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Phenomenon of Constitutional Law Regarding the Authority of Deputy Local Leaders in Local Elections (Pilkada) Results

Hendra Sudrajat 

Research Center for the Constitution of the Dua Lima Indonesia Foundation and the Postgraduate Program of Syekh-Yusuf Islamic University

Jalan Maulana Yusuf No. 10, Tangerang City, Indonesia

 pusatrisetkonstitusiydl@gmail.com

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Abstract: Since the reformation era in 1998 through amendments to the 1945 Constitution, which began in 1999 to 2002, it has impacted Indonesia's state administration system's structure. The direct election system's opening in the election of the President and Vice President and the legislature to the local elections (Pilkada). Local elections (Pilkada) candidates are a package for local leaders, which fascinating to examine. In Article 18, paragraph (4) to the 1945 Constitution does not mention the Deputy local leaders, thus causing problems. When the Deputy local leaders authority is limited by the constitution, which has an impact on conflicts of authority between the local leaders and Deputy local leaders, which results in disrupted government services. This study aims to provide a solution to this phenomenon so that it finds two options, namely, first to retain the position of Deputy local leaders in the local elections with the complaint mechanism method and precise judgment of taxation, and secondly to be consistent with the state constitution, the local elections (Pilkada) is held without a Deputy local leaders candidate with his position replaced. by the local secretary.

Keywords: local elections (Pilkada); deputy local leaders; Constitutional Law

1. Introduction

The constitutional law of assisting governance is based on the state constitution. The 1945 Constitution has the highest legal position and the main juridical instruments for implementing government in Indonesia. The state constitution has undergone constitutional changes that have been moving since the 1998 reforms until now. The collapse of the New Order regime, which lasted for 32 years, brought reforms to all the nation's life and state dimensions. The change from the New Order to the Reformation Order began with the amendments to the 1945 Constitution from 1999 to 2002. Changes to the constitutional administration impacted the state, the political system from centralization to symmetrical decentralization. The centralization of the government system during the New Order weakened regional government. The region cannot become their resources autonomously, which has an unachieved impact on the community's welfare. The weakening of regional governments that only wait for the centralized central government to handle government or local leaders' determination. The appointment of local leaders and deputy leaders of the central government makes the regions unable to determine local leaders.

Administrative reform in Indonesia not only at regional government level but at the level of state institutions as a form of democratic freedom and guarantee of human rights of every society, improvement of people's welfare, economic growth that was affected by the crisis and the economic recession in 1998 on an important list. Changes to the country's constitution. The decentralization system is the most important part of realizing the sovereign government and its purpose. It is the main philosophy in the state government's power and administration, which is in the 1945 Constitution, namely protecting the entire Indonesian nation and all Indonesian bloodshed. Moreover, it aims to advance public welfare, educate the nation's life, and implement a world order based on independence, eternal peace, and social justice. The state constitution's mandate towards the state-mandated goal in the constitution requires the participation of regional administrators that are autonomous. Regional autonomy must determine its leaders so that democracy brings the people to get the people. Good governance in a region is a government that can present a government born through local elections. According to [Montesquieu \(2015\)](#) stated that the principle or life force of democratic governance is. Besides, the warning in the life of the nation and state must be born from a civilized and constitutional democracy.

At the local government level at the provincial, regency, and municipal levels, the constitutional structure has an institutional set of regional legislative powers, namely the Regional House of Representatives (DPRD). The implementation of regional government in carrying out autonomy is led by the Governor, Regent, and Mayor respectively as the Leader of Provincial, Regency and City Government elected democratically. Based on the state constitution. The central government gives the local government authority based on Law No. 22 of 1999 concerning local Government Article 7 paragraph (1). At the regional level, the government's constitutional power requires strong leaders in managing local government so that government services can work optimally, which provide welfare to communities as local leaders and Deputy local leaders.

Local leaders and Deputy local leaders Election using a system of one package as part of the 1998 constitutional reform plan by using the direct election system to elect local leaders and Deputy local leaders based on the mandate of Law Number 12 of 2008 concerning the Second Formation of Law Number 32 of the year 2004 concerning Regional Government Article 56 paragraph (1). The implementation of people's sovereignty in the Election of local leaders and Deputy local leaders is part of democracy, representing the people's direct participation in electing the local leaders and Deputy local leaders. The voters' political participation is expected to create an accountable and effective regional government, giving birth to local leaders and Deputy local leaders who side with the people. Because through political participation,

citizens can ensure their interests are guaranteed, and their wishes are fulfilled by their representatives (Nurhamin, 2015).

