature and its members were appointed by the central government. Committee members were selected from five (5) persons to act as an executive, led by the head of the region to carry out the regional administration. Thus the head of the area running dual function as Regional Head called berautonomi and the second bertindak as Deputy Regional Head of the Central Government.

Filling the post of Deputy Head directed to be filled by the Chairman of the National Committee of the Regions long through the lifting mechanism. Regional Head will serve as Deputy Chief of the Blood in both the Executive Council and the Legislature. Lifting mechanism automatically to the Chairman of the National Committee of the Regions long due to practical reasons the changing nature of the National Commission of the Executive Board and the Regional become the Regional Representative Council. In the case of Regional Head is unable to perform its obligations, the position as the legislature was represented by Deputy Chairman of the National Regional Commission old. But his position as Chairman of the Executive Board was replaced by Deputy Head of Vice President, Patih or Deputy Mayor. 16

With the function of a Regional Head as the Central Government Representative in fact it appears that in addition to the central government's efforts to implement decentralization and deconcentration in the organization of the central government. However, the implementation of the Act is seen that the regional administration is patterned deconcentration when viewed from dualism function as Deputy Regional Head of the Central Government.

Thus clearly the regime of Law No. 1 of 1945 on the Regulation of the Status of the National Committee of the Regions, only focusing on the position of a National Committee on Local and Regional Head, to the position of Deputy Head unknown at that time. It can be said to be reasonable because at that time peyelenggaraan local

government through Act No. 1 of 1945 on the Establishment of the National Committee of Regions still continue system inherited by the Dutch colonial government.

2. Act No. 22 of 1948 Basic Rules neighbor Determination of Self Government in Regions Eligible Organize and manage his own household

Along with the development of the more conducive state administration, with the more well-organized ditadai overall implementation of government, then the government is trying to make improvements teradapt some basic rules of law enforcement, including local governments. 17 can be recognized that there is a fundamental weakness of Act No. 1 of 1945 concerning Regulation Regarding the Status of the National Committee of Regions including the following:

- a. Many things related to aspects of local government which has not been set in it, so there are many rules that hold on the colonial period;
- b. Unclear setting BPRD as a legislative body, so it is not clear limits of authority and responsibility, so more attention to the issue of national rather than regional politics;
- c. There is no firm position on a special area;
- d. The dualism of the local chief function as part of the executive and legislative bodies (BPRD). 18

Approximately after Act No. 1 of 1945 runs for 3 (three) years, the Government made improvements to the Act by issuing Law No. 22 Year 1948 concerning the Basic Rules neighbor Determination Self Government in Regions Eligible Set And manage his own household.

Law on the Establishment of the Basic Rules of Self Government in Regions Eligible Organize and manage his own household set in Yogyakarta and announced on June 10, 1948. This law was born after the governance system adopted at the time it was changed, from presidential system of government is headed to a system of parliamentary government, which is characterized by the ministers no longer accountable to the President, but to the Central Indonesian National Committee (KNIP). Development of the system of governance at the national level affects the organization of local government, which indirectly have to update the legal basis for the conduct of local government as the basis for its implementation. 19

Act No. 22 of 1948 Basic Rules neighbor Determination of Self Government in Regions Eligible Organize and manage his own household a substitute Act of Act No. 1 of 1945 on the Establishment of the National Committee of the Regional Regulation. As explained in the description which states that:

Neither the government, nor the Indonesian National Committee for the Center to feel the importance of immediately improve local governance that can meet the expectations of the people, is the area of collegial governance based on popular sovereignty (democracy) with the specified limits of his power. That to meet the expectations of Act 1, dated 23 November 1945 of the National Committee of Regions should be replaced with a new line with earlier expectations, is appropriate, because the Law No. 1 is made very simple, just to the extent possible be able to hold local government which is still in the great revolution. 20

From the above description shows that the local government is run collegial between the Governing Council and the Parliament. However, in contrast to previous legislation both this council has its own chairman, head of the region do not hold positions in the council chairman. Chairman of the Parliament chosen from members of Parliament. 21

For the first time the laws governing local government divided the area into three (3) levels namely State, (big city) and village (small town) country, clan and so on. As defined in Article 1 of Law No. 22 of 1948 is. Thus it is clear that by this Act, there are 3 (three) levels in the territory of the Republic of Indonesia at that time, each level is entitled to organize and manage his own household. In addition, the Government also recognizes the special areas are entitled to organize and manage their own household, as stipulated in Article 1 (2), which states that:

Areas that have rights, origins and his day before the Republic of Indonesia has its own government that is privileged by law the establishment in paragraph (3) can be designated as a special area that is level with the provincial, district or village, which is entitled organize and manage their own household.

Thus the provisions of Article 1 (2) can be interpreted that the region can organize and manage his own household can be divided into two types, namely ordinary autonomous regions and special regions. Each area can be divided into three levels, namely provincial, regency / city is great and the village / small town. 22

About Form and Structure of Local Government, Article 2 of Law No. 22 of 1948 is set as follows:

1. The local government consists of the House of Representatives and the Council of Local Governments.

2. Chairman and Vice-Chairman of the Legislative Council elected by and from the members Regional Representatives Council
3. Regional Head and members of the Board Chairman of the Local Government

Of the provisions of Article 2 above can be seen that the composition of local government based on Law No. 22 of 1948 on Determination of the Basic Rules of Self Government in Regions Eligible Organize and manage his own household consists of Provincial Parliament, the Council of Local Governments, and Head of the Region. As for setting the election of Regional Head have differences in each level of government. More specifically with regard to the election of Regional Head set out in Article 18 which states that:

1. The provincial governors are appointed by the President of the least-at least two or at most four candidates submitted by the Provincial Parliament.
2. Chief District (big city) appointed by the Minister of the Interior of a little-at least two and no more than four candidates submitted by the Regional Representatives Council village (small town).
3. Regional Head village (small town) was appointed by the provincial governors of at least two and no more than four candidates submitted by the Regional Representatives Council village (small town).
4. Regional Head may be dismissed by the authorities upon the recommendation of the Regional Representatives Council is concerned.
5. Special Regional Head appointed by the President of the descendants of the ruling family in the area era, before the Republic of Indonesia and which still dominate the region, with the terms of skill, honesty and kesetiaan and by considering the local customs.
6. For special areas can be appointed a deputy Head of Region by the President with the given conditions - the conditions in paragraph (5). Deputy Head of Isimewa are members of the Board of Local Government. 23

While the position of Regional Head pursuant to Article 36 of Law No. 22 of 1948 on 1948 on Determination of the Basic Rules of Self Government in Regions Eligible Organize and manage his own household as follows:

1. Regional Head supervise the work of the Regional Representatives Council and the Council of Local Government and the right to add executable decisions Legislative Council and the Local Government Council, if he considers that decisions contrary to the public interest or contrary to the laws or regulations of the Government and regulations of the area that are above, where the decisions were taken by the Legislative Council under the Local Government and Provincial Council.
2. The detention under subsection (1) must be notified within seven days to the Legislative Council or the Board of Local Government is concerned, as well as to the President of the Province and for other areas to the Board of Local Government upper level.
3. If within three months of the President or the Local Government Council under subsection (2) does not take a decision, the decision on hold to run it, as soon as the tempo of the past, is executed. 24

Striking character of this Act is a Regional Head chosen by the President for the province and selected by the Minister of the Interior for the district / city these conditions are characteristic of the practice of parliamentary democracy in effect at that time. Although the Act was issued by the central government in lieu of Law No. 1 of 1945 on the Indonesian National Committee Concerning Regulations but the function remains the same Regional Head namely as Chairman of the Board of Local Government as well as representatives of the central government.

When compared with Law No. 1 of 1945 on Regional National Committee Concerning Regulations, Act No. 22 of 1948 on the Establishment of the Basic Rules of Self Government in Regions Eligible Organize and manage their own household has menunjakkan clear direction on duty and functions of a Regional Head set out in Article 36 of Law No. 22 of 1948 is.

Associated with the post of Deputy Head of the election is known only to areas that are considered special status by the Act. As the provisions of Act No. 22 of 1948 of the new Deputy Head of the technical term but Deputy Regional Head is only valid for special regions as stipulated in Article 18 paragraph (6) of Law No. 22 of 1948. In the explanation of Law No. 22 1948 is explained as follows:

One of the Local Government Council appointed members representing regional head, if it is absent Regional Head (Article 19). The duration of the appointment is equal to the period of parliament is 5 years. But it does not result in the birth of the appointment of new positions (deputy Head of Region) in addition to the post of Head of the Region. Members appointed Governing Council had remained as a member of the Council of Governments others.

Therefore members appointed Governing Council representing the Regional Heads must understand the work

of Antero local government, it is the designation should not change-change, so that it can be designated tempo enough to be able to understand all of them (inwerken). Although the Deputy Head is not an employee, but when running jobs Deputy Head, he has the power Regional Head. 25

From the description above indicates that a Deputy Head for special areas taken from the Local Government Council member whose position is used as a filler task of the head of the local area if the head is unable to carry out their duties. This law restricts clearly that a Deputy Head of not giving birth to a new position in local government *penyelegaraan*.

Associated with the post of Deputy Head of the regional government, indeed the provisions of Law No. 22 of 1948 is not set except for special areas. However to avoid vacancy of Regional Head in local governance, if the Regional Head unable to perform the duties and functions of the applicable mechanisms acting interim appointment, made by the Local Government Board to appoint one of its members to occupy the position of Deputy Head. The duration of this appointment is five (5) years. The appointment of the post of Deputy Head of the Local Government Board members did not result in the birth of a new position or loss of membership of the Local Government Council of the Local Government Board members for being a Deputy Head, or in other words the Local Government Board members remain as members of the Governing Council The Area. Position Deputy Head is not valid as Regional Head, but only a temporary position to carry out the duties and functions of the Regional Head.

3. Act No. 1 of 1957 on Principles of Local Government

This law was passed in Jakarta on January 17, 1957 by President Sukarno. Law governing local government is somewhat different from the predecessor Act that Act No. 1 of 1945 which patterned deconcentration, and Act No. 22 of 1948 which patterned decentralization, the direction of Act No. 1 of 1957 This is more clearly setting is beaten path decentralization. When viewed from the side where the history of the Republic of Indonesia is still in the process of determining the identity of the form of state, this law is a product of liberal parliamentary system the results of the first election in Indonesia in 1955.

Effort to maintain the independence which was followed by several negotiations that led to the Round Table Conference (RTC) which gave birth to the State of Indonesia (RIS) following the enactment of federal Constitution RIS. Less than a year later, RIS Constitution amended by the Constitution While the Year 1950 (1950). Since then, the Indonesian state back into a unitary state with a fairly liberal constitution and full of compromise. 26

Act No. 1 of 1957 on Principles of Local Government was born after the implementation of the first election in Indonesia is considered democratic in 1955. The selection was based on the 1950 Provisional Constitution Act No. 1 of 1957 adheres to the principle of autonomy of the widest, which the implications of the principles of democracy, called "ultra-democratic" Provisional Constitution of 1950. Chief *dibahwa* area completely as a tool solely Autonomous Region and is not a central tool in the area. 27

The division of the territory of the Republic of Indonesia based on Law No. 1 of 1957 affirmed in Article 2 paragraph (1) and (2) which states as follows:

1. The territory of the Republic of Indonesia is divided into large and small area, which is entitled manage his own household, and that is as much as three (3) levels rank from top to bottom are as follows:
 - a. Regional level to I, including the Municipality of Jakarta Raya,
 - b. The area to the second level, including the Township, and
 - c. Regional level III.
2. Autonomous regions according to the importance and development of today's society, can be defined as a Special District level I, II or III or the Autonomous Region to the level I, II or III, which is entitled manage his own household. 28

System of local government administration according to Law No. 1 of 1957 is almost the same settings by Act No. 22 of 1948, namely that the regional administration consists of Provincial Parliament and the Council of Local Governments. Article 5 states that the Local Government consists of the House of Representatives and the Council of Regional *permerintah*. Furthermore, the provisions of Article 6 stated as follows:

1. Regional Head because of his position is the Chairman and members of the Local Government Board.
2. *Wakil* Chairman and Chairman of the Board of Representatives shall be elected by and from the members of the Local Government Board.

