



## **FILLING THE VACANCY FOR THE POSITION OF VICE HEAD OF REGIONAL HEAD WHO ARE INABILITY TO CONTINUE TO REVIEW WITH JURISDICTIONAL ASPECTS**

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### **Abstract:**

*In running the regional government, it is undeniable that something will happen that creates a vacancy, in this case there are also many deputy regional heads who quit before their term of office expires, such as resigning, dying from a long-standing illness, and there are also those whose positions are terminated. In Law Number 10 of 2016 concerning the second amendment to Law Number 10 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents and Mayors to become Laws, precisely in the provisions of article 176 paragraph (4) who wants to fill the vacancy for the deputy regional head who still has a remaining position of more than 18 (eighteen) months. The absence of a legal norm that limits the maximum time for filling vacancies in the position of deputy regional head is a factor why there is no refilling of the position of deputy regional head in Indonesia.*

### **Keywords:**

Position Filling, Deputy Regional Head, Regional Government

### **1. Introduction**

As a country, Indonesia has a constitution called the Constitution of the Republic of Indonesia 1945. in the form of a republic and proclaimed the Indonesian nation to be a sovereign state of the people. This makes it clear that Indonesia is a democratic constitutional state and a unitary republic..(Bayuaji, 2019)

The united nation of the Republic of Indonesia is basically divided into several regions, provinces, and the provinces themselves are divided into districts and cities. States and districts/cities are regions with local governments. A local government is a territorial unit of government that is located at a lower level and has the right to regulate certain governmental matters in the field of public administration itself. Article 18(4) of the 1945 Constitution of the Republic of Indonesia states that "Governors, Regency Governors and Mayors shall be democratically elected as heads of provincial, district and municipal governments respectively".(Redaksi et al., no date)

In recent years, i.e. from 2019 to 2022, many lieutenant governors and governors have died due to the COVID-19 disaster, and in addition to several district heads and deputy district heads who have died from COVID-19, other issues also occurred. For some hoax that has occurred sufficiently to influence the election or replacement of a permanently incapacitated or permanently absent regional leader or deputy regional leader and to confuse the public. In a country adhering to democratic liberty, when something threatens the country, all provision must be based on the sovereignty of the people. Her three principals of certainty, fairness and legal supremacy pay attention to goals. (tomy Michael, 2020)

On December 9, 2015, for the first time in the history of general elections, Indonesia held simultaneous general elections of regional chiefs (PILKADA). In 2015, up to 269 regions consisting of 9 provinces, 36 cities and 234 counties will simultaneously elect regional leaders. This means that nearly 53% of Indonesian provinces and cities are holding universal local chief elections (PILKADA) simultaneously in a total of 537 provinces and cities..(Aulia and Wisnaeni, 2018)

For the first time in Indonesia's history of general elections, there were obstacles to filling the vacancies of Indonesia's deputy regional chiefs, and when the position of deputy regional chief was not compulsory, he could not

be cut off from the alibi. Her 1945 Constitution of the Republic of Indonesia made no mention of the suspension of the role of deputy regional chief. Law No. 12 Year 2008 on Secondary Substitution of Shrimp Article 26 Clause 6 – Law No. 32 Year 2004 on Local Government and Government Decree No. 49 Year 2008 Article 131 Clause 2a on the Decree of 2005 on Elections In connection with the third amendment to No. 6, Confirmation of Appointment and Removal of Regional Heads and Deputy Regional Heads, in this situation there are vague and unclear criteria for filling vacancies of Deputy Regional Heads. I have. Political party combination (PARPOL) and political party combination (PARPOL), multiple interpretations arise. (Alit et al., no date)

The occurrence of vacancies in the position of deputy chief is a problem not only for local governments but also for citizens. The regional head runs the system of government for the region. Although there are laws regulating the filling of deputy district chiefs, there are still a number of specific districts that face the process of filling vacancies. Contrary to Article 4(1) of Law No. 3 of 2017 on Governor Election and Nomination of Deputy Governor, I don't understand why the local government is not always looking for a candidate to replace the absent Deputy Governor, Regent and Deputy Mayor Regent, Mayor and Deputy Mayor. The article emphasized that all Indonesians can be appointed as Deputy Regional Heads under certain conditions.. (B. Michael, 2020)

## 2. Method

The writing of this magazine is part of a prescriptive legal study, a study to fill vacancies for regional heads, especially governors, according to the 1945 Constitution of the Republic of Indonesia. Legislation - Invitations, Cases, and Facts. The data collection method used is a library method. Data analysis methods are descriptive and qualitative techniques for describing research results, comparing them to existing theories, and analyzing them.