The Deputy local leaders' authority, which includes the Deputy Governor, Deputy Regent, and Deputy Mayor, is stated in Law of 2014 concerning Article 66 No.23 concerning Regional Government. In the study of constitutional law and the state constitution, it is apparent that regulations limit the Deputy local leaders' authority. Moreover, it is limited to the task of assisting local leaders. The Deputy local leaders' authority's weakness is stated in the limited authority of the Deputy local leaders. However, in the Election of local leaders and Deputy local leaders, they have contributed the most votes in collecting the most votes to be elected in the elections for local leaders and Deputy local leaders. The Pairs of local leaders and Deputy Regional Heads are one package, so in obtaining votes. It is challenging to determine how many votes are obtained for the local leaders and the Deputy local leaders' votes because both are a package of nominations. As a result, when he was elected, the Deputy local leaders felt neglected in his assignment because the state constitution limited it. It could be that the contribution of votes from the Deputy local leaders is more significant than that of the local leaders when participating in the Election of local leaders and Deputy local leaders.

The Deputy local leaders' enormous contribution is to have a strong mass base and rooted in the grassroots voter movement. The two Deputy local leaders have large capital or campaign funds compared to the local leaders' candidate. The two factors mentioned above create a conflict of authority between the two, which has impacted government and community services. An example occurred in several Indonesia Region in the Special Capital Region of Jakarta, with Deputy Governor Prijanto in 2011, who considered himself not being given full authority by Governor Fauzi Bowo. The same thing happened in Garut Regency in 2011 with the resignation of the Deputy Regent of Garut Dicky Chandra because it did not match the leadership of Garut Regent Aceng H.M. Fikri. The incident happened to the Regent and Deputy Regent of Kuantan Singingi Regency, Riau Province, on February 10, 2016, the cause of which was the report on the use of finances by the Deputy to the Audit Board of the Republic of Indonesia (BPK). Conflict of authority with the Governor and Deputy Governor of North Kalimantan in October 2017 was caused by the Governor admonishing his Deputy through a letter that the Deputy was not carrying out and reporting his duties. Then what happened to the Regent and Deputy Regent of Toli-Toli Regency, Central Sulawesi Province in January 2018 because the Deputy Regent asked for functional and structural officials' cancellation because he felt he was not involved. The incident at the Governor and Deputy Governor of North Maluku on March 16, 2020, was triggered by the inauguration of 11 echelons two officials.

The impact of a conflict of authority or conflict of authority between the local leaders and the deputy local leaders is a disruption of government services. It can be seen from the state civil apparatus division or ASN in supporting the Regional Heads and Deputy Regional Heads. Even though it should not involve State Civil Apparatus (ASN) position in practical politics, the fact is that ASN's non-neutrality behavior is unavoidable in the run-up to the local elections (Pilkada) because of the influence of power in the hands of the Head of Daerah and Deputy local leaders. ASN's non-neutrality in the form of siding with one of the candidates is a professional dilemma. On the one hand, they want to be neutral, but on the other hand, they are forced to side with the local leaders or Deputy local leaders who are participating in the local elections (Pilkada).

2. Methods

The study used the normative method by examining literature by studying the theory of Aquo Hans Kelsen. Deputy local leaders are regulated in Law Number 23 of 2014 concerning Regional Government, but not mentioned in the 1945 Constitution Article 18 paragraph (4). Literature-based normative research generates ideas on the

strengthening of the authority of Deputy local leaders. The research analysis technique used in solving problems is to use normative legal research with a conceptual approach and a case approach (Ibrahim, 2006).

A conceptual approach or conceptual approach by developing excellent ideas as a solution to the problem under study, namely the limited authority of the Deputy local leaders based on the case approach, because many cases occur in several regions in Indonesia due to the weak financial position of the Deputy local leaders. The conceptual approach used by Hens Kelsen is Aquo's theory regarding the hierarchical norms of legislation, which is linked through the case approach. The case approach in normative legal research supports a conceptual approach, so this research uses quantitative legal analysis with a case study model based on a conceptual approach.

