



Regional Heads' Legitimacy in Implementing the Regional Government Based on Democratic Principles

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ABSTRACT

The concept of regional autonomy is explicitly regulated in Article 18 of the 1945 Constitution and several related laws and regulations which essentially provide authority and flexibility for provincial, district and city governments to regulate and manage their own government affairs according to the principles of autonomy and assignment tasks including the implementation of regional head elections carried out democratically. In the implementation of regional government, elected regional heads must also be able to realize the principles of democracy and must be able to run effective and responsive regional government to the needs of the community, must not deviate from moral norms and deviate from democratic principles. The problem in this study is How is the Legitimacy of Regional Heads in the Implementation of Regional Government in Accordance with the Principles of Democracy. This study uses an normative legal method, namely in addition to reviewing data through literature, it also reviews data on events that actually occur through observation activities and so on. The purpose of this study is to analyze legislation and examine cases that have occurred in Indonesia regarding the legitimacy of regional heads in the implementation of regional government in accordance with democratic principles. The conclusion of this study is that based on the analysis of several laws regarding regional heads in the implementation of regional government and based on the analysis of cases of regional heads in leading regional government, they are not yet legitimate and are not in accordance with the principles of democracy.

Keywords: Legitimacy of regional heads, regional government, principles of democracy

1. Introduction

The Government System in Indonesia adopts a system of separation of powers and a system of division of powers. In the division of powers carried out vertically, it has implications for the formation of the central government and regional governments. The central government in organizing its government hands over part of its authority through decentralization to the regional government. This is regulated in article 18 of the 1945 Constitution, where the central government gives the widest possible authority to the regions to be able to organize their own government, including organizing regional head elections (Bakri, Jeddawi, Utami, & Husain, 2024).

Further regulations on regional government are regulated in detail in Law No. 23 of 2014 concerning regional government and several laws and regulations relating to regional heads such as Law No. 10 of 2016 concerning the Second Amendment to Law No. 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law No. 1 of 2014 concerning the Election of Governors, Regents, and Mayors, Law No. 2 of 2008 concerning Political Parties, Law No. 7 of 2017 concerning General Elections and Law No. 12 of 2011 concerning the Formation of Legislation.

From several laws and regulations above, it regulates regional heads who have the authority to lead regions and have great responsibility and role in leading the implementation of regional government. One of the laws that explicitly and implicitly regulates legitimacy is Law Number 23 of 2014 concerning Regional Government.

According to Article 61 Paragraph 2 concerning the regional head's oath which reads "The regional head will do his best and be fairest, uphold the 1945 Constitution of the Republic of Indonesia, and carry out all the laws

and regulations as straight as possible and dutifully to the community, Nusa and Nation" if we examine this clause in relation to it with Religious Legitimacy, which is one type of legitimacy in which the regional head swears an oath/promise in the name of Allah/God as a form of religious belief that every human being has. The Regional Head can be said to be religiously legitimate if in leading the regional government he implements the regional head's oath of promise that has been stated in one of the laws relating to the regional head such as Law Number 23 of 2014 concerning Regional Government.

The legitimacy of regional heads elected through a direct mechanism by the people has realized the constitutional mandate, because before 2005, regional heads and deputy regional heads were elected by the Regional People's Representative Council (DPRD). Since the enactment of Law Number 32 of 2004 in conjunction with Law Number 23 of 2014 concerning Regional Government, regional heads are elected directly by the people through the Election of Regional Heads and Deputy Regional Heads or abbreviated as Pilkada (Pardede, 2018). Thus, regional heads who have been elected based on the majority of people's votes, in addition to having normative legal legitimacy, must also have other legitimacy such as ethical, sociological and moral legitimacy.

Moral legitimacy is a very important factor for regional heads because a government can run well not enough if it only gets political and normative legal legitimacy in accordance with the constitution, a leader must have good morals, both to the people and to his position. If a leader does not have good morals, he will not be respected, respected and trusted by the people. Therefore, a leader must be able to protect, have a sense of honesty and openness and maintain the mandate.

To realize a democratic state of law, the highest power in a country is in the hands of the people. The highest power in the hands of the people is limited by the agreements they determine together, which are stated in legal regulations that culminate in the formulation of the constitution. as the highest product of agreement from all the people (Pigome, 2011). One of the key elements in running an effective and fair regional government is through democratic regional head elections. The law governing regional head elections in Indonesia is based on democratic principles to maintain the legitimacy of regional heads in organizing regional government.

