

## Mechanism For Impeaching The Vice Regent Of Gorontalo Regency For The Period 2016-2020

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### ***Abstract***

*The research aims at investigating the mechanism for impeaching the Vice Regent period for 2016-2020 Gorontalo district and factors that influence Vice Regent to be impeached. This research is empirical research or direct research. The research is used descriptive analysis method so that the comprehensive view picture can be obtained regarding the rules which related to applicable rules or norms. The impeachment process starts begins with a report submitted by a society the Regional House of Representatives, which is the legislature's commissions. Then it was continued with the formation of a Special Committee to hold a plenary session of the impeachment process for the 2016-2020 Deputy Regent. From the final results of the process in the realm of the Regional People's Representative Council, it is submitted to the Supreme Court in Deciding and establishing an Opinion from the Regional People's Representative Council which is then validated by the Minister of Home Affairs and returned to the regional government to announce the decision on the dismissal. The legal basis for the process and prohibition of a leader is regulated in the 1945 Constitution in conjunction with Law number 23 of 2014 concerning regional government.*

**Keywords:** Legal Review, Mechanism, Impeachment

### **Introduction**

In the state we have heard the term government which means that the government is organizing the function of service to the community (public service) or the government is a servant for the community. In the Government, it is headed by the President and the President himself is assisted by the Vice President who is elected in accordance with the 1945 Constitution in Article 6A paragraph 1 states that:

“The President and Vice President are elected in one pair directly by the people.”

The Indonesian government runs a system of government headed by the President and Vice President. Both are the highest positions that are very powerful. However, the powers of the President and Vice President are regulated so that they do not become a misuse of power as in the 1945 Constitution in article 7A which states that:

“The President and/or Vice President may be terminated during his/her term of office by the People's Consultative Assembly on the recommendation of the People's Representative Council, either if proven to have committed a violation of the law in the form of treason against the state, corruption, bribery of other serious crimes, or misconduct or if proven to no longer qualify as President and/or Vice President”.

The systematics and also the mechanism of dismissal of the president and vice president are emphasized in Article 7B paragraph 1 to paragraph 7 which reads:

- 1) A proposal for the dismissal of the President and/or Vice President may be submitted by the House of Representatives to the People's Consultative Assembly only by first submitting a request to the Constitutional Court to examine, hear, and decide the House of Representatives that the President and/or Vice President has committed a violation of law in the form of treason against the state, corruption, bribery, other serious criminal acts, or disgraceful acts; and/or the opinion that the President and/or Vice President no longer qualifies as President and/or Vice President.
- 2) The opinion of the House of Representatives that the President and/or Vice President has committed a violation of the law or has ceased to qualify as President and/or Vice President is in the context of the implementation of the supervisory function of the House of Representatives.
- 3) Submission of a request by the House of Representatives to the Constitutional Court may only be made with the support of at least 2/3 of the members of the House of Representatives present in a plenary session attended by at least 2/3 of the members of the House of Representatives.
- 4) The Constitutional Court shall examine, hear, and decide with justice against the House of Representatives at the latest ninety days after the request of the House of Representatives is received by the Constitutional Court.
- 5) If the Constitutional Court decides that the President and/or Vice President has been proven to have committed a violation of law in the form of treason against the state, corruption, bribery, other serious criminal offenses, or disgraceful acts; and/or it is proven that the President and/or

Vice President no longer qualifies as President and/or vice President, the House of Representatives shall hold a plenary session to forward the proposal to dismiss the President and/or Vice President to the People's Consultative Assembly.

- 6) The People's Consultative Assembly shall hold a session to decide on the proposal of the People's Representative Council no later than thirty days after the People's Consultative Assembly receives the proposal.
- 7) The decision of the People's Consultative Assembly on the proposal to dismiss the President and/or Vice President must be taken in a plenary meeting of the Consultative Assembly attended by at least  $\frac{3}{4}$  of the members and approved by at least  $\frac{2}{3}$  of the members present, after the President and/or Vice President has been given the opportunity to deliver an explanation in the plenary meeting of the People's Consultative Assembly.