3. Results and Discussion

3.1. Terms, History, and Problems of Deputy Regional Heads Based on the State Constitution

In Indonesian history, the post of Deputy local leaders is interesting to study. Due to the absence of a clear division of authority, Deputy local leaders' position in making government policies. However, the Deputy local leaders are regulated in Law of 2004 No. 32 concerning Regional Government in Article 24, which mentions being an assistant to the local leaders. Regional Heads and Deputy local leaders, including the Governor and Deputy Governor, the Regent and Deputy Regent, and the Mayor and Deputy Mayor, are directly elected in one pair by the region's people. Deputy local leaders were not given the same authority.

Based on the study results, this was caused by two aspects. Namely, the historical element which provided a narrative that since a Deputy local leader did not accompany the emergence of the term Head of Region, it was only after various regimes assumed the position of Deputy local leaders. The second aspect is the juridical aspect, namely the 1945 Constitution Article 18 paragraph (4) does not mention the Deputy local leaders. It was related to legal norms that contain basic government practice norms, particularly the placement of Deputy local leaders in government structures. Basic norms play a role in providing awareness, directing and clarifying scientists who recognize legal material, so that they understand the data provided not as empirical evidence or as part of moral norms derived from natural law, but as legal norms (Kelsen et al., 1996).

The term Regional Heads begins with the word Governor, Regent and Mayor, which has various terms in several countries. At the provincial level, the term Governor comes from the Dutch "*gouverneur*" and French "*gouverneur*." In Spanish it is called "*gobernador*" and in English "*governor*." In federal countries such as the United States, Governor is the position of Leader of state or state government. In contrast, within a unitary state, the Governor's position is the position of Regional Heads, commonly called a province and prefecture such as in Japan (Asshiddiqie, 2007). The category of governors in a unitary state, as happened in Indonesia, has deconcentrated authority as representatives of the central government. Concerning the term deputy governor in several countries, namely in Spanish, it is called "*vice-gobernador*," or in the United States, Australia, Canada is called "*lieutenant governor*," which is roughly the same as the vice governor. In Indonesia, we don't know the lieutenant governor, but we call him the Deputy Governor. It is known as the Regent, which has long been known in Java at the district level. In Yogyakarta and Surakarta, the highest office of palace officials is also called the Regent. In the kingdom era, the regents in various regions in the palace's territory were the extensions of the palace. The term Mayor comes from two words, namely Mayor and city. Since ancient times, this term has been used to describe someone's central position, which is believed to be the Head of the city government. In Aceh, the word "*wali*" is also recognized as "*Wali Nanggroe Aceh*," in context of Aceh's Heads government (Asshiddiqie, 2007).

When traced from the Dutch East Indies era, the Deputy local leaders' history could not be found regarding the placement of the Deputy local leaders in the Dutch colonial government structure. In 1903, the decentralization law was called "*Decentralizatie Wet*" in 1903 by the Dutch East Indies Government, until the change to *Bestuurhervorming* in 1922. During the Japanese occupation, the position of Deputy local leaders had never existed. In the old order era, Deputy local leaders in Acts of 1945 No. 1 concerning the Position of the National Committee which regulates regional government as well as in Law No. 22 of 1948 concerning Regional Government of the parts of Java, Madura, Sumatra, and Kalimantan, and Law of 1950 No.44 concerning Regional Government of Eastern Indonesia. According to the Law of 1957, No. 1 concerning the Principles of local Government was issued, which had just placed Deputy local leaders' position for particular regions following each region's needs.

The emergence of Deputy Regional Heads began to occur during the New Order, with the issuance of Law of 1965 No.18 concerning the Principles of Regional Government, which stipulates that for regions at the level I, II, and III all have a Deputy local leaders. Law of 1974 No .5 concerning the Principles of Local Government who govern Deputy local leaders' position comes from civil servants for the level I and level II regions. After the 1998 reform era rolled around, then the issuance of a new reformist law, namely the Law of 1999 No. 22 concerning Regional Governments that lead in line "A local leader leads each region as the chief executive who is assisted by a Deputy local leaders.

Furthermore, issued the Law of 2004 No. 32 concerning Local Government, which states that each region is led by a local leaders, assisted by one Deputy local leaders. Furthermore, Deputy local leaders can be divided into Deputy Governors, for Districts called Deputy Regents and for cities called Deputy Mayor. Then the Law of 2008 No. 12 concerning the Second Amendment to Law of 2004 No. 32 regarding local government. Subsequently, it was changed to Law of 2014 Number 23 concerning local government, and the last is Law of 2015 Number 9 concerning Second Amendment to Law of 2014 No. 23 local Government. Legislation related to Deputy local leaders can be seen in [Table 1](#).

