



## Alternative Design to Prevent Disharmony Between Regional Heads and Regional House of Representatives

Ahmad Siboy<sup>1</sup>, Sholahuddin Al-Fatih<sup>2\*</sup>, Tinuk Dwi Cahyani<sup>3</sup>

<sup>1</sup> Faculty of Law, Universitas Islam Malang, Indonesia

<sup>2</sup> Faculty of Law, Universitas Muhammadiyah Malang, Indonesia

<sup>3</sup> Fakulti Undang-Undang, Universiti Kebangsaan Malaysia, Malaysia

\*Corresponding Author: [salfatih@umm.ac.id](mailto:salfatih@umm.ac.id)

Histori Artikel	Abstrak
<p>Masuk: 12 Jan 2024 Review: 23 Mar 2024 Diterima: 5 Apr 2024 Terbit: 6 Apr 2024</p>	<p><i>Kepala daerah dan Dewan Perwakilan Rakyat Daerah merupakan organ pemerintahan di tingkat daerah. Kedua lembaga tersebut dibentuk dalam rangka untuk menunjang jalannya pemerintahan di daerah dalam kerangka check and balance. Namun dalam praktiknya, hubungan kedua lembaga tersebut cenderung destruktif dan saling intrik satu sama lain dan mengakibatkan menyampingkan prioritas kepentingan rakyat. Penelitian ini berangkat dari pertanyaan tentang apa faktor-faktor yang menyebabkan retaknya hubungan antara kepala daerah dan DPRD, apa implikasi dari keretakan/ketidakharmonisan hubungan kepala daerah dengan DPRD serta bagaimana desain pencegahan keretakan relasi kepala daerah dan DPRD di masa depan. Penelitian ini terqualifikasi ke dalam jenis penelitian yuridis normatif dengan pendekatan peraturan perundang-undangan, pendekatan kasus, dan pendekatan konseptual. Hasil penelitian menunjukkan bahwa keretakan/ketidakharmonisan hubungan kepala daerah dan DPRD disebabkan oleh proses pemilihan kepala daerah secara langsung sehingga kepala daerah merasa tidak memiliki hutang budi kepada DPRD. Bersamaan dengan hal tersebut, pada saat pencalonan, kepala daerah yang terpilih terkadang berasal dari calon independen dan/atau tidak berasal dari partai mayoritas di DPRD. Ke depan, keretakan relasi antara kepala daerah dan DPRD tidak dapat dibiarkan berlangsung lestari mengingat keretakan relasi tersebut telah menyebabkan terhambatnya roda pemerintahan. Desain yang dapat ditempuh untuk mencegah keretakan relasi tersebut dapat ditempuh dengan cara penerapan sanksi bagi kepala daerah dan/atau pengambilalihan kewenangan sementara oleh organisasi atasan.</i></p> <p><b>Kata Kunci:</b> Pemilihan Kepala Daerah; Hubungan; Ketidakharmonisan</p>



Article's History	Abstract
<p>Received: 12 Jan 2024 Reviewed: 23 Mar 2024 Accepted: 5 Apr 2024 Published: 6 Apr 2024</p>	<p>Regional heads and Regional House of Representatives (DPRD) are local government. Both institutions were formed in order to support the running of local government within the framework of checks and balances. However, in practice, the relationship between the two institutions tends to be destructive and intrigue each other and result in a convergence of the priorities of the interests of the people. This research departs from questions about what are the factors that cause the fracture of relations between regional heads and DPRD, what are the implications of disharmony between regional heads and DPRD and how to design to prevent disharmony between regional heads and DPRD in the future. This research is qualified into the type of normative juridical research with a statutory approach, a case approach, and a conceptual approach. The results showed that the disharmony between the regional head and the DPRD was caused by the process of directly electing the regional head so that the regional head felt that they did not have a debt of gratitude to the DPRD. At the same time, at the time of nomination, the elected regional heads sometimes come from independent candidates and/or do not come from the majority party in the DPRD. In the future, the disharmony between regional heads and DPRD cannot be allowed to continue considering that the disharmony in relations has caused obstacles to the government. The design that can be taken to prevent disharmony in relations can be pursued by applying sanctions to regional heads and/or taking over temporary authority by superior organizations.</p> <p><b>Keywords:</b> Regional Head Election; Relations; Disharmony</p>

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## Introduction

The relationship between the regional head (Governor/Regent/Mayor) and the Regional House of Representatives (hereinafter referred as DPRD) is a form of *check and balance* relationship (Yani, 2018). The DPRD is an institution that should be able to oversee the running of the runs of government led by regional heads (Jumadin & Wibisono, 2021). The legislative function, budget function and control function owned by the DPRD can be used optimally to ensure that the running of local government led by a regional head are in accordance with the direction of regional development both the direction of



development regulated in the medium-term and long-term Development Plan (Siboy et al., 2022).