We know that these rules are very threatening to their positions. Thus, the norms or rules mentioned above are the basis or reference for the Law on regional government as explained next. The Unitary State of the Republic of Indonesia is also known as a unitary state with a decentralized system of governance. Decentralization itself is the division of power to each region which is part of the unitary state of the Republic of Indonesia. As for the other meaning of the unitary state itself is a state formed from the region but not from the State as confirmed in article 18 paragraph 1 of the 1945 Constitution which states that:

*“The Unitary State of the Republic of Indonesia is divided into provinces and the provinces are divided into regencies and cities, each of which has a regional government regulated by law.”*

The purpose of the Decentralization system or regional government administration is to deal directly with the people in each region or region itself. The point is that the implementation of the central government can be achieved to remote areas. In dividing the power of governance, Law No. 9 of 2015, the second amendment to Law 23 of 2014 on Regional Government, was born. This law regulates the entire regional government in order to achieve the goal of remote community welfare as stated in Pancasila and located in the fifth principle which states that: “Social justice for all Indonesian people”.

Each region is led by a head of regional government called the regional head, for provinces called the Governor, regencies called the Regent, and for cities called the Mayor. The head of the region is assisted by a deputy head of the region, who is called the deputy governor for provinces,

the deputy regent for districts, and the deputy mayor for cities. Regional heads and deputy regional heads do have the power to lead regional governments, but they are also bound by rules that are more specific to their positions, namely Impeachment or Dismissal of regional heads and / or deputy regional heads which are confirmed in Article 78 paragraph 1 and 2 of Law 23 of 2014 concerning Regional Government.

As for other things, regional heads and deputy regional heads also have an obligation to provide reports on the implementation of regional government to the central government, and provide accountability reports to the Regional People's Representative Council (DPRD), and inform reports on the implementation of regional government to the public. The DPRD is authorized to propose the impeachment process of the regional head or deputy regional head to the Supreme Court. The same assertiveness is also found in Article 81 paragraph 3 of Law Number 23 of 2014 concerning Regional Government. We know that there have been many regional heads and deputy regional heads who are identical with actions that plunge them into impeachment or dismissal in their positions. Whereas in Article 76 paragraph 1 letters A to J it is explained the prohibition of regional leaders abusing power.

Looking at the rules or legal norms that are made on the principle of good and orderly local government administration. Impeachment events have occurred in the region, especially Gorontalo Regency. Gorontalo Regency recorded this bad history in the 2016-2018 period during the leadership of the district, namely Mr. Regent Nelson Pomalingo and Deputy Regent Fadli Hasan. The regional leaders were faced with the problem of impeachment or dismissal of a deputy regent Fadli Hasan. The dismissal of a deputy regent of Gorontalo Regency was due to the issue of "Papa Minta Fee" to PT Asana Citra Yasa in a regional spatial project. This was implemented by the Regional House of Representatives of Gorontalo Regency as reported in DetikNews 2018.

The case of impeachment or dismissal of the Vice Regent caused a prolonged time in solving the problem from the beginning of the evidence to the Impeachment process carried out by the Gorontalo Regency Regional House of Representatives. From the events or problems above, I am interested and raised the title "Mechanism of Impeachment of the Vice Regent of Gorontalo Regency for the 2016-2020 Period". The things that the author limits are only the impeachment mechanism and the factors that cause the impeachment of the deputy regent.

## **RESEARCH METHODS**

Empirical Legal Research is a type of research which in this research is called sociological research or sociological legal research or it can also be field research, because it is done by looking at the real conditions and facts that occur around the community. The research location was conducted in Gorontalo Regency or more precisely in the Gorontalo Regency DPRD office. The research location was chosen because it is closely related to the research title, namely the Impeachment of the Vice Regent of Gorontalo Regency.