But the reality is that elected leaders often commit corruption. Many elected regional heads are merely implementing the APBD while looking for opportunities to commit corruption. It is not surprising that many of them are involved in corruption and go to prison. During the period 2003-2016, it was recorded that 18 governors and 343 regents/mayors (61% of 514 regional heads) were caught in corruption cases (Pardede, 2018).

With the implementation of decentralization in regional autonomy, there has also been a decentralization of corruption, this can be seen for example when the Corruption Eradication Commission (KPK) noted that from the beginning of the year of regional autonomy until 2015 there were 64 corruption cases involving 51 regional heads (Pardede, 2018; Tenola, 2022).

Based on the description above, the author is interested in conducting research entitled "Legitimacy of Regional Heads in the Implementation of Regional Government in Accordance with Democratic Principles".

2. Literature Review

The legal basis for the implementation of regional government is regulated in Article 18 paragraph (1) of the 1945 Constitution, which states that the Unitary State of the Republic of Indonesia is divided into provincial regions and these provincial regions are divided into districts and cities, each of which has a regional government, which is regulated by law (Fartini, 2022).

In managing regional government affairs given by the central government based on the mandate of article 18, it creates the establishment of a regional government that regulates and manages itself and there is the provision of autonomy in order to improve services to the community in line with the capacity and uniqueness of each region. This provides freedom for regions that are entrusted with autonomy. (Astomo, 2014).

In the 1945 Constitution we uphold the supremacy of the constitution where the government in running its government is based on the constitution, and not based on absolute power. So that our government does not uphold authoritarian power. To realize a government system that upholds the principles of constitutional democracy or is based on the constitution, This system better than other systems because democracy prioritizes protection of human rights (Sugini, 2019).

Hendry B. Mayo views democracy as a political system which is a democratic political system, namely a general policy system which is determined on the basis of the majority of the people who are voiced by their representatives in systematic elections which are based on the principle of political equality and are held in a tested political freedom (Thohari, 2005).

Legitimacy is a term derived from Latin, namely "Lex" which means law. The word legitimacy is identical to the emergence of words such as legality, legal and legitimate, so in simple terms, legitimacy is the conformity of an action, formal legal act, ethical, customary or social law that has long been created legally. This legitimacy is considered important for government leaders because government leaders of every political system seeks to obtain or maintain it.

According to Andrain in Ramlan Subakti, based on the principle of public recognition and support for the government, legitimacy is grouped into five types, namely:

- a. Traditional legitimacy: society gives recognition and support to the government because the government leader is a descendant of blue blood who is believed to lead society.
- b. Ideological legitimacy: society gives recognition and support to the government because the government leader is considered to be the interpreter and implementer of the state ideology.
- c. Procedural legitimacy: society gives recognition and support to the government because the government leader has authority according to procedures in accordance with statutory regulations.
- d. Instrumental legitimacy: society gives recognition and support to the government because the government leader promises or guarantees material or instrumental welfare to the community (Fauzan, Ripdia, & Zahra, 2021).

There are several other types of legitimacy, including:

- a. Moral legitimacy is the legitimacy of a state that comes from the good and bad behavior of a person. Political legitimacy must also be balanced with moral legitimacy to strengthen the running of government, because if the leader of the state only understands politics but does not have morals, he will be removed from his position. Like H. M. Soeharto won the election and was politically entitled to lead the country as head country, but morally he did not get support. Because of the moral flaw, namely corruption that was carried out within the family, students held a demonstration to remove him from his position. So, a leader who does not have moral legitimacy is very dangerous (Dunggio & Johan, 2019).
- b. Constitutional legitimacy is legitimacy that is derived from laws. So that the candidate for state leader must comply with and fulfill the requirements as a candidate for state leader based on the applicable laws. So, constitutional legitimacy is mandated as a written regulation. The constitutional dimension cannot be avoided, namely it must be carried out and must be balanced with moral legitimacy. Like HM Soeharto has the right to be a candidate for state leader because he meets the requirements and regulations in the law as a candidate for state leader. But because his morals are not good, he must resign or can be removed. (Fauziah, 2019).