3. Vice Chairman of the Board of Local Government elected by and from the members of the Local Government Board.
4. During the Chairman and Vice Chairman of the House of Representatives has been no meeting of the Regional Representatives Council led by a member of the Legislative Council of the oldest old. 29

For filling the position of Regional Head at the time of the enactment of Law No. 1 of 1957 which is based on the 1950 Regional Head office should be elected directly, but due to political situations, social, cultural at that time less support to the Regional Head of direct elections. So that the direct election of Regional Head only visible discourse by the legislators alone. Direct local elections temporarily suspended, until the time allowed, it can be observed in the provision of explanations Act No. 1 of 1957 which stated as follows:

In essence it's a Regional Head must be a close to and recognized by the relevant regional communities, and therefore must be a Regional Head who won the trust of the people and entrusted with power over the people's trust. In this connection, it is the only way to accomplish this purpose is that the Regional Head shall elected by the people of the region concerned. The basic idea contained in Article 23 paragraph 1 which further defined in paragraph 2 that the appointment and dismissal of Regional Head stipulated by Law. However, although in principle a Regional Head so it should be selected, but the time is necessary to also consider the real situation and the development of today's society in the regions, where the reality would not reach a level, which can guarantee the election by obtaining the results of the election as well as possible. In this connection it is to be expected that the transitional period will last no longer than 4 years there should be provisions more practical regarding the selection of the Regional Head. Based on this opinion, then in Article 24 stipulated that for the time selected by the Regional Head of the Regional Representatives Council having regard to the terms of the skills and knowledge required for the job, the terms of which can be regulated by government regulation. Although in general the Regional Head selected primarily of members of the Legislative Council are competent, but House of Representatives may also select a candidate from outside who thinks meets the requirements. Regional Head's election results have to obtain prior approval from the government agency authorities, so that the figure is the Regional Head Meet the point of democracy from below and from above in the order of the State government. With the approval of the Central Government may also prevented the emergence of the things that are not desirable in the matter of selection Regional Head. 30

Based on the above considerations Article 24 paragraph (1) of Law No. 1 of 1957 states that before the law in Article 23 paragraph (1) there is, for the time selected by the board of the Regional Head of Regional Representatives, having regard to conditions before requisite skills and knowledge required for the job in accordance with the provisions mentioned in paragraph (2) to (7). Thus it is clear that under Article 24 is that for the time sementera Regional Head selected primarily of members of the Regional Representatives Council competent, besides members of the Regional Representatives Council may also choose a candidate from outside are considered eligible.

While the provision on the setting position of Deputy Head of Law No. 1 of 1957 on the Fundamentals of Regional Government is almost the same as Act No. 22 of 1948 on the Establishment of the Basic Rules of Self Government in Regions Eligible Organize and manage his own household . As the provisions of Article 25 paragraph (2) of Law No. 1 of 1957 which states that, to be appointed Special Region of candidates proposed by the Legislative Council of the Vice Chief of the Special Region, appointed and dismissed by the authorities who lift / halt Regional Head special, with memperatikan these requirements in paragraph (1). Regional Head and Deputy Head of concurrent position became a member of the Council of Heads of Local Government as well as a member and Vice Chairman of the members of the Local Government Board. As the provisions of Article 25 paragraph (3) of Law No. 1957 on the Principles of Local Government

Of the provisions of Article 25 paragraph (2) above it is clear that the post of Deputy Head only be discretionary with reference to the provisions "may" in the article. The position of Deputy Head of Region chosen from members of the Local Government Board. Position Deputy Head only temporarily to perform the duties of the Head of the Special Region absent or resigned. As Article 27, which states as follows:

1. If the Head of Special Region absent or resignation, he was represented by Deputy Head of Special Region.
2. If the Deputy Head of Special Region referred to in paragraph (1) was absent or resignation, he was represented by a member of the Local Government Council elected by and from the members of the Local Government Board.
3. If the Special District is not appointed Deputy Head of Special Region referred to in Article 25 paragraph (2), the head of the Special Region, if he is absent or resignation, represented by the Deputy Chairman of the Local Government elected by and from the members of the Council of Local Governments .

4. If the Local Government Council was stopped, because of a decision of the Regional Representatives Council as referred to in Article 20 paragraph (1), then the temporary assignment Local Government Council is run by the Head of Special Region. 31

Of the provisions of Article 27 above describes the mechanism for filling the positions Deputy Regional Head, which confirm that the position of Deputy Regional Head in carrying out its duties prevented if the Deputy Head can be taken from the Local Government Board members elected by the members of the Local Government Board.

4. Presidential Decree No. 6 of 1959 Date of Local Government

Dated September 7, 1959 as a follow up of the Presidential Decree of July 5, 1959, the Central Government issued Presidential Decree No. 6 of 1959 on local governments to regulate in order to comply with the Local Government Act 1945. As stated in section weighing letter a in the Presidential mentions that as a continuation of the Decree of the President / Commander of the Armed Forces of the top rated dated July 5, 1959 on the return to the Act of 1945 needs to be determined as well as the shape and arrangement of the powers, duties and responsibilities of local governments. 32

Post-decree of the President of July 5, 1959, the change of the Constitution of 1950 while returning to the Act of 1945 is not only used to adjust the composition of the government in the area according to the layout according to the Constitution of 1945, but it also made improvements to the regulation of Law No. 1, 1957 on the Principles of Local Government through the Presidential Decree.

As noted by Andi Agussalim Ganjong that suggests that through this Presidential Decree dualism local government eliminated by setting back the head region as a national and local. Head of the region's own stand alone beside Parliament and leader of the daily operation of the local government and is not accountable to Parliament and not be imposed by Parliament. 33

Furthermore, determination of the President is known as the rule refinement of Act No. 1 of 1957, some improvement in the Presidential concept can be seen in some of the following:

1. Eliminate dualism between the local government and the autonomous functioning of the apparatus and the apparatus function and *kepomongprajaan*.
2. Completion of form, composition, powers, duties, and obligations of local government.
3. Eliminate the danger of unity and integrity and security of the State and nation.
4. Eliminate aspects that could hinder the development of the universe to achieve a just and prosperous society, both at the level of central government and local *peerintah*.
5. Enlarge the central government to local control. Dualism e governments in the me n *ghilangkan* by setting back the head region as a national and local. The regional head stand alone and be the leaders of the day in the area of governance and not accountable to Parliament and not be imposed by Parliament. 34

Implementation of this Act contrary to the will of improvement Act previously, this can be seen from the aspect of control and interference of central and local government, among other things appear in practice as follows:

1. Central supervision over the course of the local government is getting stronger and tighter the load is usually the implementation of regional autonomy.
2. Head of the region as a center has the power to account Parliament's decision when it is contrary to the Guidelines, the public interest and legislation higher.
3. The regional head appointed by the president for regional Level I and Interior Minister with the approval of Level II regions. The President or the Minister of the Interior with the approval of the president can lift the head area outside candidates proposed by the Parliament. So the authority of Parliament to determine the regional leaders to say no because it all depends on the president. 35

In the determination of the President determined that the local government is composed of the Head of the Regional and Provincial Parliament, as stipulated in Article 1 of the Presidential Decree which states that Local Government consists of the Head of the Regional and Provincial Parliament. Further to the provisions of Article 2 states that in carrying out its duties Regional Head assisted by a Government Agency Daily. Therefore, based on Article 1 and Article 2 shows that the duty Regional Head assisted by a Local Government Board. Associated with lifting mechanisms Regional Head of Article 4 of the Presidential Decree states as follows:

1. Regional Head appointed and dismissed by:
 - a. President for the Regional Level I and
 - b. Minister of Home Affairs and Regional Autonomy for the Regional level II.

2. A Regional Head appointed from among candidates proposed by the House of Representatives is concerned.
3. President and Minister for Home Affairs and Regional Autonomy each Regional Head may authorize removal of level I and level II Regional Head outside candidacy within the meaning of paragraph (2) of this section.
4. Appointment of the Regional Head in paragraph (1) of this article is done by considering the terms of education, skills and experience in the government stated in the decree of the President.
5. Regional Head of State employees, the function name and title, position and income is further regulated in Presidential Decree.
6. Regional Head appointed for a term equal to the period of sitting Legislative Council is concerned, but may be reappointed after his term ends
7. Regional Head can not be dismissed as something the Regional Representatives Council decision. 36

As the provisions of Article 4 of the Presidential above, indicates that the Regional Head has a position that has a dual role as the representative of the central government which is placed on the area as well as an important element in the organization of local government affairs. A Regional Head appointed by the central government through the President or by the Minister of the Interior that have accrued as a state employee. Appointment with due regard to the considerations that include the terms of education, skills and experience in the government set out in the form of Presidential Decree.

Decree President is different from the setting of the previous Local Government through Act No. 1 of 1957 on Principles of Local Government. If in Act No. 1 of 1957 only recognizes the Deputy Chief for special areas, but in the Presidential Decree No. 6 of 1959 on Local Government recognize two forms of deputy head of the region . As the provisions of Article 5 and Article 6 paragraph (2) of the Presidential Edict. As Article 5, which states that the Minister of the Interior and Local Autonomy officials representing the determination if the Regional Head Regional Head absent. Furthermore, Article 6 (2) which states that for the Special Region may be held at a Deputy Head of Special Region, which is appointed and dismissed by the President taking into account these requirements in paragraph (1) of this article.

Although the provisions of Article 5 has been mentioned about the officials representing the Regional Head of Presidential Decree No. 6 but 1959 on Local Government does not set explicitly on the positions of Deputy Head. In this case the provisions of the load that the Minister of the Interior and Local Autonomy must set the determination of officials representing the Regional Head Regional Head absent when, explained the need for such arrangements due to the importance of the position of Regional Head.

Associated with setting up a special mechanism Deputy Head of filling these positions is through appointment by the President as well as in the case of termination mechanism is the authority of the president. This is confirmed by an explanation of Article 6 of Law No. 6 of 1959 on the Principles of Local Government, which states that the appointment of Regional Head and Deputy no longer included elements of the nomination, so it can be interpreted depending on the appointment of presidential appointment. As for the Deputy Regional Head in a privileged area between the discretionary nature is able to be held and or not.

A year later after the entry into force of the Presidential Edict, the reduction of the decentralization resumed after the enactment of Presidential Decree No. 5 of 1960 on Mutual Cooperation Council and the Regional Secretariat. Parliament election results (choice of the people around the area) is dissolved, then formed the Mutual Cooperation Council made in the central government whose members appointed by makenisme appointment. 37 As noted by Marbun who explained that it is somewhat deviated from the applicable toxicity. In the previous regulations Regional Head stints as chairman of Mutual Cooperation Council, but nevertheless Regional Head not legislators. 38

5. Act No. 18 of 1965 on the Fundamentals of Regional Government

Precisely on 1 September 1965 This Act was passed by the Central Government. This law is a follow up of the Presidential Decree of July 5, 1945 with the re-enforce the Act of 1945.

As mentioned in section considers that:

in connection with the development of the state administration in order to return to the Constitution of 1945 since Drekrit President of July 5, 1959, the provisions of the Legislation on the Fundamentals of Regional Government needs to be updated in accordance with the Political Manifesto Republik Indonesia as Outlines of the State Policy and implementation guidelines. 39

This law puts Parliament responsible to the Regional Head. Design of the local government was prepared in anticipation of the development of the state administration in order to return to the Constitution of 1945 since the Presidential Decree, the provisions of legislation concerning the implementation of the regional governments need Replaces accordance with the Political Manifesto of the Republic of Indonesia as a form of local government policy line. The policy lines are directed as follows:

That to ensure continuity of Unity State and the existence of national pmpinan, it is necessary to position the Regional Head strengthened and given a very important function, not only became a center of efforts of the Local Government engaged in regional matters, but who is also a strong link the Central Government organizations. Thus the head of the region is not only the leadership of the Regional Head, but it is also the Head of Region Central Government tool and as people trust the president. 40

From the above description shows that the position of Head of the region has two functions, such conditions actually have similarities with the previous legislation. Where a Regional Head floating charge as a central for local government affairs and also a representative of the central government in the regions.

About division area based on the provisions of Article 2 paragraph (1) of Law No. 18 of 1965 on the Fundamentals of Regional Government states as follows:

Territory of the Republic of Indonesia were given out in the Regions are entitled to organize and manage their own household and are arranged in three tiers as follows:

- a. Provincial and / or Kotaray a as the Regional Level I
- b. District and / or the Regional Municipality as Level II, and
- c. District and / or the Regional Municipality as level III. 41

Furthermore, Act No. 18 of 1965 defines a region as large area and small area is entitled to organize and manage his own household.

The shape and structure of local government, the provisions of Article 5 paragraph (1) of Law No. 18 of 1965 states that the Local Government consists of the Head of Region and the Regional Representative Council further in Article 5 (2) state that the Regional Head of Government and responsible conduct politics responsible to the president through the Minister of the Interior in accordance with the existing hierarchial. Regional Head appointed and dismissed by the President to the level region, Interior Minister with the approval of the President of the Regional Level II, and Level I Regional Head with the approval of the Minister of the Interior for the Regional Level III is in Region I. Level 42

Thus it is clear that the direction of Act No. 18 of 1965 showed the Regional Head election is centralized, where the central government has full authority to determine who the better Regional Head Regional Level I, Level II Regional, and Local Level III. Although for the Regional Level II Regional Head election is determined by the Minister of the Interior, but the Minister of the Interior under President position there or in other words, is the Minister of Presidential aides in performing their duties. Similarly, the selection Regional Head for the Regional Level III, in which the selection of the area selected by the Head of the Provincial must obtain approval from the Minister of the Interior. Regarding the mechanism of local elections in a row set in Article 12, Article 13, and Article 14 of Law No. 18 of 1965 on the Fundamentals of Regional Government.