## **DISCUSSION**

### **Mechanism of Dismissal (Impeachment) of the Vice Regent of Gorontalo Regency for the 2016-2020 Period**

Before entering the plenary session process carried out by the Regional People's Representative Council until the final decision ratified by the Minister of Home Affairs, as explained by Mr. Eman Mangopa "As a native of Indonesia, we must know the difference between the terms Impeachment and Dismissal. The term Impeachment is only found in negotiations in the realm of the DPRD but in the constitution it is said to be Dismissal or the original sentence. This impeachment comes from the Arabic language whose root word is Makzul which means "Stopping from office or leadership". Meanwhile, we can also know that Dismissal has the same meaning or definition, namely the devacto determination of a leader who is declared valid must be stopped. Another term that is included in the problem of dismissing leaders in government is Impieachment. Of this term also has a slightly different meaning but has the same purpose, namely Impieachment is only termed in the process of dismissing the leader or head of government.

Then he continued that the process of dismissal in the realm of DPRD is divided into the following stages;

- 1) Establishment of Special Committees or small groupings of DPRD in meeting and making decisions.
- 2) Then the members of the Special Committee are also attended by at least 11 members so that the determination session can be a quorum. Why is it only eleven members, because it takes on the number of members of the Gorontalo Regency People's Representative Council, namely the number of members of the Gorontalo Regency DPRD is only 35 people so that the plenary session of the process of dismissing the deputy regent is attended by at least 11 members of

the Regional People's Representative Council. Or in article 80 paragraph 1 letter b of law number 23 of 2014 concerning regional government states. "the opinion of the DPRD as referred to in letter a is decided through a Plenary Meeting of the DPRD which is attended by at least 3/4 (three quarters) of the total number of DPRD members and the decision is taken with the approval of at least 2/3 (two thirds) of the total number of DPRD members present."

- 3) As for when it has met the criteria of the trial, the Special Committee exercises their rights as follows;
  - a) Right of Interplation
  - b) Right of Inquiry
  - c) Right to express opinions
    - a. The Right of Interplasi is the right of DPRD to request information from the Head / Deputy Head of the Regional Government regarding important and strategic Regional Government policies that have a broad impact on the life of society, nation and state.
    - b. The Right of Inquiry is the right of DPRD to conduct an investigation into the implementation of a law/regional government policy related to important, strategic, and broad impact on the life of society, nation, and state that is allegedly contrary to the laws and regulations. Similarly, the Right of Inquiry can also precede the Right of Interplasi if it has been proven that the policy issued by the Regional Government is indeed contrary to the law.
    - c. The DPRD's right to express an opinion, which is the final decision on the process in the Regional Representatives Council. The Right to Express Opinion is the submission of consideration of local government policy issues regarding extraordinary events that occur in the region and accompanied by recommendations for resolution or as a follow-up to the implementation of the Right of Interplasi and the Right of Inquiry.

The process is then continued at the central level, where it is transferred to the Supreme Court. This is because the Supreme Court has the right to examine, hear and decide on the opinion of the DPRD. Also, the decision of the DPRD can be agreed or ratified by the Supreme Court and it is final. The final results determined by the Supreme Court, then by the Minister of Home Affairs ratified in the form of a letter which will be submitted back to the Regional Government. Thus that is the general descriptive that is adjusted in the order or flow of dismissal of the leader or head of

the actual local government. The order of Impeachment or dismissal of the Regional Leader is described in Article 80 of Law Number 23 of 2014 concerning regional government as follows:

- 1) The dismissal of the regional head and/or deputy regional head as referred to in Article 78 paragraph (2) letter c, letter d, letter e, and/or letter f shall be carried out with the following provisions:
  - a. The dismissal of the regional head and/or deputy regional head is proposed to the President for governor and/or deputy governor and to the Minister for regent and/or deputy regent or mayor and/or deputy mayor based on the decision of the Supreme Court on the opinion of the DPRD that the regional head and/or deputy regional head has violated the oath/pledge of office, has not carried out the obligations of the regional head and/or deputy regional head as referred to in Article 67 letter b, or has violated the prohibition for the regional head and/or deputy regional head as referred to in Article 76 paragraph (1), except letter c, letter i, letter j, and/or has committed misconduct;
  - b. The opinion of DPRD as referred to in letter a shall be decided through a Plenary Meeting of DPRD attended by at least 3/4 (three quarters) of the total number of DPRD members and the decision shall be made with the approval of at least 2/3 (two thirds) of the total number of DPRD members present;
  - c. The Supreme Court shall examine, hear and decide on the opinion of the DPRD no later than 30 (thirty) days after the request of the DPRD is received by the Supreme Court and its decision shall be final;
  - d. If the Supreme Court decides that the regional head and/or deputy regional head is proven to have violated the oath/pledge of office, failed to carry out the obligations of regional head and deputy regional head as referred to in Article 67 letter b, or violated the prohibition for regional head and deputy regional head as referred to in Article 76 paragraph (1), except letter c, letter i, letter j, and/or committed a disgraceful act, the DPRD leader submits a proposal to the President for the dismissal of the governor and/or deputy governor and to the Minister for the dismissal of the regent and/or deputy regent or mayor and/or deputy mayor;
  - e. The President must dismiss the governor and/or deputy governor no later than 30 (thirty) days after the President receives the dismissal proposal from the leader of the DPRD;

- f. The Minister must dismiss the regent and/or deputy regent or mayor and/or deputy mayor no later than 30 (thirty) days after the Minister receives the dismissal proposal from the head of the DPRD.
- 2) In the event that the leadership of the DPRD does not submit a proposal to dismiss the regional head and/or deputy regional head as referred to in paragraph (1) letter d no later than 14 (fourteen) Days from the receipt of notification of the Supreme Court's decision, the President dismisses the governor and/or deputy governor at the proposal of the Minister and the Minister dismisses the regent and/or deputy regent or mayor and/or deputy mayor at the proposal of the governor as the representative of the Central Government.
- 3) In the event that the governor as the representative of the Central Government does not submit a proposal to the Minister as referred to in paragraph (2), the Minister shall dismiss the regent and/or deputy regent or mayor and/or deputy mayor.
- 4) Further provisions regarding the dismissal of regional heads and/or deputy regional heads as referred to in paragraphs (1) through (3) shall be regulated in a government regulation.

Since the election of the Regent and Deputy Regent for the 2016-2020 period, Mr. Nelson Pomalingo and Fadli Hasan had run the government for a year and a half, but the Deputy Regent ran aground in early 2018. Then from Mr. Sarifudin Bano explained that seeing this, many people have been shocked by the issues circulating about actions that are suspected of being disgraceful and violating the oath of office of a deputy leader of the Gorontalo Regency government.

Then entering the process that occurred in the Dismissal of the Deputy Regent of Gorontalo Regency, he added that the Regional House of Representatives held a Plenary Meeting without exercising the Right of Interplasi first. This was due to issues circulating in the community and demonstrations carried out by the community at the Gorontalo Regency People's Representative Council and predicted to become national news as well as reports and evidence in the form of sound recordings below in Commission III. So that the Right to Investigate was directly applied by the Gorontalo Regional People's Representative Council to the Civitas of a Deputy Regent of Gorontalo Regency who was suspected of abusing his position as deputy regent.

Then in the dismissal of the Vice Regent of Gorontalo Regency, Fadli Hasan caused a prolonged time. Why is that? because in the Formation of the Determination Session this occurred three times in a row and also because the vice regent at that time did not fulfill the summons of the Special Committee in the Regional People's Representative Council on 22-September-2017, at



which time it was suspected that he had committed a criminal act of corruption, violated his oath / position, and committed a disgraceful act.

Meanwhile, in Article 73 (paragraphs 1-3) of Law Number 23 of 2014 concerning regional government which reads as follows:

- 1) Regional heads who do not submit reports on the implementation of Regional Government as referred to in Article 70 paragraph (4) and summaries of reports on the implementation of Regional Government as referred to in Article 72 are subject to administrative sanctions in the form of written warnings by the Minister for governors and by the governor, as the representative of the Central Government, for regents/mayors.
- 2) In the event that the written warning as referred to in paragraph (1) has been delivered 2 (two) times in a row and still not implemented, the regional head is required to take part in a special coaching program for deepening the field of government carried out by the Ministry and his duties and authority are carried out by the deputy regional head or by a designated official. In the event that the regional head does not carry out the obligation to submit an accountability statement report as referred to in Article 71 paragraph (2), the provincial DPRD can exercise the right of interpellation to the governor and the regency / city DPRD can exercise the right of interpellation to the regent / mayor.