Legitimacy in a democratic system and regional autonomy framework can only be realized if the elected regional head carries out his/her obligations in accordance with the mandate of Law No. 23 of 2014. The obligations of the Regional Head and Deputy Regional Head are:

1. Practicing Pancasila, obeying and implementing the 1945 Constitution of the Republic of Indonesia and maintaining and preserving the integrity of the Republic of Indonesia;
2. Comply with all provisions and regulations contained in the legislation;
3. Developing or growing democratic life;
4. Maintain ethics & norms in the implementation of various government affairs which are the authority of the Region;

In addition, in order to realize regional autonomy in Article 18 of the 1945 UUDNRI, the regional government led by the regional head must be able to provide services to the community, empower and realize the welfare of the people, improve the quality of public services; improve the quality of governance; increase national competitiveness and regional competitiveness; and maintain the uniqueness of local customs, traditions, and culture (Dunggio & Johan, 2019).

In the phenomenon that occurs in Indonesia, regional heads elected based on the democratic process cannot realize their legitimacy, where many regional heads stumble over corruption problems, abuse of authority or other cases. So the author wants to analyze normatively first in various laws and regulations regarding the legitimacy of regional heads.

3. Research Method

Method is a component of procedure, in order to carry out something, the definition of research is an

activity to formulate, record, analyze, search and compile reports. The research method that the author intends to use is to use a juridical-normative (doctrinal) approach which is carried out by examining secondary data as initial data, then examining primary data in the field or examining real implementation (Irianto & Shidarta, 2009).

In writing this research, the following methods were used in various elements:

1. Research Approach

The research approach uses a normative or doctrinal approach. Because the concept of law as a written norm, which is formed and enacted by officials or institutions that have authority. Law is seen as an autonomous institution, free from various other agencies regarding the legitimacy of regional heads in organizing regional government in accordance with democratic principles (Efendi & Ibrahim, 2018). The research approach method is a normative juridical research method, which uses a doctrinal approach, the approach is by using laws and regulations. Where the research source is sourced from secondary data collected by study legal materials and studies with literature. The analysis uses systematic and grammatical interpretation

2. Types of research

The type of research used by the author is descriptive, the purpose of this research is to have a detailed objective regarding the legitimacy of regional heads in organizing regional government in accordance with the principles of democracy (Djulaeka & Rahayu, 2020).

3. Data source

a. Secondary Data

Secondary data was obtained from literature studies, which used legal materials consisting of:

1) Primary Legal Materials

It is legal material that originates from normative statutory regulations, namely (Bachtiar, 2021):

- a) Law No. 23 of 2014 concerning Regional Government
- b) Law No. 30 of 2014 concerning Government Administration
- c) Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors,
- d) Law Number 2 of 2008 concerning Political Parties,
- e) Law Number 7 of 2017 concerning General Elections
- f) Law Number 12 of 2011 concerning the Formation of Legislation.

2) Secondary Legal Materials

It is legal material that clarifies primary legal material, for example the opinions of legal experts or research results, consisting of:

- a) book,
- b) journal and
- c) other literature related to this research (Bachtiar, 2021).

3) Tertiary Legal Materials

It is a legal material to clarify primary and secondary legal materials (Bachtiar, 2021).

4. Data collection: Literature Study

Literature study is a research conducted to obtain other secondary data, namely by reading and then reviewing matters relating to this research. The method of collecting legal materials is carried out through literature study. Library materials consist of journals, books, literature/readings that support This research is related to the legitimacy of regional heads in organizing regional government in accordance with democratic principles.

5. Data analysis

Data analysis uses qualitative methods, namely data is processed into sentences or in the form of words. Qualitative data is analyzed through deductive thinking, meaning thinking that is based on general things, then specifically conclusions are drawn that relate to the legitimacy of regional heads (Tarigan & Hasibuan, 2019).

4. Results and Discussion

Interpretation of Law Number 23 of 2014 concerning Regional Government, Article 61 Paragraph (1) and (2): Regional leaders are sworn in by the party being inaugurated by accepting a pledge or oath before taking office.

Then further in paragraph (2): "By Allah, I swear/promise to carry out my duties as regional head legally and fairly, to preserve the 1945 Constitution, to respect all laws with integrity, and to serve the community, state, and nation."