Unlike the laws governing local government previously, Act No. 18 of 1965 set the norm for the Regional Head ban on the provision of Article 16, which states as follows:

1. Regional Head prohibited:
 - b. By deliberately doing activities or take no action, which only benefits and / or put the interests of his party, group or something something party, to the detriment of the interests of the Government and people of the Region;
2. Directly or indirectly participate in or be a guarantor for something basic bonding companies that have an agreement with the State or by the Region to make a profit or gain;
3. Directly or indirectly in or into the party to attempt something organizing public works, transport or apply as a partner for regional interests;
4. Doing peerjaan-pekerjaan other giving him in matters directly related to the region concerned;
5. Being an advocate, prokol or authorized in advance court case, in which the area concerned stuck.

2. Against the prohibitions referred to in paragraph (1) letter b, c, and d, the President can not give an exception, if the regional interests require. 43

While related to the substance of the position of Deputy Head, subject to the provisions of Article 6 of Law No.

18 of 1965 which provides that the duties of Regional Head assisted by the Deputy Head of Regional and Local Government Agency. Of the provisions of Article can be seen from the function, the position under the Deputy Head of the Regional Head assists the Regional Head in carrying out the regional administration. Regarding the mechanism of appointment of Deputy Head of Regional and other arrangements subject to the provisions of Article 21 of Law No. 18 of 1965 which states that:

1. Deputy Regional Head referred to in Article 6 was appointed from among at least two and four candidates sebanyakbanyaknya Legislative Council by:
 - a. President for the Regional Level I;
 - b. Interior Minister with the approval of the President for Region II and level;
 - c. Regional Head Level I with the approval of the Minister of the Interior for the Regional level is in Region III to the relevant.
2. The requirements to be appointed as Head of Region as referred to in Article 15 shall also apply to the Deputy Regional Head.
3. Prohibition for Regional Head referred to in Article 16 shall also apply to the Deputy Regional Head.
4. Deputy Head of the State is the title of an employee and his name, position and income is further stipulated in Government Regulation.
5. Deputy Head appointed for a term equal to the term of office of the Regional Head or for a period equal to the period of sitting Legislative Council is concerned, but may be reappointed.
6. Deputy Head of the Region can not be dismissed as something the Regional Representatives Council decision, except when the ruler has the right lifting wills.
7. Deputy Head of stops are deceased or dismissed by the Lord of the right to appoint:
 - a. at his own request;
 - b. because the end of his tenure;
 - c. because it did not meet again something requirements referred to in Article 15 jo. paragraph (2) of this article;
 - d. because it did not meet again the provisions prohibitions referred to in Article 16 jo. paragraph (3) of this section;
 - e. due to other causes.
8. Before taking office, Deputy Head of taking an oath or vow in front of his religion Interior Minister or officer designated by him.
9. The wording of the oath or affirmation referred to in subsection (8) is equal to the order of words oath or pledge in Article 20 paragraph (2) the provision, that the words should be read Regional Head Deputy Head.

While the position of Regional Head and Deputy Head of arrangements stipulated in the provisions of Article 44, Article and Article 47, Article 48, as described below. Position Head sebagaimana areas set forth in Article 44 states that:

1. Regional Head is:
 - a. Tools of the central government;
 - b. Tool local governments.
2. As a means of Regional Head of the Central Government:
 - a. In charge of its policy in the region, with regard to authority-the authority that existed at the relevant officials based regulations beraku legislation;
 - b. Coordinate between the extension services of the Central Government in the area between the extension services to Local Government;
 - c. To supervise the operations of the Regional Government.
 - d. Running other tasks entrusted to her by the Central Government.
3. As a tool of local governments, Regional Head of executive power led the implementation of Local Government in the areas of regional matters as well as in the field of assistance.

As for the position of Deputy Head of the provisions stipulated in Article 47 of Law No. 18 of 1965, which states as follows:

1. Deputy head of the region:
2. Deputy head of the regional aid Regional Head in carrying out everyday tasks authority according to the guidelines given by the Minister of the Interior.
3. If necessary, regional heads to submit to the Deputy Regional Head to testify on his behalf before the Regional Representative Council

Furthermore, the position of Deputy Head of shrimp under Article 48 of Law No. 18 of 1965 which states as

follows:

1. If the Head of the Region can not perform the task of authority Deputy Head of Regional Head kewenangannya task.
2. If the Regional Head died or diperhentikan, Deputy Head was appointed as his successor until the end of his term, unless Pengu a sa are entitled to appoint another decisive.

Of the provisions of Article 47 and Article 48 which regulates the position of Deputy Head of the above shows the Deputy Head has the same function as the Regional Head is acting as a tool of the central government as well as local government. A Deputy Head of duty to assist the Regional Head as his boss and also can bertindak on behalf of the Regional Head before the House of Representatives. It also emphasized that if the Regional Head unable to perform his duties then it is the duty of the Deputy Head of the duties and authority of the Head of the Region. It is therefore clear that the position of Deputy Head can perform the task of Regional Head Regional Head if unable to perform his duties, duties and authority of the Deputy Regional Head is the same as the Regional Head but the duty and authority to function as Regional Head in the condition can not be run. Setting the position of Deputy Head of the absence of any stipulation regarding the division of duties and authority between the Regional Chief and his deputy are not regulated clearly therefore the position of Deputy Head of the Law No. 18 of 1965 on the Fundamentals of Regional Government is still very weak.

6. Law No. 5 of 1974 on the Fundamentals of Regional Government.

Law No. 5 of 1974 on the Fundamentals of Regional Government is a refinement of Act No. 18 of 1967 in accordance with the change of the regime of the old order to the new order. This Act was passed on July 23, 1974, which was passed by President Soeharto. As dikatehui this Act is a legal product Pancasila Democracy regime, which marks the expiration of guided democracy regime. This Act as a replacement for the previous Act is Law No. 18 of 1965 on the Fundamentals of Regional Government. In the course of using the regional administration of Act No. 18 of 1965 has been a history of darkness for Indonesia, namely the G.30.S. PKI which resulted in the collapse of the regime of guided democracy that replaced the Pancasila democracy.

Law No. 5 of 1975 was born in the New Order as a result of events G.30 S. PKI. This Act is a new correction and adjustment of the legislation in force before. This law was born as a political mandate pelaksanaan of the Guidelines of 1973. This law was born as the implementation of MPR Decree No. IV 1973.

Although the Act No. 5 of 1974 on the Fundamentals of Regional Government is a product of the transition of power law of the Old Order to the New Order, but for the first time of the history of the regional administration in Indonesia regulating decentralization, co-administration, deconcentration where three concepts are still in use today. However, according to BN. Marbun Act was considered very nuanced centralized and less attention to the position of Parliament as a legislative body that stands alone. 44

Regarding zoning, the provisions of Article 2 of Law No. 5 of 1974 provides that in carrying out administration, the territory of the Republic of Indonesia is divided into Autonomous Regions and Territories Administration. Further to the provisions of Article 3 (1) states that in order pelaksanaan established principles of decentralization and local structured Level I and Level II regions. When compared with the Law on local government previously, these laws differ in terms of the distribution area is divided into Regions Regional Level I and Level II.

Implementation of local governments through this Act, as mentioned in Article 13 of Law No. 5 of 1974 stipulates that local government is the head of the region and the Regional Representatives Council. Associated with mechanisms for filling the positions of Regional Head regulated in Article 15 and Article 16. For which of the Province Provincial Governor as head set as follows:

1. Head of the Provincial nominated and elected by the House of Representatives of at least 3 (three) and no more than five (5) candidates who have discussed and agreed between the Chairman of the Regional Representatives Council / Governing fractions with Minister Domestic.
2. The results of the election referred to in paragraph (1) of this Article submitted by the Legislative Council is concerned to the President through the Minister of the Interior at least two (2) persons to be appointed one of them.
3. Procedures for the implementation of the provisions referred to in paragraph (1) of this article shall be regulated by the Regulation of the Minister of the Interior. 45

As for the mechanism for filling the position of Regional Head of Regional Level II, regent or mayor, as the

Head of Regional District or Municipality in the set as follows:

1. Head of Level II nominated and elected by the House of Representatives of at least 3 (three) and no more than five (5) candidates who have discussed and agreed between the Chairman of the Regional Representatives Council / Leadership Factions with governor District Head.
2. The results of the election referred to in paragraph (1) of this Article submitted by the Legislative Council is concerned to the Minister of the Interior through the Governor at least two (2) persons to be appointed one of them.
3. Procedures for the implementation of the provisions referred to in paragraph (1) of this article shall be regulated by the Regulation of the Minister of the Interior. 46

Of the provisions of Article 15 and Article 16 above shows that the central government power is centralized in filling positions in both the Regional Head of Regional and Local Level I Level II. Although the Regional Head in select directly by the Legislative Council Legislative Council both Level I and Level II Region, but the end result is in the hands of the central government is the president.

While the ban norm for the positions of Chairman of the region is also found in Act No. 18 of 1965 also provided for in Article 20 of Law No. 5 of 1975, but somewhat different arrangement is prohibited Regional Head:

- a. Deliberately mela k ukan activities detrimental to the interests of the State, the Government and or the people;
- b. Participation in a company;
- c. Perform other jobs that provide benefits for him in matters directly related to the region concerned;
- d. Being an advocate or attorney in a court case in advance.

Related to the right, authority, and duties for a Regional Head stipulated in Article 22 of Law No. 5 of 1974 which states as follows:

1. Regional Head of running rights, powers and obligations of local government leaders.
2. In carrying out the rights, powers and obligations of local government, according to a hierarchy Regional Head is responsible to the President through the Minister of the Interior.
3. In carrying out the rights, obligations of local government authority rights, Regional Head shall provide accountability information to the Legislative Council at least once a year, or if deemed necessary by him, or if requested by the Regional Representatives Council.
4. Guidance on the provision of accountability information referred to in paragraph (3) of this section shall be set by the Minister of the Interior.

While setting the Deputy Regional Head found in the provisions of Article 24 of Law No. 5 of 1974 on the Principles of Regional Governance which states as follows:

1. Deputy Head of the Provincial appointed by the President of the Civil Service that meets the requirements.
2. By obtaining the approval of the Regional Representatives Council through an election, Governor mengajikan candidate Deputy Head of the Provincial to the president through the Minister of the Interior.
3. Deputy Head of Level II appointed by the Minister of the Interior on behalf of the President of the Civil Service that meets the requirements.
4. By obtaining the approval of the Regional Representatives Council through an election Regent / Mayor of the area nominate candidates for Deputy Head of Level II to the Minister of the Interior through the Governor.
5. Filling the post of Deputy Head performed according to need.
6. Deputy Head of the State Officers.
7. The provisions referred to in Articles 14, 19, 20 and 21 of this Act applies also to the Deputy Head.
8. Deputy Head was sworn / promise and inaugurated by the Minister of the Interior on behalf of the Vice President of the Province and by the Governor on behalf of the Minister of the Interior for the Deputy Head of Level II.
9. Procedures for the implementation of the provisions referred to in the paragraph (2) and (4) of this article shall be further regulated by the Regulation of the Minister of the Interior.

Regarding the position of Deputy Head regulated in Article 25 of Law No. 5 of 1974 which states that:

1. Deputy Head of Regional aid Regional Head in carrying out its duties and powers of daily in accordance with the guidelines established by the Minister of the Interior.
2. If absent Regional Head, Deputy Head of duty and authority of Regional Head everyday.

Based on the policy direction of some setting norms regulating the Regional Head and Deputy Head of the Law

on the Principles of Regional Governance above shows that the delivery of local government in the New Order era, the role of the central government for the enactment of the Act is dominant. This is demonstrated by the provisions regarding the position of chief and deputy charging more centralized area that promotes the interests of the central government rather than local interest. Thus it is clear that the spirit of the Act No. 5 of 1974 on the Principles of Regional Government is putting the interests of the central government in front of the interests of the local government itself.

Related notch Deputy Head of the Law No. 5 of 1974, there is an important aspect that can be observed. Important aspects include the proficiency level that a Deputy Head of the status of civil servants must, Deputy Head appointed without going through the mechanism of the election, Vice Regent is a tool of the central government and the position of Deputy Head confined to assist the Head of Regional and perform the duties and authority of the Regional Head.

Although in this Act regulates the position of Deputy Head of yet has not been set on the provision of duty and authority Deputy Head of detailed and clear, so that these conditions will result in the position of Deputy Head depending on the authority granted by the Regional Head.