Table 1. Placement of Deputy Local Leaders in Various Laws and Regulations in Indonesia

No	Laws	Authority of Deputy Local Leaders
1	Decentralization Law. In <i>Decentralizatie Wet</i> of 1903 (the Dutch East Indies Government)	The position and authority of the Deputy local leaders has not yet been regulated
2	<i>Bestuurhervorming</i> of 1922 turn into <i>Decentralizatie Wet</i> until the Japanese colonization	The position and authority of the Deputy local leaders has not yet been regulated
3.	Acts of 1945 No.1 concerning the Position of the National Committee which regulates local governance	The position and authority of the Deputy local leaders has not yet been regulated.
4.	Law of 1948 No. 22 concerning the Principles of Regional Government for Java, Madura, Sumatra and Kalimantan	Regulating the position of local leaders and this provision is the beginning of the implementation of regional autonomy, but the position of Deputy local leaders has not yet been regulated.
5	Law of 1950 No. 44 concerning Government for Sulawesi, Maluku and Nusa Tenggara	The position and authority of the Deputy local leaders has not been yet regulated. This law is known as the East Indonesia State Law which was enacted on June 15, 1950.
6.	Law of 1957 No. 1 concerning the Principles of Local Government	Regulating the Deputy local leaders position for special regions that are following with the needs of each region. In-Law of 1957 No. 1 concerning the Principles of local Government article 26. It is stated that if a Special Region is not appointed Deputy Head of a Special Region, then if he is absent or resigns from his position. He can be represented by the Deputy Chairperson of the Regional Government Council, who is elected by and of the Regional House of Representatives (DPRD).

No	Laws	Authority of Deputy Local Leaders
7.	Presidential Decree No. 6 of 1959 concerning Local Government which replaced part of the Law of 1957 No. 1 concerning the Principles of Regional Government	The Decree of the President of 1959 No. 6 stipulates that in the Swatantra Region, the position of Deputy local leaders is needed, while in the Swatantra area there is no Deputy local leaders of Local Office of the authority of the Deputy leaders of the Level I Region to assist the local leaders in government tasks in the Greater Jakarta, West Java, Central Java, East Java and North Sumatra
8.	Presidential Decree No. 2/1960 concerning Deputy local leaders of Level I Regions, as regulated in Article 1, paragraphs (1), (2), and (3)	The President can appoint a Deputy local leaders for the region at Level I. The appointment of a Deputy local leaders as referred to in paragraph (1) shall be carried out by taking into account the conditions applicable to the appointment of a Regional Head based on the Presidential Decree No. 1959 No. 6 regarding Regional Government (enhanced). The President may deviate from the requirements for the appointment of Deputy Regional Heads as referred to in paragraph (2).
9.	Law of 1965 No. 18 concerning the Principles of Local Government	Article 21 provides that for regions at levels I, II, and III, each has a Deputy local leaders. This law resulted from the Presidential decree's issuance on July 5, 1959, which stated guided democracy, which only regulated the local leaders as an executive body and the Regional Representative Council as a legislative institution.
10.	Law of 1974 No. 5 concerning the Principles of Local Government	Article 24 paragraph (1) states that Deputy leaders of Level I regions are appointed by the President from civil servants who meet the requirements, the Minister of Home Affairs appoints paragraph (3) Deputy heads of Level II regions.
11.	Law of 1999 No. 22 concerning Local Government	Article 30 states that a local leader leads each region as the chief executive, assisted by a deputy local leaders.
12.	Law of 2004 No. 32 concerning Local Government	<p>Article 24 paragraph (1) and (3) states that: a local leaders of government leads each region called a local leaders, assisted by one deputy regional head. Furthermore, the deputy local leaders can be divided into deputy governors, districts called deputy regents, and cities named deputy mayors. The said local leaders and deputy local leaders are directly elected as one person by the people in the region concerned."</p> <p>Article 26 Paragraph (1) Deputy local leaders have the following tasks:</p> <ol style="list-style-type: none"> 1. assist local leaders in carrying out regional governance; 2. assist local leaders in coordinating the activities of vertical agencies in the regions, following up on reports and findings from the supervision of the supervisory apparatus, implementing the empowerment of women and youth, and striving for the development and preservation of socio-culture and the environment; 3. monitor and evaluate the administration of regency and city government for deputy local leaders; 4. monitor and evaluate the administration of governance in the district, sub-district, and village areas for the deputy leaders of the regency/city; 5. provide advice and considerations to local leaders in implementing regional government activities; 6. carry out other governmental duties and obligations assigned by the regional head and carry out the duties and powers of the local leaders if the local leaders is absent. <p>Article 26 Paragraph (2) states that: In carrying out the tasks referred to in paragraph (1), the deputy local leaders are responsible to the local leaders.</p> <p>Article 26 Paragraph (3) states that: The deputy local leaders replace the local leaders until the end of his term of office if the regional head passed away, resigns, is terminated, or cannot carry out his obligations for 6 (six) months continuously during his term of office.</p>