The above criteria explain the conclusion regarding Religious Legitimacy, which is a type of legitimacy in which the regional head swears an oath/promise in the name of Allah/God as a form of religious belief that every human being has. Religious legitimacy is defined as legitimacy related to religion accompanied by a way of combining religious support. That according to article 61 paragraph (1) and (2) concerning Regional Government in Law No. 23 of 2014, it can be concluded that the regional head when leading is obliged to act fairly, uphold and implement all laws and regulations properly when organizing regional government, accompanied by dedication to the surrounding community and the state so that it can be said that the regional head is legitimate.

According to Law Number 23 of 2014 Article 67 letter (a) and letter b concerning Regional Government, regional heads and representatives have the following obligations: letter (a) relates to obeying and implementing Pancasila; letter (b) relates to obeying the provisions of laws and regulations as a whole; and both relate to maintaining the existence and integrity of the Indonesian state (Rusli, 2023).

This is related to one type of constitutional legitimacy where the obligation to uphold and practice Pancasila and the 1945 Constitution is owned by the regional head in order to run the regional government based on existing laws and regulations that have been regulated. Constitutional legitimacy is interpreted as legitimacy based on law. This gives rise to demands to be obeyed and fulfilled as a requirement for prospective state leaders in accordance with the applicable law.

The conclusion that can be drawn from Law Number 23 of 2014 Article 67 letters (a) and (b) is that leading the implementation of government by the regional head is said to be legitimate if it is in accordance with the state foundation plus the 1945 Constitution when running regional government, maintaining the existence and protecting the integrity of the Republic of Indonesia, and not deviating from all the criteria stated in the laws and regulations.

Government officials are obliged to make decisions and/or treatments in accordance with their authority and comply with the AUPB and the compliance with existing laws and regulations determined, this is an explanation of Law Number 30 of 2014 concerning Regional Administration, Article 7 paragraph (2) letters (a) and (b). Also stated in Article 8 paragraph (3) which explains the prohibition on misuse of the authority of government administration officials from stipulating and/or creating decisions and/or actions (Akili & Achmad, 2023).

This is related to one type of Legitimacy procedure due to the obligation to determine criteria and/or movements of regional heads in exercising their authority. This is based on legislation according to procedures and prohibitions on abuse of authority in determining and/or treating criteria and/or movements. Recognition and support for the government by the community is based on the authority of the procedure with the conformity of laws and regulations by government leaders called procedural legitimacy.

Law Number 30 of 2014 Article 7 paragraph (2) letters (a) and (b) can be concluded that leading the implementation of regional government so that it is legitimate, namely by not applying arbitrarily in the preparation of Decisions and/or Actions accompanied by compliance with the AUPB and criteria appropriate statutory regulations (Fatimah, Haryanto, & Retnandari, 2024).

Explanation of Article 7 of Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors letter (g), which explains the obligation to fulfill the requirements of Indonesian Citizens in the nomination of Governors, Regents, and Mayors is free from the imposition of imprisonment based on a court decision with the determination of the legal force it has due to deviations that have been committed with a threat of 5 (five) years or more imprisonment.

The above explanation is one type of Constitutional Legitimacy because one of the requirements states that regional head candidates can run if they do not have a history of being a convict or a criminal, which is a despicable act based on the provisions of applicable laws and regulations. Constitutional legitimacy is interpreted as legitimacy that is born into law. Prospective state leaders should be important to obey and meet the requirements based on applicable laws (Kurhayadi, 2023).

Article 7 of Law Number 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors letter (g) can be concluded that constitutionally, the leadership of the implementation of government by the regional head can be said to be legitimate if it meets the requirements stated in the article above, where the regional head can run as a candidate if he does not have a history of being a convict or a criminal.

In accordance with Article 56 paragraph (1) and paragraph (2) of the Republic of Indonesia Law Number 12 of 2008 concerning the Second Amendment to Law Number 32 of 2004 concerning Regional Government, (1) The

regional head and deputy regional head are elected through a democratic process that prioritizes the principles of equality, openness, transparency, honesty and justice. (2) The two candidates as referred to in paragraph one (1) may be nominated by a political party, a coalition of political parties or an individual supported by several people who fulfill the requirements specified in this Law.

According to Law Number 2 of 2008, Article 1 Paragraph 1 calls for the formation of a national organization consisting of Indonesian citizens who voluntarily fight and defend the political needs of members of the organization, society, nation and state, and uphold the integrity of the Republic of Indonesia (NKRI) in accordance with Pancasila and the 1945 Constitution of the Republic of Indonesia.