In the dynamics of local government that occurs in Indonesia, the relationship between regional heads and DPRD is often confrontational (Lule, 2019). The relationship between the regional head and the DPRD shows a disharmonious relationship. Regional heads and DPRD often clash with each other and result in conduciveness and hampering the pace of government in the regions. The functions owned by each institution are not used for the combination of building an area for the welfare of its citizens (Al-Fatih, 2022). Each institution, both regional heads and DPRD, showed their respective egos to face each other. The function that should have been ideal in the running of the runs of government in the regions has become a function that weakens the runs of government. Regional heads and DPRD run independently and even intrigue each other and tackle each other. Regional heads ignore or do not pay attention to votes in the DPRD and the DPRD tries to decline government programs as a form of feedback or "revenge" of the DPRD against the government's attitude that is not willing to compromise with the DPRD.

According to the topic of this research, Erica Putri Hermala did previous research in her thesis at the University of Lampung titled Community Attitude Towards Disharmony of Regional Heads and Deputy Regional Heads (Study in Kemiling District, Bandar Lampung City) (Hermala, 2019). The research results show that 67% of respondents are aware (cognitive aspect) of the disharmony between the Mayor and Deputy Mayor of Bandar Lampung, 100% of respondents disagree (affective aspect) with the disharmony between the Mayor and Deputy Mayor of Bandar Lampung, and 74% of respondents still support (conative aspect) of government despite the disharmony between the Mayor and Deputy Mayor of Bandar Lampung.

Another one, comes from Dikson Junus and Sucipto Potabuga, that writes Disharmony in the Dynamics of Local Government Implementation (Junus & Potabuga, 2018). They discovered that disinclination in government interactions between provinces and municipalities is caused by an unclear division of authority between governments, resulting in ineffective structural and functional coordination and goal achievement that does not always operate as planned.

Moreover, Khansa Rana Syafira on her thesis, entitled Disharmonizing of Relations Between Regional Heads and DPRD in The Implementation of Government for the 2016-2021 Period in Jember District, East Java Province, found that the problem of disharmonizing of ties between regional heads and DPRD can be avoided by more intensive political communication between



regional heads and DPRD in order to attain the same orientation, namely administering government for the welfare of the people (Syafira, 2022).

Based on the background and previous research above, this research has a strong novelty and contribution on the field of law, especially on local government studies. By this article, the authors try to gain alternative solutions regarding disharmony between regional head and regional house of representatives. The research problem then formulated as; Why is there a disharmony between the Regional Head and DPRD; What is the implications of the disharmony between Regional Heads and DPRD; and how is the design to prevent disharmony between Regional Heads and DPRD?

### Methods

This research is included in the type of normative juridical research (Al-Fatih & Siboy, 2021) with a statutory approach (Irwansyah, 2020), conceptual approach (Al-Fatih, 2023) and case approach (Ansari & Negara, 2023). The source of legal material is obtained from primary, secondary and tertiary legal material. The source of legal material is collected by inventory method and searching online, then the source of legal material is analyzed by descriptive and prescriptive analysis techniques.

### Results and Discussions

Article 18 of the NRI Constitution of 1945 expressly states that each provincial and regency/city area is headed by a regional head and there is a Regional People's Representative Council. This provision shows that the government at the regional level consists of the Regional Head and the Regional People's Representative Council. The regional head is a representative of the position of executive power while the Regional House of Representative (DPRD) represents the legislative branch of power (Abustan, 2022). Regional heads and Regional Representative Councils are formed with functions and duties that are different from each other.

The difference in functions in the two institutions is in order to *check and balance*. The two institutions must certainly run synergistically for the sake of smooth running and development at the regional level. The two institutions are required to work synergistically because they are interconnected with each other and the relationship between the two institutions has a direct impact on the people. For example, in the preparation of Regional Regulations (Perda) on Regional Revenue and Expenditure Budgets (hereinafter referred as APBD), automatically between regional heads and DPRD must work together considering that Regional Regulations on the APBD must get approval from the DPRD and Regional Heads. If one of the two institutions disagrees, the



Regional Regulation on the Regional Budget cannot automatically be ratified (Wijayanto, 2015) (Putu Sarga, 2021).

However, the pattern of relations between regional heads and DPRD is often in communication with political tensions that are quite violent or contradictory to each other. Regional Heads and DPRD are in a pattern of disharmonious relations. Even between the two sabotage each other by utilizing the authority they have. As a result, many public rights have been neglected due to the disharmony between regional heads and local parliaments.