However, in the implementation of Law No. 5 of 1974 on the Principles of Regional Governance, as stated by Ni'matul Huda who explained that with regard to the practice of filling the position of Regional Head at the time of the enactment of Law No. 5 of 1974, the role of the central government during the The new order was very dominant. 47 The provisions concerning the charging mechanism Regional Head and Deputy Head of clearly more than the center promotes the interests of regional aspirations. The spirit which was built through the Act reflect sentralismenya more than decentralization. 48

The line is also expressed by Malley who explained that under the new order, the selection of Regents tightly controlled, and the results are usually already determined before the election was made after 1998 the central government release some control over this election to Parliament. 49

This view is based on the New Order had never wanted the formation of strong local leadership, because of the fear would threaten the central leadership and more serious contains separatism. One way is used to limit the power of local leadership is to put nasioanal employees from the local level to the center. Often done rotation key officials such as military commander intended to prevent them from building coalitions with local political power. 50 Furthermore, to ensure that national interests rather than the interests of local precedence, strategic decisions are always taken by the Central government. Electoral system regent usually the central government has set a regent who had desired before the selection process begins. Then the central government will closely supervise the electoral process through the round of nominations and the election itself, and to intervene so that the candidate can be won. 51

Actually shadows domination of the new order in the regional administration, reinforced by a strong military presence. The dominance of military power is seen when the military took over strategic positions previously held by civil society, for example, is the office of Governor, Regents, and Chairman of the Parliament. As an illustration, before the New Order's only one person regent of the military in West Kalimantan, but began in 1968 five of the seven regents and mayors are military officers. Military power is so strong, reflected also on the power of regional military commander (Commander) which is beyond the powers of Governors at the beginning of the new order. It is also supported by a network of intelligence and command network, structured from the provincial down to the village, the military bureaucrats actively control local politics. 52

7. Act No. 22 of 1999 on Regional Government

This law was passed on May 7, 1999, as it is known that a year before the Act was passed, in 1998 a wave of large-scale reforms to topple authoritarian New Order regime. The fall of the New Order regime was marked by the resignation of President Suharto in May 21, 1998 which was replaced by Bacharuddin Jusuf Habibie. Act No. 22 of 1999 is different from the previous Act.

After the New Order government under the leadership of President Suharto replaced by BJ government. Habibie, shrimp-Law No. 5 of 1974 with centralized mataknya replaced by Law No. 22 of 1999 on Regional Government. The direction of this legislation is to be decentralized (democratic). It is marked by numerous affairs delegated stricken, while the center just take care of the rest. In addition, through Act No. 22 of 1999 Parliament granted broad authority even tend to be excessive. While the position of Regional Head is no longer dominant as a tool of the central government, since the conception of this Act is determined by the Head of the Regional Council is

not determined by the central government. 53 These laws are made to meet the demands for reform, which embodies a new Indonesia, Indonesia, more equitable democratic, and prosperous. 54

Of the regional administration were centralized into decentralized local governance, as explained in section considers which states that:

in the face of development of the situation, both at home and abroad, as well as the challenges of global competition, it is necessary to organize the Regional Autonomy gives broad authority, real and responsible to the area in proportion, which is realized by setting, sharing, and use of national resources, and financial balance between central and regional governments, in accordance with the principles of democracy, participation, equity and justice, as well as the potential and regional diversity, which is implemented in the framework of the Unitary Republic of Indonesia. 55

This law created to meet the demands for reform, which expects to realize a new Indonesia, Indonesia more democratic, equitable and prosperous. 56 In relation to the division of the area as well as in the provision of Article 2 of Law No. 22 of 1999 stipulates that the territory of the Republic Indonesia is divided into Provincial, District, and Regional autonomous. A province located well as Administrative Region. 57 In the framework of the implementation of the principle of decentralization formed and arranged provincial, regency, and the City authorities to regulate and manage the interests of the local community at its own initiative based on the aspirations of the people. 58 Thus the position of the region as an autonomous region attached authority in governance.

The authority is implemented through broad autonomy as stipulated that the local authority includes the authority in all areas of government, except for the authority in the field of foreign policy, defense, security, justice, monetary and fiscal, religion and authority of other fields. The authority of the other fields, as mentioned include national planning policy and national development control macro, financial balance, the system of State administration and State economic institutions, coaching and empowerment of human resources, utilization of natural resources and technology strategy, conservation, and standardization national. 59

Therefore it is obvious when compared to Act No. 5 of 1974 on the Principles of Regional Governance, Law No. 22 Year 1999 on Regional Government leads to the implementation of decentralization by giving greater authority than the previous Act tend to be centralized. Because of the Law No. 22 Year 1999 on Regional Government is the momentum of the historical development of the regional administration in Indonesia.

Related to the shape and structure of local government, in the parliament as the Legislature formed the Regional and Local Government as the Regional Executive Board. Local Government consists of the Head of the region and other regions. 60 of the provisions of the article for the first time the shape and composition of the government clearly outlines that the implementation of the functions of Parliament as a legislative body and as Regional Head of the Executive body.

There is an important point that one of the responsibilities assumed by the members of Parliament that Parliament be given the authority to select Regional Head, hold the end of the term of office, and even terminate if Parliament judge has enough reasons for the dismissal. Parliament has the duty and authority to elect the Governor / Deputy Governor, Regent / Deputy Regent, and Mayor / Deputy Mayor; Propose the appointment and dismissal of the Governor / Deputy Governor, Regent / Vice Regent, or Waliota / Deputy Mayor. 61 In addition to authority over the Parliament has the right to hold the governors, regents, and the Mayor. 62

As described in the previous section that Act No. 22 of 1999 on Regional Government, divide the territory of the Republic of Indonesia into three regions, namely the form of Provincial, District and / or Regional. Each regional head as Chief Executive Officer, assisted by a Deputy Head. Each Regional Head headed by a Regional Head as Chief Executive who is assisted by a Deputy Head. 63 Chief District called Regent, Regional Head called Waikota; In carrying out its duties and kewenanannya as Regional Head, Regent / Mayor is responsible To the District / City.64

In his capacity of a governor of the provincial governors ie double task as well as the Deputy Regional Head of the Central Government, as described in Article 31 paragraph (1) which states that the Chief Provincial called the Governor, who due to his position as Deputy is also the central government. In this case a governor to perform its functions, namely the task of dekonsentasi representatives of the central government.

Regarding the mechanism of filling the post of head of the region subject to the provisions of Article 34 paragraph (1) and paragraph (2) which explains that the charging position of Regional Head and Deputy Head

made by Parliament through elections simultaneously; Candidate Regional Head and Deputy Head of the candidate, set by Parliament mealui nomination and election phase. Furthermore, in the explanation of the provisions of Article 34 paragraph (1) explains that the definition of election of Regional Head and Deputy Head of simultaneously is that candidate Candidate Regional Head and Deputy Head of selected simultaneously. Selection of this together, are intended to ensure a harmonious working relationship between the Regional Head and Deputy Head. As explained in the description that is the election of Regional Head and Deputy Head simultaneously is that the candidate Regional Head and Deputy Head of selected candidates in pairs. Simultaneously election is intended to ensure harmonious cooperation between the Regional Head and Deputy Head of Region 65

Candidacy Regional Head and Deputy Head of Region conducted by the Electoral Committee as Article 34 paragraph (3) which states that for the nomination and election of Regional Head and Deputy Head of the Regional Committee for Elections. Start of candidates Regional Head and Deputy Head of candidates until the enactment of becoming candidates for Regional Head and Deputy Head of the candidate.

The mechanism for selecting candidates for Regional Head and Deputy Head of the Plenary meeting held in Parliament, which was attended by at least two-thirds of the total number of members of parliament. As stipulated in Article 39 paragraph (1) of Law No. 22 Year 1999 on Regional Government. Regarding the names of candidates for Governor and Deputy Governor of the established by the leadership of Parliament in consultation with the President; while the names of the Regent and Vice Regent candidate and potential candidate for Mayor and Deputy Mayor to be elected by the Parliament established by decision of the leadership of Parliament.

Furthermore, the election of Regional Head and Deputy Head implemented directly, free, confidential, honest and fair. 66 Every member of Parliament has the right to vote for one candidate pairs Regional Head and Deputy Head of prospective candidates who have been assigned by the leadership of the previous Parliament. Candidate pairs Regional Head and Deputy Head of the candidate with the most votes at election time, will be designated as Regional Head and Deputy Head of the parliament and then ratified by the President. 67 Further to the Regional Head and Deputy Head of the elected Regional Head and Deputy Head appointed by the president or other officer appointed to act on behalf of the President. 68

With regard to filling the post of Deputy Head, in every area either provincial, district, and / or the City are a Deputy Head. As explained previously Deputy Head in the form of pairs of candidates selected by the Regional Head, who was sworn in conjunction with the inauguration of the Regional Head by the President or other designated officer acting on behalf of the President. Position Deputy Head adapted to the type of area concerned. Deputy Head of the Provincial referred to as Deputy Governor, Deputy Head of the District referred to the Deputy Head and Deputy Head of the City called Deputy Mayor. 69

While the liabilities associated with the Regional Head regulated in Article 43 of Law No. 22 of 1999 which states that the Regional Head has Liabilities:

- a. to maintain the integrity of the Unitary Republic of Indonesia as the ideals of the Declaration of Independence on 17 August 1945;
- b. uphold Pancasila and the Constitution of 1945;
- c. respect the sovereignty of the people;
- d. enforce all laws and regulations;
- e. improve the welfare of the people;
- f. maintain peace and order in society; the and
- g. submit draft Regional Regulations and set it as the Regional Regulation together with the Parliament.

In addition to the obligations set out in the Regional Head of the provisions of Article 43 above, Regional Head led the regional administration together with the policies established by Parliament. 70 In carrying out its duties and obligations, Regional Head responsible to Parliament. 71 Actually, if examined more deeply about the duties and obligations Regional Head pursuant to Act No. 22 of 1999, there are settings that vague or unclear about the duties and obligations. Act No. 22 of 1999 set in detail mengnai obligation for a Regional Head but for the setting of the task Regional Head is not set explicitly in this Act. It appeared no clear distinction between the obligations and duties. There is no clear norms on setting tasks for the Regional Head in the Act No. 22 of 1999.

While the setting of tasks Deputy Head regulated in Article 57 paragraph (1) which states that the Deputy Head has the task:

- a. assist Regional Head in carrying out its obligations;
- b. coordinate the activities of government agencies in the region;
- c. carry out other tasks given by the Regional Head.

In carrying out its duties as described above Deputy Head is responsible to the Regional Head. Deputy Head of duties and authority if the Regional Head Regional Head absent. 72 From the above shows that the position of Deputy Head is a subordinate of the Regional Head positioned to help the duty and authority if the Regional Head Regional Head absent in carrying out the duties and authority. From the position of the Deputy Head of a shift in the position of Deputy Head of which is currently self-nomination process between Regional Head and Deputy Head of the one pair of candidates, which they have been equally by Parliament, but once elected position of Regional Head is higher than the Deputy Head and Deputy Head of Region shall be responsible to the Regional Head. Actually, Act No. 22 of 1999 on Regional Government has set a rather obvious when compared to the previous Act, but the nature of regulation is still very limited.

It can be recognized that the regional administration through Act No. 22 of 1999 experienced significant growth, with a shift of centralized to decentralized system that embraces a broad autonomy. But in practice the placement of Parliament as an institution implementation regional parliament which has the authority to select and make stops / Regional Head impeach when Accountability Regional Head to Parliament. As set forth in the provisions of Article 46 as follows:

1. Regional Head who denied responsibility, seba-gaimana referred to in Article 45, better accountability of government policy and financial accountability, must be complete and / or completed within a maximum period of thirty days.
2. Regional Head who has completed and / or enhance its accountability convey back to the Parliament, as referred to in paragraph (1).
3. For Regional Head denied responsibility for the second time, Parliament can propose his dismissal to the President.
4. The procedure, as referred to in paragraph (3), set by the Government.

Arrangements provided for in Article 46 of Law No. 22 Year 1999 on Regional Government is an opportunity for Parliament to halt Regional Head despite improvement mechanism peratanggungjawaban Regional Head to Parliament but the end result is in the hands Parliament. Placement of Parliament as a regional parliament with the authority to select and stop the Regional Head generate the power gap in local governance processes. These conditions lead to conflicts between the Regional Head and Deputy Head of the Parliament tends to expand in many areas to disrupt the regional administration.

8. Law No. 32 Year 2004 on Regional Government.

Law No. 32 of 2004 on Local Government is a law that was passed, after the amendment of the Constitution of 1945. As demands for reform that occurred in 1997 to deliver the constitutional reform that began in 1999 until 2002. From Year 1999 to 2002 the Assembly has been doing Amendment Act of 1945 as many as four (4) times change. From a total of 4 (four) times the Amendment Act of 1945, radical change in local government, occurred on the Second Amendment Act of 1945 which set out on August 18, 2000. These changes alter and / or add to the substance of the provisions of Article 18, Article 18A and Article 18B. The changes are as follows:

Article 18 of the Constitution of the Republic of Indonesia Year 1945 which confirms that:

1. Unitary Republic of Indonesia is divided into provincial regions and areas of the province is divided into districts and cities, which each province, district, and the city has a local government, which is regulated by law.
2. The provincial, district, and city set up and manage their own affairs according to the principles of autonomy and assistance.
3. The provincial, district, and the city has a Legislative Council whose members are elected through general elections.
4. Governors, Regents, and Mayors respectively as head of the provincial government, county, and city elected democratically.
5. The regional governments run broad autonomy, except in matters of government by law defined as the affairs of the Central Government.
6. Local government the right to set local regulations and other regulations to implement autonomy and assistance.
7. The structure and governance procedures are set out in legislation.