No	Laws	Authority of Deputy Local Leaders
13	Law of 2008 Number 12 concerning Second Amendment to Law of 2004 No. 32 regarding Local Government	Article 26 concerning the duties of Deputy local leaders. The statutory mandate for the deputy regional head's duties is not accompanied by details of the authority required to carry out his duties.
14	Law of 2014 No. 23 concerning Local Government	<p>Article 63 Paragraph (1) states that: The local leaders as meant in Article 59 paragraph (1) can be assisted by a deputy local leaders. Paragraph (2) The deputy local leaders as referred to in paragraph (1) for a provincial Region is called the deputy governor, for a regency area is called the deputy regent of the district, and for a city area is called the deputy mayor.</p> <p>Article 64 Paragraph (1) Before taking office, the deputy local leaders are sworn in by taking an oath/promise guided by the official inaugurating him. Paragraph (2) The oath/pledge of the deputy regional head as referred to in paragraph (1) is as follows: "By Allah/God, I swear or promise to fulfill my obligations as deputy local leaders as well as possible and fairly, adhere to the 1945 Constitution of the Republic of Indonesia and carry out all laws and regulations in a straightforward manner and serve the people, the country and the nation."</p> <p>Article 66 Paragraph (1) Deputy local leaders have duties:</p> <ol style="list-style-type: none"> 1. help the local leaders in: <ol style="list-style-type: none"> 1) lead the implementation of government affairs which fall under regional authority; 2) coordinating the activities of regional apparatus and following up on reports and/or findings from the supervision of the supervisory apparatus; 3) monitoring and evaluating the administration of local Government carried out by the Provincial Regional Apparatus for deputy governors; and 4) monitoring and evaluating the administration of government carried out by the district/city, sub-district and/or village apparatus for the deputy regent/mayor; 2. provide advice and considerations to regional heads in implementing Local Government; 3. carry out the duties and authorities of the regional heads if the local leaders is served a period of detention or temporarily absent; and 4. carry out other duties in accordance with the provisions of laws and regulations. <p>Article 66 Paragraph (2) Apart from carrying out the tasks referred to in paragraph (1), the deputy local leaders carry out other governmental duties and obligations assigned by the local leaders, which are stipulated by a regional head decree.</p> <p>Article 66 paragraph (3) In carrying out the tasks referred to in paragraph (1) and paragraph (2), the deputy local leaders is responsible to the local leaders.</p>
15	Law of 2015 No. 9 concerning the Second Amendment to the Law of the Republic of Indonesia of 2014 No. 23 concerning Local Government	Regulating the local leaders elections and Deputy local leaders, and affirming that the assistant to the local leaders is the Deputy local leaders in effect since March 18, 2015

The Deputy local leaders position has an exact position during the reform era with the issuance of a law that legitimizes the part of the Deputy local leaders, namely Law of 1999 No. 22 concerning Local Government. Law Number 32 of 2004 concerning Local Government. Law of 2008 No. 12 concerning the Second Amendment to Law No. 32 of 2004 on Regional Government. Law of 2014 No. 23 and Law of 2015 No. 9 concerning the Second Amendment to the Law of 2014 No. 23 Local Government. Although it states deputy local leaders' position legally, the law does not explicitly regulate its authority. Whereas in the 1945 Constitution Article 18 paragraph (4) states that "Governor, Regent, and Mayor, respectively as head of provincial, regency government and the city is elected democratically." From the aspect of the principle of *lex superior derogate legi inferior*, the five Regional Government Laws regulating the

position of Deputy local leaders violate the state constitution against the 1945 Constitution of the Unitary State of the Republic of Indonesia.