## 3. Results and Discussion

### 3.1. Election of Deputy Regional Heads in the Provisions of the 1945 Constitution of the Republic of Indonesia

Constitutionally, Article 18, Clause 4 of the 1945 Constitution of the Republic of Indonesia confirms that "Governors, Regents and Mayors shall be democratically elected as regional heads of provinces, districts and cities". The contents of the paragraph clearly provide the legal basis for those who serve as leaders in a state, district, or city to become governors, regents, and mayors. On the other hand, deputy governors or lieutenant governors, deputy regents and deputy mayors are not specifically mentioned in the constitution..

Universal suffrage is the process of upholding the sovereignty of those who hold office in organizations and governments, based on the principles of openness, equality, liberty, confidentiality, honesty, and justice. Community participation in United (People) general elections in direct or indirect political decisions is one of its hallmarks. democratic government. Achieving democracy is inherently empowering, a commitment to community participation and the realization of constitutional social security political rights.. (Aziz and Michael, 2020)

In this case, the Assistant Regional Director or Assistant Regent, Governor, Assistant Mayor, or Vice President's job is to assist the Regional Director and the President. According to Wirjono Prodjodikoro, the language endorsed by Article 4(2) of the 1945 Constitution provides that the Vice President is the first person to appear in the absence of the President (this is his 1945 (reaffirmed in Article 8 of the Constitution). From this we can conclude that the Vice President's position as Assistant to the President is subordinate to the President and that the Vice President is elected by the MPR, not by the President. This is in line with the Deputy Regional Director's role of assisting the Regional Director in his absence.. (Michael, 2015)

It is also included in Law No. 32 Year 2004 on Local Governments in Article 1 General Provisions. Number 3 (3) says: This provision does not declare the Deputy Regional Director to be a regional government. Furthermore, Article 19(2) of Law No. 32 of 2004 states that "the organizers of the local government are the local government and her DPRD". For purposes of Section 1, Section 3, the Lieutenant Governor, Deputy Regent and/or Deputy Mayor are not Local Officials..(indra pahlevi, 2012)

Article 18(1) of the 1945 Constitution of the Republic of Indonesia indicates that the relationship between the central government and the state governments is multi-layered. The governor runs the government within the state according to the principle of devolution, the delegation of powers from central state agencies to subordinate agencies to carry out specific duties and powers in government administration. Article 18 (2) of the Constitution of the

Republic of Indonesia states that the relationship between the provincial government and the district/municipal government is an equal relationship. Agree to the principle of deconcentration and also perform auxiliary tasks. The governor serves a dual role as head of state and as regional head/regional deputy central government. (Ni et al., no date).

Article 18(1) of the 1945 Constitution of the Republic of Indonesia does not clearly describe the status of deputy regional chiefs such as deputy governor, deputy regent and deputy mayor. Although the position of deputy chief is not stipulated by law, the position of chief deputy chief is very important in leading a local government, as the chief assists in the leadership of the local government until the post of chief is completed. important to

The Deputy Regional Manager's tasks to support the Regional Manager are:

1. Assisting local leaders in local government administration.
2. Support regional leaders in managing vertical agency activities.
3. Follow up on reports submitted by people and later present them to regional leaders.
4. Monitoring and evaluation of local government implementation.
5. Advice and consideration for regional leaders
6. If preventive, fill the position of Regional Manager
7. Replacement of Regional Manager in case of full-time absence or death of Regional Manager before expiration of term

### 3.2. The Authority of the Deputy Regional Head

The term authority corresponds to the English "authority, power, competence", the Dutch "bevoegd" and the German "gezag". The term privilege can be interpreted as follows: Lawful transfer of power from one person to another".<sup>15</sup> The term "competence" is defined as "having sufficient power or authority".<sup>16</sup> The term "power" means "the right, ability, or ability to do something. authority is distinguished from power in. (T. Michael, 2020)

During the New Order era, the position of deputy regional head was one of the career positions, this was also regulated in Article 24 paragraph (1) of Law Number 5 of 1974 concerning the Principles of Regional Government, which emphasized;