Article 18A of the Constitution of the Republic of Indonesia Year 1945 which confirms that:

1. The relationship of authority between the central government and the provincial government, county, and city, or between provinces and districts and cities, governed by the law with regard specificity and diversity of the area.
2. Financial relations, public services, utilization of natural resources and other resources between the central government and local government organized and implemented fairly and equitably under the law.

Article 18B of the Constitution of the Republic of Indonesia Year 1945 which confirms that:

1. The State shall recognize and respect the local government units that are special or specific regulated by law.
2. The State recognizes and respects units of traditional society with all the traditional rights are still alive and in accordance with the development of society and the principles of the Republic of Indonesia, which is regulated by law.

Starting from this second change their settings more detailed local governments, regulated directly by the Constitution of the Republic of Indonesia Year 1945. Can be recognized Law No. 32 Year 2004 on Regional Government not only the result of the evaluation of Law Number 22 1999 on Regional Government, which raises the issue of filling the position of Regional Head and Deputy Head of the authority of Parliament and which is also the issue of the distribution of the rest of the affairs of local government legislation, however this is a response of the adjustment to the Second Amendment of the Constitution of the Republic of Indonesia Year 1945.

One of the considerations which strengthen the revision of the Law No. 22 Year 1999 on Regional Government is about filling the position of Regional Head chosen by Parliament which give rise to various problems, one of which as reported by Mashad et al which states as follows:

During the transition period 1998-2000 has' just happen approximately six (6) cases of gubernatorial elections were problematic and ten cases of election of regents and mayors throughout Indonesia, which led to political conflict. In general, these cases include:

- a. The difference in interpretation of the law in terms of the results of the election;
- b. The existence of support groups that do not accept the election results, giving rise to protest;
- c. Election results deemed unlawful;
- d. The issue of money politics;
- e. Rejection results of the elections as candidates suspected of corruption. 73

Law No. 32 Year 2004 on Regional Government ratified on October 15, 2004 by President Megawati Sukarnoputri. As mandated in Article 18 paragraph (1) which provides that the Republic of Indonesia is divided into provincial regions and areas of the province is divided into districts and cities, which each province, district, and the city has a local government, which is set with legislation. The provisions of Article 2 of Law No. 32 of 2004 also arrange things so that the Republic of Indonesia is divided into provincial regions and provincial regions and cities divided into districts, each of which has a local government.

The regional administration by Act No. 32 of 2004 is based on the principle of autonomy and assistance that run through the widest possible autonomy, except in matters that fall under the administration of the Government, with the aim of improving public welfare, public services, and regional competitiveness. The structure of the regional administration as described in Article 3 of Law No. 32 of 2004 which set as follows:

1. Government areas referred to in Article 2 paragraph (3) are:
2. Provincial government composed of the provincial government and provincial assembly;
3. Government district / city consisting of local government district / city and regency / city.
4. Local governments referred to in paragraph (1) shall consist of the head region and the region.

Of the provisions of Article 2 above it is clear that the regional administration consists of the Head of the region along the device and Parliament. Each region is led by the Regional Head. Regional Head for the Province is the Governor, Regional Head for District is the Regent, and Regional Head for the city is the Mayor. Each Regional Head assisted by a Deputy Head, Deputy Head of the province is the Deputy Governor, the Deputy Head of Region for the District is Vice Regent, and Deputy Head of the Deputy Mayor for the City is. While the Regional Head and Deputy Head of elected as a pair directly by the people in the area concerned. 74

In this case there is a fundamental difference between shrimp-Law No. 22 Year 1999 on Regional Government in which the election Regional Head elected by legislators. The regional head position as head of the government

by the people selected for each democratically. As the provisions of the explanation letter 4 of Law No. 32 Year 2004 on Regional Government stating that the Regional Head is Head of Local Government democratically elected to the Regional Head, keeping in mind that the duties and authority of Parliament by Act No. 22 of 2003 concerning the composition and Status of the People's Assembly Permusyawaratan, House of Representatives, House of Representatives and the Regional Representatives Council, stating among other things that Parliament does not have the duty and authority to select Regional Head and Deputy Head of Region, the democratic election in this Act made by people directly. To a region in carrying out their duties assisted by a Deputy Head of Region, and the Region. 75

Furthermore, Regional Head and Deputy Head of elected directly by the people and the requirement of procedures set out in the legislation. Candidate pairs Regional Head and Deputy Head may be nominated by a political party or coalition of political parties that have a certain number of seats in parliament and or obtain support voice in the legislative election in a certain amount. 76

That charging is done through the office of the Regional Head election mechanism in a pair candidates between Regional Head and Deputy Head directly. It is as defined in Article 56 paragraph (1) and paragraph (2) which states that (1). Regional Head and Deputy Head of been in a couple of candidates who conducted democratically based on the principles of direct, general, free, confidential, honest and fair .; (2). Pair of candidates referred to in paragraph (1) shall be filed by a political party or coalition of political parties.

It is therefore clear that the election of Regional Head and Deputy Head through Act No. 32 of 2004 on Regional Government, the determination of candidates Regional Head and Deputy Head of candidates who followed the election of the proposed package of candidates who can only proposed of the political party or coalition of political parties. As set forth in the provisions of Article 59 of Law No. 32 of 2004 which states that:

1. Participants local elections and deputy head of the region is proposed candidate pairs in pairs by a political party or coalition of political parties.
2. A political party or coalition of political parties referred to in paragraph (1) may register a pair of candidates if they meet the requirements of the acquisition of at least 15% (fifteen percent) of the total seats in parliament, or 15% (fifteen percent) of the accumulated acquisition of valid votes in the Electoral General legislators in the area concerned.

Election of Regional Head and Deputy Head implemented through a preparatory period, up to the stage of implementation. 77 After a preliminary stage to the implementation stage, the determination of the elected candidate of the candidate pairs Regional Head and Deputy Head of the gain of more than 50% (fifty percent) set of valid votes as a candidate elected. If these conditions are not met then the candidate pairs Regional Head and Deputy Head of the gain sounds more 25% (twenty five percent) of the total valid votes, candidates who gain the biggest voice declared as a candidate elected. 78

After a couple of candidates Regional Head and Deputy Head designated as a candidate elected, then before taking office in advance to go through authentication mechanism. Ratification of the appointment of partner candidates for Governor and Deputy Governor of the President no later than 30 (thirty) days. Ratification of the appointment of the candidate pairs of Regent and Vice Regent or Mayor and Deputy Mayor elected by the Minister of the Interior on behalf of the President no later than within 30 (thirty) days. 79

Furthermore, Regional Head and Deputy Head of the area that has been endorsed by the president and the Minister of the Interior, before taking office first following the inauguration of the Plenary Session of the Parliament. Governor and Deputy Governor appointed by the Minister of the Interior on behalf of the President, and the Regent and Vice Regent or Mayor and Deputy Mayor was appointed by the Governor on behalf of the President. 80 Regional Head and Deputy Head of holding office for five (5) years from and after the inauguration can be re-elected in the same position for only one term. 81

Against the setting duties and authority of Regional Head and Deputy Head, subject to the provisions of Article 25 of Law No. 32 Year 2004 on Regional Government, described respectively as follows. Regional Head has the duty and authority:

- a. lead the regional administration based on policies established along the legislature;
- b. submit drafts;
- c. establish legislation that was approved by the joint Parliament;
- d. prepare and submit the draft law on the budget to the parliament to be discussed and determined together;
- e. pursuing the implementation of regional obligations;
- f. represent the area in and out of court, and may appoint legal counsel to represent him in accordance with

- laws and regulations; the and
- g. perform other duties and powers in accordance with legislation.

While setting up the position of Deputy Head, subject to the provisions of Article 26 paragraph (1) of Law No. 32 Year 2004 on Regional Government stating that the Deputy Head has the task:

- a. assist in organizing regional head of local government;
- b. assist in coordinating the activities of regional heads of vertical agencies in the area, following up on reports and / or findings of supervisory control apparatus, implement the empowerment of women and youth, as well as pursuing the development and preservation of cultural and social environment;
- c. monitor and evaluate the implementation of the county and city for the deputy head of the province;
- d. monitor and evaluate governance in the area of the district, village and / or village for the deputy head of the district / city;
- e. provide advice and consideration to the head of the regions in the activities of local government;
- f. duty and other government obligations given by the officers; the and
- g. duties and authority of the regional head when the head region is absent.

It is thus clear from the foregoing shows that the position of Deputy Head of Regional Head as a maid, and reaffirmed in Article 26 paragraph (2) which states that the Deputy Head is responsible to the Regional Head. Furthermore, the provisions of Article 26 paragraph (3) says Deputy Head of Regional Heads to replace depleted positions if the Regional Chief dies, resigns, is dismissed, or not be able to implement its obligations for 6 (six) months continuously in his tenure.

Both Regional Head and Deputy Head of the field despite having different tasks, the Regional Head and Deputy Head have the same obligations, as follows:

- a. uphold and practice of Pancasila, implement the Constitution of the Republic of Indonesia Year 1945 and to maintain the integrity of the Republic of Indonesia;
- b. improve the welfare of the people;
- c. maintain peace and order in society;
- d. implement democratic life;
- e. obey and enforce all regulations legislation;
- f. maintaining ethics and norms in local governance;
- g. promote and develop the competitiveness of the region;
- h. implement the principles of good governance and good.
- i. implement and account for the financial management area;
- j. establishing working relationships with all vertical agencies in the area and all the regions;
- k. submit strategic plans of the regional administration in the presence of Parliament Plenary Session. 82

Besides having the obligations described above, Regional Head also has an obligation to provide a report on local government administration to the Government, and provide accountability information reports to Parliament and inform the regional administration reports to the public. 83

To prevent abuse of the authority of the task Regional Head and Deputy Head of Region as described in the previous section, the provisions of Article 28 of Law No. 32 Year 2004 on Regional Government set norms ban for Regional Head and Deputy Head ., Norma ban include:

- a. make decisions that specifically provide benefits for themselves, family members, cronies, certain groups, or political groups opposed to the legislation, harm the public interest, and disturbing group of people, or discriminate against citizens and / or other society groups;
- b. participate in a company, either private or state-owned areas, or in any field foundation;
- c. perform other jobs that provide benefits for themselves, either directly. or indirectly, related to the area concerned;
- d. corruption, collusion, nepotism, and receive money, goods and / or services of other parties that influence the decision or course of action;
- e. become an advocate or attorney in a case in a court other than those referred to in Pasal 25 f;
- f. abuse their authority and violated the oath / pledge of office;
- g. doubled as other state officials, as a member of Parliament as stipulated in laws and regulations.

Although the Law No. 32 Year 2004 on Regional Government has set the task of Regional Head and Deputy Head, but the setting of authority between the two positions are not set explicitly, especially the authority of the Deputy Regional Head. When examined arrangements regarding the duties and authority is only given to the

Regional Head only as provided for in Article 25 of Law No. 32 of 2004. The setting of norms regarding the duties and authority of the Regional Head be made in a single article. While setting the norms of authority Deputy Head of the substance was not found in the Law No. 32 Year 2004. If the Regional Head and Deputy Head of the portion having the same obligations as stipulated in Article 27 of Law No. 32 Year 2004 on Regional Government should also set provisions regarding the authority of Deputy Head of the selection process when the Regional Head and Deputy Head of Region done in one prospective partner directly by the people.

A similar trend was also found in the setting of norms ban for Regional Head and Deputy Head. As ketentuan in Article 28 of Law No. 32 of 2004, setting norms ban the Regional Head and Deputy Head are arranged in a single article. If the Deputy Head of merely as an auxiliary task which the Regional Head Deputy Head is responsible to the Regional Head then it is definitely the position of Regional Vice-Chief is under the control of the Regional Chief. The nature of the functions of the Deputy Regional Head is a form of mandate or assignment of the Regional Chief, therefore all forms of Deputy Head of action can only be justified by a fiduciary is the Regional Head. If the ban norm setting for Regional Head and Deputy Head of the articles that have used the same settings, will result in weak law enforcement when authorized Deputy Head is not clearly regulated.