Law of the Republic of Indonesia Number 12 of 2008 concerning the Second Amendment to Law Number 32 of 2004 concerning Regional Government concludes that democratic general elections must be used to elect regional leaders in a transparent, honest, fair, open, and confidential manner. Article 56 states this in paragraphs (1) and (2). Local leaders who run for office on behalf of a political party, a coalition of political parties, or well-supported individuals must obey the law. In addition, Article 1 paragraph (1) of Law Number 2 of 2008 concerning Political Parties states that regional heads of political parties may only hold office if they have been authorized and authorized by law. And in Law Number 2 of 2008 concerning Political Parties in Article 1 paragraph (1) so that it is legitimate if the regional head is supported by a political party, it has been regulated and authorized in legal regulations (Haruni, 2022).

According to Law Number 7 of 2017 concerning General Elections, Article 182 letter (k) stipulates that a person must "resign as a member of the Indonesian National Police, member of the Indonesian National Army, member of the board of directors, commissioner, supervisory board, and employee of a state-owned enterprise and/or regional government-owned enterprise and/or village-owned enterprise, or 'other entity whose budget is sourced from state finances, stated in a letter of resignation that cannot be revoked."

This can be associated with constitutional legitimacy because in the implementation of elections, election candidates are required to follow and fulfill the requirements for implementation based on applicable laws. Constitutional legitimacy is the validity granted by the constitution based on law. To be eligible to run for state leadership, potential leaders must comply with relevant laws (Suparto, 2021).

That according to Law Number 7 of 2017 concerning General Elections in Article 182 letter (k) it can be concluded that the regional head in leading the implementation of regional government constitutionally can be said to be legitimate if he meets the requirements stated in the article above, where the regional head can nominate himself if he resigns from his position as regional head. And if the regional head nominates himself but is still serving as regional head, then this is not legitimate.

Referring to Law Number 12 of 2011 concerning the Formation of Legislation in Article 1 paragraph (2) that "Legislation is a written regulation containing general legal norms and is made or determined by state officials or institutions that have the authority to follow the process outlined in the Legislation.

Based on the article above, the conclusion is that it is included in the category of procedural legitimacy because its authority in forming laws and regulations is based on procedures in accordance with the rules of the law. Public recognition and support for the government comes from procedural legitimacy, which is based on government leaders who exercise authority in accordance with the rules and regulations set.

That according to Article 1 paragraph (2) of Law Number 12 of 2011 concerning the Formation of Legislation, it can be concluded that regional leaders in leading the running of regional government if they exercise authority in accordance with the law, make policies based on the law, and carry out duties based on the law so that it can be said that the regional head is legitimate.

The existence of decentralization or often known as regional autonomy in Indonesia after the reform era. Regions that have been given authority to manage and regulate their own regions without having to have orders from the center. In order to manage and control the interests of local residents through their own policies based on the goals of the people and then in accordance with laws and regulations, regional autonomy is a type of autonomous regional authority (Widjaja, 2004).

There are two configurations for people exercising state power: centralized and decentralized. Dispersion of state power leads to decentralization. Centralization results from concentration of state power, and vice versa. Significant reversals of centralism often occur in the formation of various administrations, due to various factors (Absori, 2016).

Direct regional elections are an effort to implement a democratic government in a regional government structure that was previously centralized but is now decentralized. It is implied that the centers of power are losing ground to the regions in terms of power dynamics. Negative perceptions are created from the direct election of

regional leaders, in this case mayors, regents and governors. This is especially true given the ruling political party's constant emphasis on bureaucracy and civil servants (PNS). When elections are held, practical politics inevitably results in bureaucratic transfers. The only method to increase the legitimacy of authority is to see how many of its residents participate in the election of regional heads of state. North Halmahera Regency, which has just overcome the momentum of the 2020 Simultaneous Pilkada Volume III and the 2019 Pilkada, is one of the places used as an analytical knife to complete this study (Hadiz, 2004).

In enforcing election law, compliance with all regulations is essential. A strong election enforcement system is built on a number of principles. The workings and effectiveness of legal resolutions, regulations governing penalties for election violations, comprehensive and adequate regulations to safeguard voting rights, the ability of candidates to file complaints with election management bodies or other judicial bodies, decisions made promptly to prevent voting rights from being revoked, the right to legal remedies, deadlines for dealing with violations, clear consequences for those who violate the provisions and results of the general election, and the availability of a method of handling that upholds human rights.