The constitutional application of the Regional Government Law regulates the positions of Deputy local leaders and the election of local leaders and Deputy local leaders. Among others, regulating the election of local leaders and Deputy local leaders by the Regional People's Representative Council, so that what determines their election victory lies in the regional legislature's wishes. The Regional House of Representatives (DPRD) has a very strong political position because it has an institution of power that determines the victories of Candidates for local leaders and Deputy local leaders. The potential for a bargaining position between the Regional People's Representative Council members and the candidates for local leaders and deputy local leaders can occur. As a result, political transactions occur when selecting candidates for local leaders and deputy regional head by the Regional People's Representative Council. In addition, the positions of the local leaders and Deputy local leaders elected as regional leaders are weakened because the Regional House of Representatives (DPRD) dominant power is more substantial with its legislative, budgeting, and supervisory functions as well as capitalization power that invests capital in winning candidates in the local leaders.

The holding of local leaders and deputy local leaders elections changes the political mechanism in determining local leaders by involving the people. A general election commission was formed in each region whose members came from non-political parties or independent circles. The election for local leaders and deputy local leaders with participants from the candidate pairs for regional heads and deputy local leaders does not mean providing an effective solution to the quality of local democracy. Because in government, it is essential to implement a democratic government system. Because the basis of democracy comes from two big ideas, namely sovereignty in the hands of the people and the people are a source of power (Saebani & Wati, 2016). Local elections (Pilkada) as a manifestation of the people's sovereignty is expected not to cause problems in conflicts of authority between regional heads and deputy local leaders. There are several problems related to the position of the Deputy local leaders. The authority conflict of the local leaders and Deputy local leaders is associated with the division of authority of the Deputy local leaders, government assignments, the appointment of regional officials to regulate infrastructure and non-infrastructure projects in the regions. The main cause is unclear regulation of the authority of the Deputy local leaders.

3.2. Maintaining the Position of Deputy Regional Head in Regional Head Election (Pilkada)

The limited authority of Deputy Regional Heads has occurred since the reform era in 1998. This study is interesting to conduct in-depth research to find the best solution to the limited authority of Deputy Regional Heads. There are two solutions if the Deputy Regional Head is maintained in a democratic party at the regional level, namely the Election of Regional Heads and Deputy Regional Heads. These two offers must be strengthened by constitutional reform with the 5th amendment to the 1945 Constitution. There are two solutions if the Deputy Regional Head is maintained in the elections for the Regional Head and Deputy Regional Head as follows:

1) *Complaint Mechanism*

The first proposed solution is the Complaint Mechanism, which should ideally be regulated in the arrangement of laws related to regulations for local leaders and deputy local leaders election. This arrangement, regarding the mechanism that provides space for the Deputy local leaders to argue or complain mechanism, is also needed to protect the two's rights. A complaint mechanism is a means of control for the distribution of authority that has been previously arranged. Through the Complaint mechanism, a Deputy local leaders can object to the non-accommodative rights of the

Deputy local leaders that have been regulated by law. Complaint mechanism addressed to DPRD through its supervisory function. The results of the Complaint Mechanism submitted by the Deputy Regional Head to the Regional House of Representatives (DPRD) are used as a reference or material to provide a warning to the local leaders.

The authority of the DPRD as the regional legislative power known as the legislative *le pouvoir* is very important because it will become a facilitator of the weak authority of the Deputy local leaders. The Regional House of Representatives (DPRD) must be in a neutral position without taking sides with one of the local leaders. The main purpose of the DPRD's presence in carrying out a complaint mechanism is to prevent misunderstandings between the local leaders and Deputy local leaders that lead to conflicts of authority. With the Regional House of Representatives (DPRD), it can present the best solution to break the communication deadlock over a leadership breakdown that has the potential to create government instability in the regions. The neutrality of the Regional House of Representatives (DPRD) is not enough just at the institutional boundaries, but up to the factions and commissions and other parts of the Regional House of Representatives (DPRD), because this determines the complaint mechanism's success.