9. Law No. 12 Year 2008 regarding the Second Amendment Act No. 32 of 2004 on Local Government

This Act was passed on April 28, 2008, which Act No. 12 of 2008 on the Second Amendment Act No. 32 of 2004 on Regional Government is evaluasai refinement of several existing arrangements in the provisions of Law No. 32 of 2004 on Regional Government. One of the materials evaluation of Act No. 32 of 2004 is the provision of Candidate Pairs Head and Deputy Head of which must be filed by a political party or coalition of political parties. As stipulated in Article 56 paragraph (2) which states that the candidate pairs Regional Head and Deputy Regional Head submitted by political parties.

Of the things that underlie the revision of Law No. 32 Year 2004 on Regional Government. As mentioned in section c Considering that says that the head of the Local Government elections as stipulated in Law No. 32 Year 2004 on Regional Government has changed, especially after the decision of the Constitutional Court of Individual Candidates.

Conceptually there is no substantial difference between the Law No. 32 of 2004 and the Act No. 12 of 2008, the difference lies only in the mechanism of filling the position of Regional Head and Deputy Head. Differences were found in Act No. 12 of 2008, is diakomodasinya provisions on individual candidates. The provisions as set forth in the provisions of Article 56 which states that:

1. Head and deputy head of the region selected in the candidates who conducted democratically based on the principles of direct, general, free, confidential, honest, and fair.
2. Pair of candidates referred to in paragraph (1) proposed by a political party, coalition of political parties, or individuals who are supported by a number of people who meet the requirements as ketentuan in this Act.

Of the provisions of Article 56 paragraph (2) above, it is a moment of historical development of legislation on local governments that regulate explicitly that candidates Regional Head and Deputy Head of not only be carried from the party or coalition of political parties only, yet the candidate Head Regional and Deputy Head of the area can also be in the stretcher of individual candidates.

The setting of the candidate pairs Regional Head and Deputy Head of the stretcher of a political party or coalition of political parties may register a pair of candidates if they meet the requirements of the acquisition of at least 15% (fifteen percent) of the total seats in parliament or 15 (fifteen percent) of accumulation of votes in the election invalid legislators in the area concerned. As stated in the PSAL 59 paragraph (2) of Law No. 12 of 2008, which states as follows:

A political party or coalition of political parties referred to in paragraph (1) letter a couple of candidates can enroll if they meet the requirements of the acquisition of at least 15% (fifteen percent) of the total seats in parliament, or 15% (fifteen percent) of the accumulated acquisition of valid votes in the general election of members of parliament in the region concerned.

As for the pair of Regional Head and Deputy Head of the promoted individual candidates can enroll as a candidate Governor and Deputy Governor if it meets the conditions laid down in Article 59 paragraph (2a) Act No. 12 of 2008 which states that:

Pair of independent candidates as referred to in paragraph (1) letter b may enroll as a candidate governor / lieutenant governor if qualified support with the following provisions:

- a. province with a population of up to 2,000,000 (two million) people should be supported at least 6.5% (six point five percent);
- b. province with a population of more than 2,000,000 (two million) up to 6,000,000 (six million) people must be supported by at least 5% (five percent);
- c. province with a population of more than 6,000,000 (six million) up to 12,000,000 (twelve million) people should be supported at least 4% (four percent); the and
- d. province with a population of more than 12,000,000 (twelve million) people should be supported at least 3% (three percent).

While the setting for couples candidate Regent and Vice Regent, and to partner candidates for Mayor and Deputy Mayor can register your self as a candidate, as set out as follows:

Pair of independent candidates as referred to in paragraph (1) letter b may enroll as a candidate regent / vice regent or mayor / deputy mayor if qualified support with the following provisions:

- a. districts / cities with a population of up to 250,000 (two hundred and fifty thousand) must be supported by at least 6.5% (six point five percent);
- b. districts / cities with a population of more than 250,000 (two hundred and fifty thousand) to 500,000 (five hundred thousand) people must be supported by at least 5% (five percent);
- c. districts / cities with a population of more than 500,000 (five hundred thousand) to 1,000,000 (one million) people should be supported at least 4% (four percent); the and
- d. districts / cities with a population of more than 1,000,000 (one million) people should be supported at least 3% (three percent). 84

For setting the nomination mechanism Regional Head and Deputy Head of the promoted both political parties and coalitions of political parties and also the pair of individual candidates through Act No. 12 of 2008 is set sufficiently clear and detailed.

Further related to the replacement procedure Regional Head and Deputy Head in his tenure, the setting is conceptually the same as Act No. 32 of 2004. It's just that there is the addition of some substance settings in Act No. 12 of 2008 on the matter. As found in Article 26 paragraph (3), (4) as follows:

1. Deputy Head Head of D aerah to replace the outgoing when Chief D aerah dies, resigns, is dismissed, or not able to perform its obligations during the six (6) months continuously in his tenure.
2. Ts to fill the vacant position of Deputy Chief of D aerah referred to in paragraph (3) which is derived from a political party or coalition of political parties and tenure remaining 18 (del apan twelve) months or more, Head D aerah submit two (2) candidates deputy head of the region based on the proposed political party or coalition of political parties that the couple elected candidates in local elections and the deputy head of the region to be selected by the Plenary Session of Parliament.

As for filling the post of Deputy Head of the region derived from independent candidates and the remaining tenure of 18 (eighteen) months or more, Regional Head megajukan two (2) candidates to be elected by the Regional Head Rapar Parliament plenary. 85

While it is related to the replacement mechanism Deputy Head, in the event of a vacancy of Deputy Regional Head from a political party or coalition of political parties because it dies, resigns, is dismissed, or not able to perform its obligations during the six (6) months continuously in tenure and tenure of the remaining 18 (eighteen) months or more, Regional Head submit two (2) candidates Deputy Head of the proposal by the political party or coalition of political parties whose candidates were elected partner Regional Head and Deputy Head of Region for selected by the Plenary Session of Parliament. 86

Law No. 12 Year 2008 regarding the Second Amendment to Law Number 32 Year 2004 regarding the Blood Also mention about the task of the Deputy Regional Head. Although Act No. 12 of 2008 is a form of refinement Act No. 32 of 2004 on Regional Government and the settings for the task of the Deputy Regional Head is still the same as the previous Act. As mentioned in Article 26 paragraph (1) of Law No. 12 of 2008 which confirms that the Deputy Head has the following tasks:

- a. assist in organizing regional head of local government;
- b. assist in coordinating the activities of regional heads of vertical agencies in the area, following up on reports and / or findings of supervisory control apparatus, implement the empowerment of women and youth, as well as pursuing the development and preservation of cultural and social environment;

- c. monitor and evaluate the implementation of the county and city for the deputy head of the province;
- d. monitor and evaluate governance in the area of the district, village and / or village for the deputy head of the district / city;
- e. provide advice and consideration to the head of the regions in the activities of local governments;
- f. duty and other government obligations given by the officers; the and
- g. duties and authority of the regional head when the head region is absent.

As described in the previous section, if the post of Deputy Head only make arrangements in terms of Deputy Head of the task alone, without setting authority to the Deputy Head, then it will have an impact on the effectiveness of the local government. Given so many and complex tasks and powers assumed by the Regional Head. Although the position of Deputy Head of Regional Head is a maid there should be norms governing authority between the realm of the post.

10. Act No. 23 of 2014 on Local Government

Act No. 23 of 2014 on Regional Pemeintahan is passed in the final days of the presidency of President Susilo Bambang Yudhoyono, on September 30, 2014. This law is a refinement of the Law No. 32 Year 2004 on Regional Government, which can be recognized that the substance of Law No. 32 of 2004 is too much. The setting of the Regional Government, local elections and village authorities, regulated by the law is the Law No. 32 Year 2004 on Regional Government. But from 2014 the setting of Local Government, local elections and village authorities used as separate legislation.

Substantially division of territory in Act No. 23 of 2004 confirms that, the Republic of Indonesia is divided into Provincial and Provincial shall be divided into District and the City. District / City is divided into sub-district, and subdistrict divided into village and / or village. 87 Furthermore, the provisions laid down in Article 3 paragraph (1) confirms that the local provincial and regency / city as referred to in Article 2 paragraph (1) is a regional and individual -masing mempunyai local government. Thus the substance of the article above shows that the division of the territory of Indonesia, in principle, there are three (3) forms of local government that the Provincial government, Local Government District, and Regional Government.

Furthermore associated with the delivery of local government, each region led by Chief Regional Government called Regional Head. Regional Head to the area called the Provincial Governor, to the Regency called the Regent, and to areas of the city called the Mayor. 88 While the rules concerning the Deputy Head, arranged in the following terms:

1. Head area as referred to in Article 59 paragraph (1) may be assisted by a deputy head of the region.
2. The deputy head of the region referred to in paragraph (1) for the region called the deputy governor of the province, to the Regional District called vice regent, and to areas of the cities called the deputy mayor. 89

Thus it is clear that in the implementation of the local government, led by the Head of Regional and assisted by a Deputy Head.

Associated with the mechanism of election of Regional Head and Deputy Head of Law No. 23 of 2004 on Local Government in contrast to existing arrangements in the Law No. 12 Year 2008 regarding the Second Amendment Act No. 32 of 2004 on Regional Government. The local elections in a separate set by Act No. 22 of 2014 concerning the election of Governor, the Regent, and Mayor. Where Act No. 22 of 2014 concerning the election of Governor, the Regent, and Mayor directed organize Regional Head election mechanism indirectly through the Regional Representatives Council.

Originally Act No. 23 of 2014 for the election mechanism Regional Head and Deputy Head of the region is in the hands of Parliament. As stipulated in Article 101 paragraph (1) letter e, explaining that the Provincial Parliament has the duty and authority to elect the Governor. As for the position of Regent and Mayor as the provisions of Article 154 paragraph (1) letter d explaining that the District / City has the duty and authority chose the Regent / Mayor.

Of the provision of Article 101 paragraph (1) letter e and Article 154 paragraph (1) letter d resulted in a wave of rejection from the local community. Returns the function of Parliament to elect Regional Head deemed to have memasung popular sovereignty and democracy to elect Regional Head directly. As a result, the election mechanism Regional Head indirectly through Parliament has gained widespread rejection by the people. Returns the function of Parliament to influence the political and social situations that are not favorable for the central government.

The above conditions Act No. 22 of 2014 concerning the election of Governor, the Regent and the Mayor and also partner Act No. 23 of 2014 on Regional Government, it is not long-lived. Simultaneously on October 2, 2014 the government passed two (2) of Government Regulation in Lieu of Law. Ie Government Regulation in Lieu of Law No. 1 of 2014 concerning the election of Governor, the Regent and the Mayor, and Government Regulation in Lieu of Law No. 2 of 2014 on the Amendment of Act No. 23 of 2014 on Regional Government.

Government Regulation in Lieu of Law No. 1 of 2014 rejected the implementation of Law No. 22 Year 2014 regarding the Election of governors, regents and mayors that regulate the local elections by Parliament, while the Government Regulation in Lieu of Law No. 2 of 2014 on Amendments -Undang No. 23 of 2014 on Regional Government to change the provisions of Act No. 23 of 2014 authorizes the Parliament to elect the head area.

One of the background to, government regulation Nomo 1 2014 as mentioned in section considers the following:

That Act No. 22 of 2014 concerning the election of Governor, the Regent, and Mayor that regulate the local elections indirectly through the House of Representatives has gained widespread rejection by the people and the decision-making process has caused problems and crunch that forced the corresponding Verdict Constitutional Court Number 138 / PUU-VII / 2009; 90

Government Regulation in Lieu of Law No. 1 of 2014 on the Election of governors, regents and mayors change mechanism Regional Head election is done directly by the people. Followed by Government Regulation in Lieu of Law No. 2 of 2014 on the Amendment of Act No. 23 of 2014 on Regional Government, as explained in any part considers that mentions the following:

That with the enactment of Government Regulation in Lieu of Law No. 1 of 2014 concerning the election of Governor, the Regent, and Mayor governing local elections is done directly, it is necessary to amend Act No. 23 of 2014 on Local Government; 91

Government Regulation in Lieu of Law No. 2 of 2014 removes some of the provisions of Act No. 23 of 2014 on Regional Government, the provisions of Article 101 paragraph (1) letter d, and the provisions of Article 154 paragraph (1) letter d. in principle these changes abolish authority in selecting legislators Regional Head. Furthermore, no changes other than these two articles in Law No. 23 Year 2014 on Regional Government. Conceptually direction setting in Government Regulation No. 1 of 2014 on the Election of the Governor, the Regent and the Mayor has been much different with the Act governing the election of Regional Head before. The difference lies in the selection mechanism, namely Regional Head governors, regents and mayors are not elected as a pair of candidates with the deputy head of the region.

Although there are no norms that regulate explicitly, that candidate Regional Head occupied by a candidate for Governor, Regents candidate and candidate for mayor chosen as a single position that is not accompanied by pairs of candidates as his deputy. However, the provisions of Article 37 paragraph (1) and paragraph (2) of Government Regulation substitute Act No. 1 of 2014, as follows:

1. Provincial Election Commission announced the registration period Candidate for Governor of Indonesian citizens who are interested in becoming governor proposed Candidate Political Party, coalition of political parties, or individuals.
2. Regency / City announced registration period Regent and Mayor Candidate for Indonesian citizen who is interested in becoming a Candidate Regent and Mayor Candidate proposed Political Parties, coalition of political parties, or individuals.