Law Number 7 of 2017, which regulates general elections, serves as the main legal basis for handling general election violations (hence referred to as the Election Law). According to Article 455 paragraph (1) and Article 476, election violations include violations of the code of ethics, administrative violations, election crimes, and other laws and regulations.

Significant progress in the authority of the Election Supervisory Body (*Bawaslu*) to enforce the Election Law is seen in Law 7 of 2017 concerning General Elections (Election Law). Apart from election violations, the most obvious and powerful power is to take firm action against and eliminate administrative violations. *Bawaslu* has the authority to regulate administrative violations down to the district or city level. Recommendations made based on the old law concluded that certain activities constitute violations. Decisions serves as a conclusion at this time. *Bawaslu*, district/city, has the authority to make final decisions. *Bawaslu* has the power to disqualify candidates for office who are involved in money politics (Winengan, 2018).

Election participants, campaigners, and/or campaign teams are not allowed to make promises, give, or receive money or other materials in an effort to influence voters or election implementers, according to Article 286 paragraph (1) of the Election Law. Legislative and presidential candidates who are proven to have violated the rules may face administrative sanctions or be disqualified from running as regional leaders.

Each region is required to hold elections for regional leaders and deputy regional leaders (Pilkada) through the KPUD (Regional General Election Commission). The purpose of this election is so that people living in the organizing region can directly elect regional leaders and deputy regional leaders. Nothing is more important. This is mandated by Law Number 32 of 2004 Article 24 Paragraph 5 concerning Regional Government (Pardede, 2018).

Law Number 32 of 2004 covering Regional Government has many articles added and changed according to the revised Law Number 32 of 2004, including regulations related to the general election of regional leaders and deputy regional leaders. In line with the 1945 Constitution Article 18 Paragraph 4, the regulation has been amended and expanded to allow for the election of regional leaders and deputy regional leaders who are elected democratically. The 1945 Constitution Article 18 Paragraph 4 states that regional leaders are elected democratically. Then in accordance with Law Number 32 of 2004, regional leaders and deputy regional leaders are elected directly by the community and nominated by political parties or their coalitions.

Due to their previous moral, intellectual and community service records, the people in the host regions should move quickly to organize direct elections for regional leaders and deputy leaders. Thus, those who have been selected will seriously carry out the selection process from below. But considering that many people do not know enough about the prospective regional leaders and deputy leaders including the reputation of the candidates, whether they are upright and morally competent or not, it seems that this noble idea is difficult to implement.

The elements of the state, namely the judiciary, executive, legislative, and military as well as from the private sector such as business, entrepreneurs, banking, and cooperatives as well as civil society (NGOs, universities, mass media, provincial communities, and mass media) have the capacity to control, balance, and supervise each other. Government power is limited when central and regional government agencies (superstructure and infrastructure) operate according to the rule of law. Government operations must also be transparent, accountable to the policies implemented and the allocation of funds, and subject to the supervision of the DPR (Winarni, Fatchan, & Arofah, 2023).

Decentralization gives regions high authority to manage and regulate the needs of local communities according to their own initiatives based on the wishes of the community. If adequate financial management authority is not also given so that local government governance is according to regional resources and capabilities, then the

implications of granting broad authority will be-. The growth of regional revenue sharing, which mainly comes from Land and Building Tax (PBB) revenue in Law No. 12/1985, is specifically regulated by Law No. 25/1999. Then in Law No. 21/1997 concerning Obligations for land and building rights. Income generated locally from oil mining, natural resources, logging, fisheries, and other resources.

Constitutional Court (MK) Decision No. 138/PUU-VII/2009 explained that the *Perppu* is the subjectivity of the President, whose political objectivity is evaluated by the DPR when the *Perppu* submission is approved, in accordance with the provisions of Article 22 of the 1945 Constitution. The President stated that the issue of these two *Perppu* is based on the greater public desire, which prioritizes the continuation of direct regional elections in Indonesia. The *Perppu* also eliminates the regulation on gubernatorial elections regulated in Law Number 22 of 2014. Following the decision to hold direct regional elections, the second *Perppu* was released to address legal ambiguity in the community. This *Perppu* is related to Law No. 23 of 2014 concerning Regional Government, with the DPRD's authority to hold regional head elections being eliminated (Alsyaam, 2023).