Then back to the process, the result of the Gorontalo District People's Representative Council's Statement of Opinion was approved directly by the Supreme Court after the Gorontalo District People's Representative Council requested consideration. Then through a regular process it was informed directly to the Minister of Home Affairs (MENDAGRI): Tjahjo Kumolo by the Supreme Court. Then the Minister of Home Affairs issued Decree number 131.75 - 409 of 2018 concerning the dismissal of the Deputy Regent of Gorontalo Regency on March 12, 2018. Then finding this, all regional leaders of Gorontalo Regency gathered at the official residence of the Governor of Gorontalo on Friday evening to inform the results of the decision.

The Legal Basis explained by Mr. Sarifudin Bano that the process of dismissing the deputy regent has met the legal criteria contained in the article contained in Article 81 which has been explained previously in the background of the article listed in Law Number 23 of 2014 concerning Regional Government which reads as follows;

- 1) In the event that the DPRD does not implement the provisions as referred to in Article 80 paragraph (1), the Central Government shall dismiss the regional head and/or deputy regional head:
  - a. Violates the oath/pledge of office of the regional head/deputy regional head;
  - b. Not performing the obligations of the regional head and deputy regional head as referred to in Article 67 letter b;
  - c. Violating the prohibitions as referred to in Article 76 except letter c, letter i, and letter j; and/or
  - d. Committing a disgraceful act
- 2) To carry out the dismissal as referred to in paragraph (1), the Central Government shall conduct an examination of the regional head and/or deputy regional head to find evidence of violations committed by the regional head and/or deputy regional head.
- 3) The results of the examination as referred to in paragraph (1) shall be submitted by the Central Government to the Supreme Court for a decision on violations committed by the regional head and/or deputy regional head.
- 4) If the Supreme Court decides that the regional head and/or deputy regional head is proven to have committed an offense, the Central Government dismisses the regional head and/or deputy regional head.
- 5) Further provisions regarding the dismissal of regional heads and/or deputy regional heads by the Central Government as referred to in paragraphs (1) through (4) shall be regulated in a government regulation.

The similarity of the dismissal mechanism can also be seen in the case that ensnared a regional head, namely Aceng Fikri, in this case he was demanded by his people to be dismissed because he had committed an act that was not commendable by way of, siri marriage for 4 days. So that the people in the area of his leadership became angry and carried out demonstrations and news that spread in the republic of Indonesia. This case occurred in 2012. The equation lies in the decision-making of the Regional People's Representative Council without having to exercise the right of interplasi.

Thus we see the process that occurs above, the Right of Interplasi is only the right to ask for clarification from a leader, but all of that can be preceded by the Right of Inquiry because of the agreement made by the special committee in the Garut Regency Regent Dismissal trial in 2012 at

the Regional People's Representative Council which became a demand by the local community itself for the behavior of a regional head. Likewise, the dismissal case that occurred in the Gorontalo Regency yesterday in the 2016-2020 period, namely the deputy regent Fadli Hasan, was dismissed for committing an act known as “Papa Minta Vee” or asking for a 30% commission on the regional spatial project by PT Asana Citra Yasa.

### **Factors Affecting the Dismissal (Impeachment) of the Vice Regent of Gorontalo Regency for the 2016-2020 Period**

The process of dismissing the Deputy Head of the region inevitably raises questions behind a result or answer that the author has compiled based on interviews conducted at the Gorontalo Regency People's Representative Council, why the Right of Interplasi was not exercised first and what legal basis was used by the Gorontalo Regency People's Representative Council in making the decision. What is certain is that the first depends on the report conducted in Commission III then the formation of a Special Committee and with the last process referring to the decision of the Special Committee formed from the beginning before reaching the process of expressing an opinion by the Regional People's Representative Council. As for the legal basis that becomes the absolute reference of the Regional People's Representative Council is Article 159 paragraph (1) that the issue of their rights is also protected by law in determining a decision taken by consensus through the formation of a Special Committee.