2) *Clear Division of Tasks*

Clear Division of Task between local leaders and Deputy local leaders, without neglecting the local leaders position as Top Leader in the region. This thought emerged because, formally, the leadership nomenclature in one package stated local leaders and Deputy local leaders position. Clear Division of Tasks without starting with political agreements between the local leaders and Deputy local leaders. But a clear division of tasks that are not like a political agreement and the Clear Division of Tasks must be regulated in statutory regulations so that there is no conflict of authority between the local leaders and Deputy local leaders in the future. With the Clear Division of Tasks method in local elections (Pilkada), the elected local leaders and Deputy local leaders are one package leadership which in running the local government has joint achievements or collective success, one of which cannot claim to be the sole achievement of the local leaders or the only achievement of the Deputy local leaders, so that both of them have an equal position in carrying out local leadership to complement and accept each other fully for local governance stability.

Law Number 23 of 2014 concerning Regional Government, article 66 paragraph (1), (2), and (3), article 66 paragraph (2), article 66 paragraph (3) appears to be very limited in the duties of the deputy local leaders. The Clear Division of Tasks mechanism will eliminate the dominant role of local leaders in determining strategic government policies compared to Deputy local leaders. The dominance of the local leaders in determining strategic policies is not the type of authoritarian leadership of the local leaders. It has been regulated in the laws and regulations, causing problems of authority between the local leaders and Deputy local leaders such as rivalry to gain voter influence to compete in the next local elections (Pilkada) and other problems that arise. obstructing the stability of local government and community services.

Clear Division of Tasks avoids a bargaining position or a bargaining position between the local leaders and Deputy local leaders, which may not satisfy both of them. However, this will not satisfy other parties with political interests with the local leaders and Deputy local leaders, such as political parties or success teams. Apart from that, it prevents the Deputy local leaders position as assistant to the local leaders as in the statutory regulations that the local leaders determines the authority of the Deputy local leaders. This is regulated in Law of 1999 No. 22 concerning local Government and Law Number 32 of 2004 concerning local Government that the Deputy local leaders as an assistant to the local leaders, as stipulated in Law of 2004 No. 32 concerning local Government article 24 paragraph (3) states that the local leaders is represented the assistant local leaders.

3.3. Consistent with the State Constitution, Local Elections (Pilkada) Without a Candidate for Deputy Local Leaders

The implementation of local elections (Pilkada) without Deputy local leaders is the right solution to prevent authority conflicts between local leaders and Deputy local leaders. In the perspective of the state constitution, it is obvious that the 1945 Constitution Article 18 paragraph (4) of the 1945 Acts states that the Governor, Regent, and Mayor, respectively, as the head of provincial, regency and municipal government are elected democratically. The country's constitution does not mention deputy local leaders, namely deputy governors for provinces, deputy regents for districts, and deputy mayors for cities. The mention of the Deputy local leaders in Law of 2004 No. 32 regarding Local Government, article 24 paragraph (3) states, "Deputy local leaders are assistants to Regional Heads. Article 26 paragraph (1) states that "Deputy local leaders have the task of assisting local leaders.

Moreover, local governments assisting local leaders in coordinating the activities of vertical agencies in the regions, following up on reports and findings of supervision results, implementing women's and youth empowerment, and striving for development. Preservation of socio-culture and the environment. Besides, monitoring and evaluating the implementation of local government activities; carry out other governmental duties and obligations assigned by the local leaders, and carry out other duties and authorities of the local leaders if the local leaders are absent.

The principle of *lex superior derogate legi inferior*, which stipulates that higher regulations override lower regulations. The rule of Law of the invitation is very clear that there is a state constitutional conflict related to Deputy local leaders' position who is included in the local elections (Pilkada). The 1945 Constitution as a higher regulation and Law of 2004 Number 32 concerning Regional Government as a lower regulation. When viewed as legal norms, Hans Kelsen raised in Aquo's theory that a legal norm is tiered and has a hierarchical arrangement. This theory is used when there is a conflict between higher laws and regulations such as the 1945 Constitution and the 2004 Law Number 32 concerning Local Government related to Deputy local leaders' position. In the positive Law that applies in Indonesia regarding the traditional values, it has been regulated in Law of 2011 Number 12 concerning the Order of the Legislative Regulations which states that the composition of the laws and regulations, namely the first 1945 Constitution, second the People's Consultative Assembly's (MPR) decrees, the third Law or Regulation Government In Lieu of Law. Fourth Government Regulations, Fifth, Presidential Regulations, Sixth, Provincial, Regency, and City Regulations. Based on Hans Kelsen's hierarchy of norms in Aquo theory and Law of 2011 Number 12 concerning the Order of Legislation, the position of Deputy local leaders is not required in the regional government structure.