From the foregoing shows that the election of Regional Head made to select Regional Head office alone, without being accompanied by his deputy. In addition, the provisions of Chapter VII Registration of Candidates for Governor, Regent Candidate, and Candidate Mayor of Article 39 of Government Regulation No. 1 of 2014 states that:

Selection of participants is:

- a. Candidates for Governor, Regent Candidate and Mayor Candidates proposed by political parties and / or
- b. Independent candidates supported by a number of community

Of the provisions of Article 39 above shows that the proposed Regional Head candidates of political parties and independent candidates from the election participants are not accompanied by the Deputy Regional Head. It is thus clear that the election of governors, regents and mayors elected for a single position only for the post of

Head of the Region without the partner representatives.

Related regarding the position of Deputy Head of Region occupied by the Deputy Governor, Vice Regent and Vice Mayor, the provisions of Article 167 of Government Regulation in Lieu of Law No. 1 of 2014 states that:

1. Governor, Regent, and Mayor assisted by Deputy Governor, Vice Regent and Vice Mayor.
2. Deputy Governor, Vice Regent and Vice Mayor duty to assist the Governor, the Regent, and Mayor in accordance with the provisions of laws - laws concerning local government.

Of the provisions of Article 167 indicates that the office of the Deputy Governor, Vice Regent, and Deputy Mayor as a maid and his position under the Governor, the Regent, and Mayor.

If prior arrangements through the regional office of the Deputy Chief of Law No. 12 Year 2008 regarding the Second Amendment Act No. 32 of 2004 on Regional Government, which stipulates that each Regional Head both governors, regents, and the Mayor was accompanied by the Deputy Head of the selected in one pair of candidates. As the provisions in Article 56 paragraph (1) and paragraph (2) which states that:

1. Head and deputy head of the region selected in the candidates who conducted democratically based on the principles of direct, general, free, confidential, honest, and fair.
2. Pair of candidates referred to in paragraph (1) proposed by a political party, coalition of political parties, or individuals who are supported by a number of people who meet the requirements as set forth in this Act.

Unlike the Government Regulation in Lieu of Law No. 1 of 2014 which confirms that the number of positions Deputy Head of Vice Governor, Vice Regent and Vice Mayor, depending on the conditions of each region both Provincial, District and Regional. As defined in Article 168 of Government Regulation in Lieu of Law No. 1 of 2014 this is:

1. Determination of the number of Vice-Governor of the following provisions apply:
 - a. Province with a population of up to 1,000,000 (one million) people do not have the Deputy Governor;
 - b. Province with a population of over 1,000,000 (one million) people up to 3,000,000 (three million) people have 1 (one) Deputy Governor;
 - c. Province with a population of over 3,000,000 (three million) up to 10,000,000 (ten million) people can have two (2) Deputy Governor;
 - d. Province with a population of 10,000,000 (ten million) may have three (3) Deputy Governor.
2. Determination of the number of Vice Regent / Deputy Mayor following provisions shall apply:
 - a. Regency / City with a population of up to 100,000 (one hundred thousand) people do not have the Vice Regent / Deputy Mayor;
 - b. Regency / City with a population of over 100,000 (one hundred thousand) up to 250,000 (two hundred and fifty thousand) people have 1 (one) Vice Regent / Deputy Mayor;
 - c. Regency / City with a population of over 250,000 (two hundred and fifty thousand) may have two (2) Vice Regent / Deputy Mayor.

Of the provisions of Article 168 above shows that in the regional administration office needs and the amount determined by the Deputy Head of the population of provincial and district / city.

Furthermore, the setting of the charging mechanism Deputy Governor, Vice Regent, and Deputy Mayor subject to the provisions of Article 170 of Government Regulation in Lieu of Law No. 1 of 2014 yang states as follows:

1. Charging Deputy Governor, Vice Regent, and Deputy Mayor implemented no later than 1 (one) month after the inauguration of Governor, the Regent, and Mayor.
2. Term of office of the Deputy Governor, Vice Regent, and Deputy Mayor referred to in paragraph (1) end with the tenure of governors, regents and mayors.
3. Deputy Governor, Vice Regent, and Deputy Mayor referred to in paragraph (1) is derived from the Civil Service or nonpegawai civil.

Regarding the mechanism of nomination candidate for Vice Governor, Vice Regent and Vice Mayor subject to the provisions of Article 171 of Government Regulation in Lieu of Law No. 1 of 2014 which states as follows:

1. Governor, Regent, and Mayor Candidates must propose Deputy Governor, Vice Regent, and Deputy Mayor at the latest within 15 (fifteen) days after the appointment of Governor, the Regent, and Mayor.
2. Deputy Governor appointed by the President based on the proposal of the Governor through the Minister.
3. Vice Regent / Deputy Mayor appointed by the Minister based on the proposal of the Regent / Mayor through the Governor as representative of the Government.
4. Governors, regents and mayors who do not propose Candidate Deputy Governor, Vice Regent, and Deputy Mayor referred to in paragraph (1) be sanctioned in accordance with the provisions of the legislation.
5. Further provisions on procedures for the nomination and appointment of the Deputy Governor, Vice Regent, and Deputy Mayor regulated by Government Regulation.

If you look at the provisions of Article 171 shows that the governors, regents and mayors are elected has the authority to propose candidates for Deputy. For Deputy Governor appointed by the President through the Minister, and to the Vice Regent or Vice Mayor appointed by the Minister by the Governor as representative of the Government.

While the mechanisms associated with the inauguration of the Deputy Regional Head candidates have been appointed as Deputy Head, subject to the provisions of Article 172 which states as follows:

1. Deputy Governor appointed by the Governor.
2. Inaugurated by Vice Regent Regent and Vice Mayor appointed by the Mayor.
3. In the case of the Deputy Governor, Vice Regent, and Deputy Mayor are not sworn in as referred to in paragraph (1) and paragraph (2), the Deputy Governor appointed by the Minister and Deputy Regent / Deputy Mayor appointed by the Governor.
4. In the case of the Vice Regent and Vice Mayor not inducted as referred to in paragraph (3), Vice Regent and Vice Mayor appointed by the Minister.

If you look at the provisions of Article 171 of Government Regulation in Lieu of Law No. 1 of 2014 concerning the election of Governor, the Regent and the Mayor, it is in line with the governing authority governors, regents and mayors as stipulated in the provisions of Law No. 23 Year 2014 regarding Regional Government as amended Government Regulation in Lieu of Law No. 2 of 2014 on the Amendment of Act No. 23 of 2014 on Regional Government. Article 65 paragraph (1) f of Law Number 23 Year 2014 on Regional Government states that the Regional Head has the task of proposing the appointment of the Deputy Regional Head.

Thus it is clear that for charging jawabatan Deputy Head (Deputy Governor, Vice Regent and Vice Mayor) proposed by the Regional Head (Governor, Regent, and Mayor). Filling the position of Regional Head and Deputy Head of no longer using the mechanism chosen in a pair of candidates again.

While the setting of regional heads tasks stipulated in Article 65 of Law No. 23 of 2014 on Local Government which states as follows:

- a. leading the implementation of Government Affairs under the authority of the Regional under the provisions of the legislation and policies established along the legislature;
- b. maintain peace and order in society;
- c. prepare and submit the draft law on RPJPD and laws about RPJMD to Parliament to be discussed with Parliament, and to develop and establish RKPD;
- d. prepare and submit the draft law on the budget, the draft law on changes to the budget, and the draft law on the accountability of the budget to the parliament to be discussed together;
- e. The terrain represented in and out of court, and may appoint legal counsel to represent him in accordance with the provisions of laws and regulations;
- f. propose the appointment of deputy head of the region; the and
- g. perform other duties in accordance with the provisions of the legislation.

In stints head region also has the authority as provided for in Article 65 paragraph (2) which states as follows:

- a. submit drafts;
- b. establish legislation that was approved by the joint Parliament;
- c. set Perkada and decision officers;
- d. take certain actions in urgent circumstances which are needed by the regional and / or community;
- e. carry out other authorities in accordance with the provisions of the legislation.

Setting duties and authority over the heads of the different regions in the setting duties and authority of the Regional Head through Act No. 32 of 2004 on Regional Government. If in Act No. 23 of 2014 to distinguish between the duties and powers set separately, but if the Act No. 32 of 2004 arrangements are arranged in a single unit, which can not distinguish between duty and authority.

Regarding setting Deputy Head, as stipulated in Article 66 paragraph (1) of Law No. 23 of 2014 on Local Government states as follows:

1. Deputy head of the region has the task:
 - b. assist local leaders in:
 1. leading the implementation of Government Affairs under the authority of the Region;
 2. coordinate the activities of the regional and follow up reports and / or findings of supervisory control

- apparatus;
3. monitor and evaluate the implementation of the Regional Government of the Region conducted by the deputy governor of the province; the and
 4. monitor and evaluate governance implemented by districts / cities, villages, and / or village for vice regent / mayor;
 - b. provide advice and consideration to the head region in the implementation of the Regional Government;
 - c. duties and authority of the head when the head of the local area serving prison time or temporarily absent; the and
 - d. perform other duties in accordance with the provisions of the legislation.
 2. In addition to implementing the tasks referred to in paragraph (1) deputy regional head duty and other government obligations given by the head of the region defined by the decision of the head area.
 3. In carrying out the tasks referred to in paragraph (1) and paragraph (2), the deputy head of the region is responsible to the head area.

Further arrangements regarding the obligations of the head and deputy head of the region include:

- a. uphold and practice of Pancasila, implement the Constitution of the Republic of Indonesia Year 1945 and to maintain the integrity of the Republic of Indonesia;
- b. comply with all the provisions of laws and regulations;
- c. develop a democracy;
- d. maintaining ethics and norms in the implementation of Government Affairs under the authority of the Region;
- e. apply the principles of good governance and good;
- f. implement a national strategic program; the and
- g. working relationships with all agencies in the Region Vertical and all of the Region. 92

As for the ban norm setting Regional Head and Deputy Head through Act No. 32 of 2004 on Local Government, Law No. 23 of 2014 on Regional Government also put through the same settings on the prohibition norm for Regional Head and Deputy Head. In the provisions of Article 76 paragraph (1) states that the Regional Head and Deputy Head prohibited:

- a. make decisions that specifically provide personal gain, family, cronies, certain groups, or political groups contrary to the provisions of laws and regulations;
- b. create policies that harm the public interest and disturbing group of people or discriminate against citizens and / or other vulnerable groups in conflict with the provisions of the legislation;
- c. take charge of a company, either private or state / local or any trustee field;
- d. misuse of authority that benefit themselves and / or adverse Regions led;
- e. corruption, collusion, and nepotism as well as receiving money, goods, and / or services of other parties who influence decisions or actions to be taken;
- f. become an advocate or attorney in a case in a court other than those referred to in Article 65 paragraph (1) letter e;
- g. abuse their authority and violated the oath / pledge of office;
- h. doubled as other state officials as stipulated in the provisions of the legislation;
- i. to travel abroad without the permission of the Minister; the and
- j. leaving the task and working area more than seven (7) consecutive days or not consecutive within 1 (one) month without the permission of the Minister for governor and lieutenant governor and without permission for regent and vice regent or mayor and vice-mayor the city.

Although Act No. 23 of 2014 is a refinement of Act No. 32 of 2004, but the setting duties and authority between the Regional Head and Deputy Regional still have the same concept with Law No. 32 Year 2004 on Regional Government, which is not arranged authority to the Deputy Head of the set only on the task of the Deputy Regional Head.

Deputy Head of the task settings are not accompanied by details of the authority necessary to carry out the task. If the Regional Head and Deputy Head have the same responsibility should not only setting the authority granted to the Regional Head of course, but the setting authority to the Deputy Regional Head is an important thing to do meningkat workload as Head of Government Chief Blood quite numerous and complicated.

Regarding the task and Deputy Head as provided in the Conditions of Article 66 of Law No. 23 of 2014 on

Regional Government are an important aspect to note is the position of Deputy Head of Region on prinsipnya is to assist in the execution of the Regional Head of government affairs under the authority of local governments. Deputy Head of the various tasks related to the verb assist, coordinate, monitor and evaluate, and memberian advice, require the authority to implement them. Details of the task for the Deputy Head of the details are not accompanied by the necessary authority to carry out the task. Without a clear division of authority boundaries between Regional Head and Deputy Head of Region, a variety of tasks that will be blurred / fague in implementation and responsibilities.

Although the nomination of the deputy head of the authority of the head of the local area but the division of duties, powers, and obligations between Regional Head and Deputy Head of the conflict-prone region, if not set explicitly and in detail the provisions of the legislation that is strong enough legal position.