Then of course if we read and assess the explanation from above properly, we can find out the factors of Fadli Hasan's deputy regent being terminated. The factors that influence the dismissal are explained by Mr. Eman Mangopa that as follows:

#### **1) Interfering with the work of the Regional Spatial Project Working Group**

Interfering with the duties of the working group, namely PT Asana Citra Yasa, with this it was found that the deputy regent Fadli Hasan asked for a fee in the Regional Spatial Project by PT Asana Citra Yasa. Then it was found here also does not mean caught directly but this is his confession when the investigation was carried out by asking for information against him.

#### **2) Total Project Budget and Profitability**

The percentage reached 30%. The value of the project's profit, then mentioned the total budget of 800 million rupiah. So when reduced by 30%, it will get the remaining 560 million rupiah and the profit obtained by the deputy regent is around 240 million rupiah. So of course this is a violation that leads to Corruption.

3) Reports and Public Protests

The People's Demand Demo along with the report in Commission III of the DPRD so that the input made the Gorontalo Regency People's Representative Council organize the formation of a Special Committee.

4) Violating the Oath of Office

Then from the Act committed by him is an act of Violating the Oath of Office of a Leader in this case which is regulated in Article 76 Paragraph 1 letter A-J of Law number 23 of 2014 concerning Regional Government which is stated as follows:

Regional heads and deputy regional heads are prohibited:

- a. Making decisions that specifically benefit his/her personal, family, cronies, certain groups, or political groups contrary to the provisions of laws and regulations;
- b. Making policies that harm the public interest and disturb a group of people or discriminate against citizens and/or other groups of people contrary to the provisions of laws and regulations;
- c. Being the management of a company, either privately owned or state/regionally owned or the management of a foundation in any field;
- d. Abusing authority that benefits themselves and/or harms the Region they lead;
- e. Committing corruption, collusion, and nepotism and accepting money, goods, and/or services from other parties that influence decisions or actions to be taken;
- f. Becoming an advocate or attorney in a case in court other than as referred to in Article 65 paragraph (1) letter e;
- g. Abusing their authority and violating their oath/pledge of office;
- h. Concurrently holding positions as other state officials as stipulated in the provisions of laws and regulations;
- i. Traveling abroad without permission from the Minister; and
- j. Leaving the duties and working area for more than 7 (seven) consecutive or non-consecutive days within 1 (one) month without the permission of the Minister for governors and deputy governors and without the permission of the governor for regents and deputy regents or mayors and deputy mayors.

5) Summons that are not honored

Another thing is that when the DPRD, in this case the special committee of the plenary session that was formed to summon him, did not fulfill it. So it is very suspicious and also easy for him to be determined to be terminated.

6) Evidence of the Vice Regent's Voice Recording

The most important evidence in this case is a voice recording of the deputy regent that was used as evidence by the complainant in Commission III. Here we can also see that the appointment of the chairman of the Special Committee in the House of Representatives is based on the recipient of the report. So that Mr. Eman Mangopa as Chairman of Commission III was appointed, from the recipient of the report made by the community earlier.

## CONCLUSIONS

Based on the discussion above, the author concludes that the process of dismissing Diwali with a report which then began the trial process with a report received by Commission III of the Gorontalo Regency Regional House of Representatives and continued with the formation of a Special Committee in creating a solution to a case of complaints from the public for the local government. In the end, the Regional People's Representative Council expressed an opinion, then at the central level it was continued to be tried by the Supreme Court. Thus, from the Supreme Court, it was ratified by the Minister of Home Affairs in the form of a letter authorizing the dismissal of a Deputy Regent of Gorontalo Regency in the 2016-2020 period.

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