With the position of Deputy Regional Head, it means that in the Election of Regional Heads and Deputy Regional Heads, only Regional Head Candidates are in the Regional Head Election (Pilkada). If observed, a regional secretary can take over a deputy regional head's duties because a deputy regional head's duties are less than that of a regional secretary. So that with the removal of the position of Deputy Regional Head in the regional government structure, then the assignment is transferred to the Regional Secretary for more effective and efficient implementation of regional government because eliminating the position of Deputy Regional Head is to restore legal norms to their habitat. Whereas *sollen* and *sein* are different and cannot be put together, and equal, then the objective validity of a norm is determined by conformity to willful actions which have empirical legal norms (Kelsen, 2010).

Article 213 paragraph (1) of 2014 acts No. 23 concerning Regional Government regulates that the duties of the Regional Secretary are regulated in Articles 213 (1), (2), and (3) and Article 214 paragraph (1), (2), and (3). If studied in-depth, the position of Regional Secretary is more appropriate to hold the position of Deputy Regional Head. Apart from the state constitution, namely the 1945 Constitution, which does not place the position of Deputy local leaders. The role of the local Secretary is very

appropriate and relevant. Suppose the position of Deputy local leaders is removed. For several reasons, first, the local Secretary's position is not a political position, but rather a career position in the highest structure for the state civil apparatus, thus preventing the occurrence of a conflict of authority or conflict of the rule. The two local Secretary positions have administrative power as regional executive positions that regulate the circulation of coordination between local apparatus. The three parts of the local secretary have the same power as the Deputy local leaders, namely assisting the local leaders and reporting all of his duties to the local leaders, although there are differences between the two, namely in terms of authority, where the Regional Secretary has clear, specifically detailed authority, the authority of the Deputy although the local leaders is regulated in statutory regulations, it is general, giving rise to multiple interpretations.

4. Conclusion

This research concludes that, the first position of Regional Head was retained. The constitutional law phenomenon needs to be rearranged the Position of Deputy local leaders with a Clear Complaints and Task Distribution mechanism of the 1945 Constitution. The two law principles were *lex superior derogate legi inferior*, which states that higher regulations override regulations lower. The focus of the rule of law, it was obvious that there was a conflict of legal norms proposed by Hans Kelsen in the *aquo* theory is used when there was a conflict between higher statutory regulations such as between the 1945 Constitution and 2014 Law Number 23 concerning local Government related to the position of Deputy local leaders, and favorable laws in force in Indonesia regarding the legal regulations have been regulated in Law of 2011 Number 12 concerning the Establishment of Legislation so that the position of Deputy local leaders needs to be removed with a position replaced by the local secretary.

The two options above have their advantages and disadvantages. The first option is to retain the Deputy local leaders' position in the regional elections with the Complaint mechanism and Clear Division of Tasks methods. The Complaint Mechanism method has advantages, namely the right of the Deputy local leaders to clarify and reinforce his / her authority, the availability of control tools in regulating the power of the local leaders and Deputy local leaders, but functioning the effectiveness of the supervisory function of the Regional People's Representative Council. The lack of a complaint mechanism can sharpen the conflict between the regional head and the deputy local leaders because each demands their rights in authority, which can become a political tool for the Regional House of Representatives (DPRD) as a representation of a political party. The advantages of a Clear Division of Tasks are there is a clear division of authority between the local leaders and Deputy local leaders. Eliminating the local leaders dominant authority, there is no rivalry for political support in the local elections between the local leaders and Deputy local leaders, which results in polarization of interests among ASN. The weakness of the Clear Division of Tasks is that there is the potential for a political agreement between the local leaders and the Deputy local leaders to harm the people. The advantages and disadvantages of the second option are consistent with the state constitution. Local elections (Pilkada) without a Candidate for Deputy local leaders has the advantage of emphasizing the state constitution's consistent application, namely the 1945 Constitution of the Unitary State of the Republic of Indonesia. The structure of political positions at the provincial level and districts/cities become lean so that government bureaucratic management becomes easily accessible to the public. Furthermore, the drawback is that the Regional Secretary will have difficulty regulating his position as the highest person in charge of government administration by representing the Regional Head in government politics' interests, thus affecting the State Civil Apparatus' neutrality Regional Secretary.

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