Improving legal certainty, legal awareness, legal protection, legal services and law enforcement with the core values of truth and justice as an effort to organize an orderly and more orderly state, smoother implementation of national development, is an example of legal reform for legal development by considering the plurality of the legal order that is still running. The objectives of legal development include the development and implementation of a stable National Legal System based on Pancasila and the 1945 Constitution, as well as the stability of legal power.

Indonesian legitimacy compared to other countries' democracy is a unique where the system in Indonesia is a pure presidential system (without being accompanied by a Prime Minister like Syria) which is directly elected by the people and the parliament is also elected by the people. Both had equal legitimacy. Compared to the United States, Indonesia implements direct democracy in which carried more legitimacy, in the United States the people elect representatives (not parliament) who are put forward by parties (democrats and republicans) and representatives who elect the president, its could resulted president elect maybe not gain majority voters. The legitimacy in Indonesia is prone to misuse because the president has police officers and prosecutors under his direct command which is something that rarely happens considering that generally the police and prosecutors are under the judiciary. This condition is a potentially harm the legitimacy.

In terms of regional heads, the position of regional heads in Indonesia is considered strong because the DPRD cannot dismiss them because they are both elected by the people. Dismissal of regional heads can only be done by higher officials (i.e. dismissal of regents and mayors by the governor and dismissal of governors by the Minister of Home Affairs), only if the regional heads commit criminal acts (such as corruption or drugs) or are sick which causes permanent disabilities. Regional heads cannot be dismissed easily even if they are incompetent.

In an effort to support the realization of a national legal system, planning is needed for the creation of studies, materials, research, preparation of academic papers, analysis, and evaluation of all matters relating to law. Legal documentation and provision of information, as well as the development of legal awareness, are also needed. The legal industry needs to grow to increase the resilience of the state. Efforts to develop law are based on the sociological understanding of normative law, which sees law as including complex norms and principles that guide human relations in society in addition to the institutions and processes needed to create law. This theory argues that the purpose of law in society is to build certainty and order, both of which are important for promoting national unity and act as a means to achieve modernization and comprehensive development. In Indonesia, representing the implementation of local level democracy regarding direct elections in determining regional heads and their deputies by the local people,

To increase the legitimacy of regional heads, it is necessary to regulate so that the nuclear family (children, wife) are not allowed to run in the same region (allowed to other regions) so that incumbent officials do not abuse their power in forming a dynasty. The existing legitimacy problem is that officials or regional heads who serve often use their power to win their families if they run in the same region. Sovereignty lies in the hands of the people as the essence of democracy but this incumbent could misuse their power to curb the democracy for their families.

The term democracy comes from the word "demos" which means people, and "kratos" is precisely Greek in etymological terms with the meaning of power or authority. The meaning of democracy emerged, namely government by the people. The implementation of a free election system with the people as the holder of the highest power and carried out by them or the elected party directly. Democracy is said to be the best system in the political system and state administration which is estimated to be undeniable. The treasury of ideas and pre-political reforms in countries has reached a meeting point regarding the best choice of many other choices that fall on democracy (Sugini, 2019).

Democracy is defined by WA Bonger as a form of government that governs itself based on a unity of life. The majority of members take part simultaneously or situationally, with a guarantee of spiritual freedom accompanied by legal equality.

Democracy is reviewed by Hendry B Mayo as quoted by Thohari is a political system which describes a democratic political system as a general policy system which is determined based on common law by representatives in periodic elections through intensive supervision by the people on the basis of the principle of political equality and the implementation of guaranteed political freedom (Thohari, 2005).

The above perspective leads to the conclusion that the basic characteristic of democracy as a system of society and state is people's participation in social and political activities. Three elements form a government in the hands of the people: the first is the government of the people, namely a government that can identify and generally help the people through the democratic process; the second is government by the people, namely a government in which the people exercise power and not at the will of individuals; and the third is government for the people, namely a government in which the people are the source of government power, and that power must be used for the best interests of the people (Aulia & Al-Fatih, 2017).