"Wakil Kepala Daerah Tingkat 1 diangkat oleh Presiden dari pegawai negeri yang memiliki persyaratan, ayat (2) dengan memperoleh persetujuan Dewan Perwakilan Rakyat Daerah tanpa melalui pemilihan, Gubernur Kepala Daerah mengajukan calon Wakil Kepala Daerah Tingkat 1 kepada Presiden melalui Menteri Dalam Negeri, ayat (3) Wakil Kepala Daerah Tingkat II diangkat oleh Menteri Dalam Negeri atas nama Presiden dari Pegawai Negeri yang memenuhi persyaratan, ayat (4) Dengan memperoleh persetujuan Dewan Perwakilan Rakyat Daerah tanpa melalui pemilihan, Bupati/Walikota kepala daerah mengajukan calon wakil Kepala Daerah Tingkat II kepada Menteri Dalam Negeri melalui Gubernur Kepala Daerah dan ayat (5) pengisian kekosongan jabatan Wakil Kepala Daerah dilakukan menurut kebutuhan"

Deputy Regional Heads are given duties and powers that are directly handled in practice, so they should be filled with people or candidates who understand the existing government and laws of Indonesia and have influence over specific organizations. , related to government functions. The role of government in local government is very important. That is because it is the deputy governor who later supports and manages the local government and implements development in a particular area. It is expected to be able to absorb and solve existing problems within local governments. For this reason, a Deputy Regional Manager is required and must be available to assist the Regional Manager in fulfilling his duties and responsibilities as a Regional Manager.. (Hj. Yeyet Solihat, 2016).

New candidates for the position do not necessarily have the same vision and mission as the current Regional Manager. The issue later invalidated the district government's job, as he encountered some difficulties in filling the post of deputy district chief, had political unrest, and was involved in ways that led to legal uncertainty. Did. Of course, it would be extremely harmful to the people of each region and would create community distrust of local governments..

The mechanism for filling the post of Deputy Regional Manager is essentially regulated and statutory. Among them, there are some assistant ward mayors who will resign, and others who will be dismissed by the judgment of the plenary session. In appointing a Deputy Regional Manager, we will strive to meet the requirements of laws and regulations regarding the election of Regional Managers. Otherwise, the position of Deputy District Head must be filled, and failure to do so may affect the operation of the district government. exercise power without the presence of a deputy regional chief to influence local government and challenge citizens. in the same position as the chief, in

the same position as the chief, in the same position as the chief, in the same position as the chief, in the same position as the chief, in the same position as the chief It is a post of the chief, a position equivalent to that of the chief, and has an influence on the administration of the chief.

On the other hand, there are differences in the mechanism between the Governor and the Regent/Mayor if they experience termination of office before the term of office, such as death, quitting of their own volition and also being terminated by force. The following table shows the differences between the Governor and the Regent/Mayor if they are dismissed:

**Table 1 regarding Governors who experienced dismissal before their term of office ended.**

<b>GOVERNOR IN PERMANENT DISABILITY (DIED)</b>	<b>THE GOVERNOR WHO WAS REMOVED AT YOUR OWN DEMAND</b>	<b>GOVERNOR FORCEDLY REMOVED</b>
If the deceased regional head/deputy regional head is a governor and/or deputy governor, the dismissal is carried out by the leadership of the provincial DPRD in a plenary meeting and is proposed by the leadership of the provincial DPRD to the president through the minister of interior of the country to obtain a decision on the dismissal of the deceased governor/deputy governor. , the president dismisses the governor/deputy governor.	If the regional head/deputy regional head who has completed his duties at his own request is a governor/deputy governor, the dismissal is carried out by the leadership of the provincial DPRD in a plenary meeting and is proposed by the leadership of the provincial DPRD to the president through the minister of the state to obtain preparations for dismissal. In the case of the leadership of the provincial DPRD not recommending the dismissal of the deceased governor/deputy governor. The President dismisses the governor/deputy governor.	Term of office ends or is unable to carry out duties for a prolonged period or is unable to continue consecutively throughout the 6 months of dismissal of the governor/deputy governor whose term of office ends or is unable to carry out duties for a prolonged period or is unable to carry out duties continuously for 6 months, carried out by the leadership of the provincial DPRD in plenary meeting and proposed by the leadership of the provincial DPRD to the president through the minister of the state to obtain a decision on dismissal.