E. Conclusion

Reconstruction of the pattern of the relationship between the head region with deputy head of the region, based on the development of the position of deputy head of the regional settings as amended from time to time. Changes in the pattern of the relationship influenced and determined by the pattern of policies established by each regime applicable. The pattern of relationships is vice head of his position as head of the auxiliary area.

While it is currently charging mechanism deputy regional head through one package or pair of candidates with head through direct elections, in practice, when it served as regional head and deputy head of the region often lead to conflict between the two.

Therefore, it is necessary reconstruction of the pattern of the relationship between the head and deputy head of the region in creating the implementation of effective local government affairs (efficient), and efficient (effective). The division of tasks and responsibilities between the Regional Head and Deputy Head of the conflict-prone region, if not set explicitly and in detail the provisions of the legislation that is strong enough legal position. . Without a clear boundary between the division of authority of Regional Head and Deputy Head, various tasks will be blurred / fague in implementation and responsibilities.

BIBLIOGRAPHY

- Abdullah, Rozali. 2005. *Implementation of Autonomous Area With Direct local elections*. Jakarta: PT. King Grafins Perkasa.
- Asshiddiqie, Jimly. 2010. *Constitutional Economics*, Jakarta. Compass.
- BN. Marbun. 2005. *Regional Autonomy 1945-2005 Process and Reality, Development of Regional Autonomy Sejal Dutch Colonial Period until today*, Jakarta: Heritage Sinar Harapan.
- Gadjong, Agussalim Andi. 2004. *Local Government Political and Legal Studies: Analysis of Legislation Local Government and Regional Autonomy Since 1945 up to 2004*. New York: Publisher Ghalia Indonesia.
- Gamers, Bryan A. 1278. *Black's Law Dictionary*, 7th Edition. West Group, ST Paul. Minn.
- Huda, Ni'matul Huda. *Autonomy, Philosophical, Historical Development and Its Problems*. Jakarta: Eagle Press.
- Marzuki, Peter Mahmud. 2005. *Legal Research*, Jakarta: Kencana Prenada Media Group.
- Mashad, Dhurorudin. et., al. 2005. *Conflict Between Local Political Elites In local elections*. Yogyakarta: Student Library.
- Siregar, Bhishma. *Political Law Development*, Jakarta, Prism Magazine.
- Sunaryati Hartono, Platform, Framework, Structure and Content of the National Legal System We, Pre National Law Seminar V, Babinkumnas, Dept, of Justice, Jakarta, 21-22 January 1986.
- Syaukani et.al . 2009. *In the Autonomous Region of the Unitary State*. Yogyakarta: Heritage Students.
- Tanasaldy, Taufiq. 2007. *Ethnic Identity Politics in West Kalimantan in Local Politics in Indonesia* (Jakarta: Yayasan Torch 2007).
- The Liang Gie. 1967. *Growth of Local Government in the Republic of Indonesia, Volume I*. London: Publisher Mount Agung.
- Wahidin, Samson. 2008. *Local Government Law Oversee regional election*. Yogyakarta: Heritage Students.
- Indonesia. Law Commission on the Status of Regulations Concerning the Status of the National Committee of the Regions, Law 1 Year 1945.
- Indonesia. Determination Act Rules Governing Principles mengenai Yourself In Regions Eligible Organize and Mngurus own household, Law 22, 1948.
- Indonesia. Determination Act Basic Rules Regarding Self-Governing Regions At Eligible Organize and manage his own household, Law 22, 1948.
- Indonesia. Law on the Principles of Local Government, Law 1 In 1957, LN. No. 6 In 1957, TLN. No. 1143.
- Indonesia. Determination of Regional Government President, Presidential Edict No. 6 of 1959 on Local

Government.

Indonesia, the Principal Act Local Government, Law 18 In 1965, LN. No. 80 In 1965, TLN. No. 2777.
Indonesia, Law on the Principles of Regional Governance, Law 5 In 1974, LN. No. 38 In 1974, TLN. No. 3037.
Indonesia. Regional Pemeirntahan Act, Act No. 22, 1999, LN. No. 60 In 1999, TLN. No. 60. TLN.
Indonesia. Local Government Act, Act No. 32 In 2004, LN. No. 125 In 2004, TLN. No. 4473.
Indonesia. Law Second Amendment Act No. 32 of 2004 concerning of Regional Government, Law 12 In 2008, LN. No. 59 In 2008, TLN. No. 4844.
Indonesia, Law on Local Government, Law 23, 2014, (LN. No. 244 2014, TLN. No. 5587).
Indonesia. Government Regulation in Lieu of Law Election of governors, regents, and the Mayor, Government Regulation No. 1 In 2014, LN. No. 245 In 2014, TLN. No. 5588.
Indonesia. Government Regulation in Lieu of Law Amendment Act No. 23 of 2014 on Regional Government, LN. No. 246 In 2014, TLN. No. 5589.

FOOTNOTE

1 Yusdianto, op cit.

2 Sutan Zaili Asril, op cit.

3 Peter Mahmud Marzuki, Legal Research , (New York: Kencana Prenada Media Group, 2005), p. 35.

4 Bryan A. Garner, Black's Law Dictionary , 7th Edition, West Group, ST Paul. Minn, 1999, p. 1278.

6 Bhishma Siregar, Political Law Development, Prism Magazine, Jakarta, 1978, p 37

7 Sunaryati Hartono, Platform, Framework, Structure and Content of the National Legal System We, Pre National Law Seminar V, Babinkumnas, Dept, of Justice, Jakarta, 21 to 22 January 1986, p. 3.

8 Ibid .

9 Asshiddiqie, Constitutional Economics, (Compass: Jakarta, 2010), p. 17.

10 Ibid ., p. 19.

11 Ibid., p. 21.

12 Formed under Article IV of the Transitional Provisions of the 1945 Constitution originally berfngsi to assist the president in running the government before the Assembly was formed, the House of Representatives, and DPA. Through Edict No. X on October 6, 1945 NCI entrusted with legislative power and follow the guidelines apply. See Syaokani et.al., Autonomous Region in Unity State (New York: Heritage Student, 2009), p. 60-61.

13 The Liang Gie, Growth of Local Government in the Republic of Indonesia, Volume I, (Jakarta: Great Mountain Publishers, 1967), p. 55.

14 Indonesia, Law Commission on the Status of Regulations Concerning the Status of the National Committee of the Regions, Law 1 In 1945, Ps. 1.

15 Ibid., Ps. 2 and Ps. 3.

16 Ibid ., See Section 4 and explanation.

17 Agussalim Andi Gadjong, Local Government Political and Legal Studies: Analysis of Legislation Local Government and Regional Autonomy Since 1945 up to 2004 (New York: Publisher Ghalia Indonesia. 2007) , p. 144.

18 Syaokani, et al, op.cit ., p. 65.

19 Agussalim Andi Gadjong, op.cit., p. 144.

20 Indonesia, Law Determination Rules mengenai Basic Self-Governing Regions At Eligible Organize and Mngurus own household, Law 22 In 1948, the letter 1.

21 The Liang Gie, op.cit., p. 144

22 The Liang Gie, op.cit., p. 113.

23 Indonesia, Law Determination of the Basic Rules Regarding Self-Governing Regions At Eligible Organize and manage his own household, Law 22 In 1948, Ps. 18.

24 Ibid ., Ps. 36.

25 Ibid., Explanation, 25 letters.

26 BN. Marbun, 1945-2005 Regional Autonomy Process and Reality, Development of Regional Autonomy Sejal Dutch Colonial Period until today, (New York: Heritage Rays of Hope, 2005), p. 62

27 Samson Wahidin, Local Government Law Oversee regional election, (New York: Heritage Student, 2008), p. 93.

28 Indonesia, Law on the Principles of Local Government, Law 1 In 1957, LN. No. 6 In 1957, TLN. No. 1143, Ps. 2.

29 Ibid ., Ps. 6.

30 Ibid., Explanation Ad. 3.

31 Ibid ., Ps. 27.

32 Indonesia, Presidential Decree Local Government, Presidential Edict No. 6 of 1959 on Local Government, Part weigh letter a.

- 33 Agussalim Andi Gadjong, op.cit., p. 150.
- 34 Ibid ., 150-151.
- 35 Ibid ., p. 151.
- 36 Ibid ., Ps. 4.
- 37 Agussalim Andi Gandjong, op.cit., p. 152.
- 38 BN. Marbun., Op.cit., P. 79.
- 39 Indonesian, Basic Law Local Government, Law 18 In 1965, LN. No. 80 In 1965, TLN. No. 2777, Section weigh letter a.
- 40 Ibid ., Explanation of Figures II of Form and Structure of Local Government.
- 41 Ibid ., Ps. 2.
- 42 Ibid ., Ps. 11
- 43 Ibid ., Ps. 16.
- 44 BN. Marbun, op.cit., P. 89.
- 45 Indonesia, Law on the Principles of Regional Governance, Law 5 In 1974, LN. No. 38 In 1974, TLN. No. 3037. Ps. 15.
- 46 Ibid., Ps. 16.
- 47 Ni'matul Huda, *Autonomy, Philosophical, Historical Development and Its Problems*, (New York: Eagle Press, 2009), p. 126.
- 48 Ibid.
- 49 Taufiq Tanasaldy, *Ethnic Identity Politics in West Kalimantan in Local Politics in Indonesia* (Jakarta: Yayasan Torch, 2007), p. 478.
- 50 Ibid ., p 468.
- 51 Ibid., p. 468.
- 52 Ibid.
- 53 Ni'matul Huda, op.cit., p. 137.
- 54 Rozali Abdullah, *Autonomy Size With local elections Direct*, (Jakarta: PT. King Grafinsu Perkasa, 2005), hlm.1.
- 55 Indonesia, *Regional Pemeirntahan Act*, Act No. 22, 1999, (LN. No. 60 of 1999, TLN. No., Part weigh c.
- 56 Rozali Abdullah, *Autonomy area with local elections Direct*, (Jakarta: PT. King Grafindo Perkasa, 2005), p. 1.
- 57 Indonesia, *Law on Local Government*, Ibid ., Ps. 2 paragraph 1.
- 58 Ibid., Ps. 4 paragraph 1.
- 59 Ibid., Ps. 7 paragraph (1) and paragraph (2).
- 60 Ibid., Ps. 13.
- 61 Ibid., See Ps. 18 paragraph (1) letter a and c.
- 62 Ibid ., Ps. 19 paragraph (1)
- 63 Ibid ., Ps. 30.
- 64 Ibid., See Ps. 31 paragraph (1), paragraph (2) and (3)
- 65 Ibid ., Explanation of Ps. 34 paragraph (1).
- 66 Ibid., Ps. 40 paragraph (1).
- 67 Ibid., Ps. 41 paragraph (2) and paragraph (3).
- 68 Ibid., Article 42 paragraph (1), jo. Article 56 paragraph (2)
- 69 Ibid ., Ps. 55 paragraph (6).
- 70 Ibid., Ps. 44 paragraph (!).
- 71 Ibid ., Ps. 44 paragraph (2)
- 72 Ibid ., Ps. 57 paragraph (2).
- 73 Dhurorudin Mashad, et., al., *Conflict Between Local Political Elites In local elections*, (New York: Student Library, 2005), hlm.7.
- 74 Indonesia, *Law on Local Government*, Law 32 of 2004, (LN. No. 125 of 2004, TLN. No. 4473), See Ps. 24.
- 75 Ibid., Explanation letter 4 paragraph 2.
- 76 Ibid.
- 77 Ibid., See Ps. 65.
- 78 Ibid., See Ps. 107 paragraph (1) and paragraph (2).
- 79 Ibid ., Ps. 109 paragraph (1) and paragraph (2).
- 80 Ibid., See Ps. 111.
- 81 Ibid ., Ps. 110 paragraph 3.
- 82 Ibid., Ps. 27 paragraph (1).
- 83 Ibid., Ps. 27 paragraph (2).
- 84 Indonesia, *Law Second Amendment Act No. 32 of 2004 concerning of Regional Government*, Law 12 of

2008, (LN. No. 59 of 2008, TLN. No. 4844), Ps. 59 paragraph (2b).

85 Ibid., Ps. 26 paragraph (5)

86 Ibid., paragraph (6)

87 Indonesia, Law on Local Government, Law 23, 2014, (LN. No. 244 2014, TLN. No. 5587), Ps. 2.

88 Ibid., see Ps. 59 paragraph (1) and paragraph (2).

89 Ibid., Ps. 63.

90 Indonesia, Government Regulation in Lieu of Law Election of governors, regents, and the Mayor, Government Regulation No. 1 In 2014, (LN. No. 245 2014, TLN. No. 5588), Part Considering the letter c.

91 Indonesia, Government Regulation in Lieu of Law Amendment Act No. 23 of 2014 on Regional Government, (LN. No. 246 2014, TLN. No. 5589), Part Considering the letter a.

92 Ibid ., Ps. 67.

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