This perspective leads one to the conclusion that the fundamental characteristic of democracy as a system of society and state is the participation of the people in social and political activities. Three elements form a government in the hands of the people: the first is the government of the people, namely a government that can identify and generally help the people through the democratic process; the second is government by the people, namely a government whose power is exercised in the name of the people and not at the will of individuals; and the third is government for the people, namely a government that the People is the source of government power, and that power must be used in the best interests of the people (Sabirin, Adiyaksa, & Herfian, 2022).

Andrew Haywood also defines democracy as a system of government that gives the people the authority to govern themselves directly, a system of power that guarantees the protection of the rights and interests of minority groups through supervision and examination aimed at the power of the majority and a decision-making system based on the principle of majority rule, to a way in the process of filling public office with competition to win the people's votes. So, in this case, democracy is actually a tool used to uphold the sovereignty of the people in order to create state policies that are on the side of and prosper the people.

The theory of democracy according to WA Bonger's opinion can be concluded that regional heads can be classified as legitimate in the implementation of regional government if simultaneous or situational elections are carried out based on democracy accompanied by guaranteed aspects of spiritual freedom and equality before the law. This is procedural legitimacy because regional heads obtain authority by conducting elections or making laws and regulations as a benchmark. Procedural legitimacy is the provision of support to the government accompanied by recognition from the community on the grounds that the government leader obtains authority based on compliance with the procedures in laws and regulations.

That the theory of democracy according to Andrew Haywood can be concluded in leading the implementation of regional government, the regional head can be classified as legitimate. This classification occurs if the regional head provides a guarantee of protection of the rights and interests of minority groups through supervision and examination aimed at majority power and a decision-making system based on the principle of majority rule. This is instrumental legitimacy because of the nature of promising or guaranteeing welfare to the community instrumentally. Recognition and support from the community on the basis of perspective or guarantee of material or instrumental welfare by the government leader is interpreted as instrumental legitimacy.

The theory of democracy according to Hendry B Mayo as Quoted by Aridhayandi and Rendi can be concluded that in leading the implementation of regional government, regional heads can be categorized as legitimate. This occurs if the election of regional heads is periodically supervised by the people based on the principle of political equality and guarantees political freedom for citizens. Regional heads in government have political legitimacy where there is recognition of authority, policies, or decisions from the community taken by the leader. Government by regional heads can run optimally by requiring political legitimacy balanced with moral legitimacy. Moral legitimacy is a form of support for the government accompanied by support from the community from the authority of government leaders based on moral principles (Aridhayandi & Rendi, 2018).

It is important for leaders to uphold various Islamic leadership values by emulating the traits embedded in the Prophet Muhammad SAW, namely *shidiq*, *tabligh*, *amanah*, and *fathanah* (Firmansyah & Syam, 2022). Based on the values that a leader must have above, one form of emulating the trait of *shidiq* (honest) is a leader who carries out the authority he has well and honestly and does not take actions that conflict with this trait such as committing corruption, *tabligh* (conveying) is a leader must convey all the aspirations of the people with the aim of

improving the welfare of society, *amanah* (trustworthy) is a leader must gain credibility in carrying out his authority from society, *fathanah* (intelligent/broad-minded) is a leader must have broad knowledge that aims to develop the mindset of every human being.

After regional autonomy, many regional heads in Indonesia have been involved in corruption. The KPK has prosecuted no less than 148 regents/mayors along with 22 governors and in cases of abuse of authority that occurred from 2004 to January 3, 2022. This quantity, when compared with data from the Prosecutor's Office and the Police, will be relatively larger. ICW recorded that from 2010 to June 2018, no less than 253 regional leaders were decided as suspected of corruption by law enforcement officers. From the data above, the impact of regional autonomy is related to the morals that every regional head should have.

5. Conclusion

Regional heads can be classified as legitimate in the implementation of regional government if simultaneous or situational elections are carried out based on democracy accompanied by guaranteed aspects of spiritual freedom and equality before the law. This is procedural legitimacy because regional heads obtain authority by conducting elections or making laws and regulations as a benchmark. From the results of the study, it is implied that this study found that the legitimacy of the regional head is very strong so that it is very vulnerable to abuse of power. The recommendation given is that the incumbent's nuclear family (children-wife-parents) should be prohibited from running in the same area as the incumbent's area of office, this is because if the nominee is a family and the incumbent is still in power, he will be very free to move the state structure with his power.

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