**Table 2 Regarding Regents/Mayors who experienced termination of office before the end of their term of office**

<b>BUPATI/WAKIL BUPATI DAN/ATAU WALIKOTA/WAKIL WALI KOTA YANG BERHALANGAN TETAP</b>	<b>BUPATI/WAKIL BUPATI DAN/ATAU WALIKOTA/WAKIL WALI KOTA BERHENTI ATAS PERMINTAAN SENDIRI</b>	<b>BUPATI/WAKIL BUPATI DAN/ATAU WALIKOTA/WAKIL WALI KOTA YANG DIBERHENTIKAN MASA</b>

<b>(MENINGGAL DUNIA)</b>		<b>JABATANNYA</b>
<p>If the deceased Director/Deputy Director is a Regent/Deputy Regent or Mayor/Deputy Mayor, the removal shall be carried out and proposed by the Regency/Municipal DPRD in plenary session. City to the Minister of State through the governor as the central government to get sacked. If the DPRD County/City leadership does not recommend the removal of the deceased Regent/Deputy Regent or Mayor/Deputy Mayor, the Secretary of State will remove the Regent/Deputy Regent or Mayor/Deputy Mayor. Proposal of the governor as central government. If the Governor as Central Government does not recommend the removal of the deceased Regent/Deputy Regent or Mayor/Deputy Mayor, the Home Secretary removes the Regent/Deputy Regent or Mayor/Deputy Mayor.</p>	<p>If the deceased Regional Head/Deputy Regional Head is a Regent/Deputy Regent or Mayor/Deputy Mayor, the removal will be implemented by Kanupten/Municipal DPRD leadership at plenary session and proposed by the Regent/Municipal leadership . The DPRD, as Deputy Central Government, will be sent to the Secretary of State through the Governor to receive notice of termination. If the DPRD County/City leadership does not recommend the removal of the deceased Regent/Deputy Regent or Mayor/Deputy Mayor. The Secretary of State removes the Regent/Deputy Regent or Mayor/Deputy Mayor from office as Central Government on the Governor's proposal. If the Governor as Central Government does not recommend the removal of the deceased Regent/Deputy Regent or Mayor/Deputy Mayor, the Home Secretary removes the Regent/Deputy Regent or Mayor/Deputy Mayor.</p>	<p>The dismissal of the Regent and/or Deputy Regent or Mayor and/or Deputy Mayor whose term of office has expired or who has been unable to hold office continuously for a long period of time or six months shall be made by the Regency/Municipal Administration DPRD. will do. Her DPRD leadership of the county/city proposed to the Minister of Home Affairs through the governor as representative of the central government to obtain a decision on dismissal. If the Regent/Municipal Leader of the DPRD does not recommend the removal of the Regent and/or Deputy Regent or Mayor and/or Deputy Mayor whose term has expired, the Minister of Interior shall remove the Regent and/or Deputy Mayor. . Deputy Regent or Mayor and/or Deputy Mayor on the recommendation of the Governor, representing the Central Government. If the Governor, on behalf of the Central Government, does not recommend the removal of the Regent and/or Deputy Regent, Mayor and/or Deputy Mayor whose term has expired, the Minister of the Interior</p>

		shall remove the Regent and/or Deputy Mayor. Regent or mayor and/or deputy mayor.
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## 4. Closing

### 4.1. Conclusion

Based on the discussion of the research problem, it can be concluded that:

The meaning of a deputy regional head in helping regional heads carry out regional government even though it is not explicitly written in the 1945 Constitution of the Republic of Indonesia does not mean unconstitutional and also means the duties of deputy regional heads as contained in Article 63 and Article 66 of Law No. 23 of 2014 concerning Regional Government which contains the duties of the deputy regional head in carrying out regional government, a kind of deputy regional head who helps carry out certain tasks, and takes over the regional head if the regional head is absent. The duties and authorities of regional representatives have a universal character in which full power is still held by the regional head, but on the other hand the regional head also always relies on his representatives in certain affairs and if the regional head does not have a deputy regional head, the regional head is not considered capable of administering regional government. alone and this can be a polemic or problem, especially in the regional government because if the deputy regional head is not available, then there is no one to help the regional head and replace the regional head if something is absent. Indirectly, the regional head really needs a representative figure to assist his duties and authorities in carrying out regional government.

### 4.2. Suggestions

Based on the results of the discussion and also the conclusions above, the suggestions given by the author are as follows:

1. The Government of Indonesia should pay more attention to the importance of the position of Deputy Mayor who directs and supports the local government's Mayor.
2. Regional Leaders must bring two Vice Regional Leader candidates with them when they take office.
3. A regional leader must act quickly to find a new deputy leader if his deputy is permanently absent or dies. Must be announced publicly.

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