### **Factors of Disharmony Relations between Regional Heads and DPRD**

At least, there are several things that cause disharmony between regional heads and DPRD. First, local elections are held directly. Direct regional elections certainly result in the legitimacy of a regional head. Regional heads elected from the direct election process are certainly a representation of the will of the people or not the will of the DPRD. Thus, automatically a regional head feels that he is not so indebted to the DPRD so that the votes of the DPRD will not be so prioritized by a regional head. This is different from regional head elections when carried out by the DPRD where a regional head will feel indebted to the DPRD because those who make themselves regional heads are based on the choice of the DPRD. Along with that, a candidate for regional head before being elected by members of the DPRD must have made political deals first as part of a contract or commitment if elected as a regional head (Kennedy & Suhendarto, 2020).

Second, the recommendation of candidacy. Regional heads also do not care much about DPRD members because a regional head advances as a regional head not because he is supported or recommended by the regional management of a political party. A regional head becomes a candidate for regional head because he is supported by the central management of a political party so that a regional head also feels that there is no relationship with members of the DPRD. Even if a regional head wants to run in the second term, he still does not have to submit to the DPRD members considering that even if the DPRD members are disappointed with him (regional heads), it does not mean that the recommendation of political parties to run in the second term will be lost. This is because the recommendation of the central management of political parties to candidates for regional heads is the absolute authority of the central management (Al Fatih & Nur, 2023).

Third, individuals. A regional head can become a regional head not only because it is carried by a political party as a candidate for regional head. A person can become a regional head through channels outside political parties,



namely individual channels by collecting several Identity Cards (KTP). When someone becomes a regional head because of the individual line, this will increasingly make the regional head freer to run the runs of government in the region and not really care about the votes of the DPRD. This is because a regional head who departs from the individual route is not burdened with political deals with political parties whose cadres sit as members of the DPRD. This is different from a candidate for regional head whose nomination process comes from the recommendation of a political party where a regional head who departs from a political party will continue to be in the shadow of the political party that supports him, including political party cadres who sit as councilors in the area he leads (Mustika & Rodiyah, 2023).

Fourth, the Regional Representative Council (DPRD) is an institution that cannot dismiss regional heads. As an institution that cannot dismiss a regional head, it automatically makes the *bargaining position* in the DPRD before the regional head not so significant that often the regional head is ignorant and even indifferent to the DPRD.

Fifth, the mindset and attitude pattern of the DPRD. The fractured relationship between regional heads and DPRD is also inseparable from the mindset and attitude patterns of DPRD members who often carry out their functions not based on the interests of the people. Admittedly or not, DPRD members, especially councilors who come from parties that are not supporters of regional heads, often use their supervisory function to launch excessive criticism and seem to want to thwart the regional head program. This condition certainly further muddied the atmosphere of communication between regional heads and DPRD. Each institution (both regional heads and DPRD) is getting stronger with their own will so that conflicts between the two institutions at the regional government level are increasingly tapered and not constructive.

Sixth, the disharmony between regional heads and DPRD because the consequences of this inconsistency do not have a significant impact on themselves (regional heads and DPRD). The consequences of the disharmony between the two institutions are greater felt by third parties and the community. Evidence that the disharmony between the two institutions does not affect them can be seen in relation to regular income. Regular income such as basic salaries and allowances from regional heads and local parliaments will not be affected by the tenuous relationship between them. While third parties and the public are parties who feel directly from the disharmony of the relationship between the two institutions. For example, a draft Regional Regulation on Regional Revenue and Expenditure Budget (APBD) cannot be





ratified because there is no agreement between the regional head and the DPRD, so automatically the previous year's APBD is used. The use of the previous year's APBD certainly makes several third parties and communities feel the impact, especially third parties who are tied to multi-year projects with local governments or aid budgets for development projects (Sulistiyo & Widayati, 2018).

Seventh, the disharmony between regional heads and DPRD is also due to the sense of prestige inherent in each party. Regional Heads and DPRD both feel the most right and when reconciled, it is interpreted the same as giving in or strengthening self-esteem. This is certainly a mindset and attitude pattern that increasingly perpetuates disharmony between the two. In political behavior, defeating one of the two will greatly affect his political reputation. Admitting mistakes is a form of political action that is considered to reduce self-esteem and make your political reputation decrease. This, of course, is a very undesirable thing so try your best to be shunned.

Eighth, external parties or parties outside the regional head and DPRD are parties that are one of the "culprits" of the perpetuation of disharmony between regional heads and DPRD. External parties in this context can come from political parties. Admittedly or not, political parties are one of the triggers for the fracture in relations between regional heads and DPRD. Members of the DPRD who are representatives of political parties in regional legislatures carry out various political maneuvers by using their representatives to "attack" the sitting regional head. That is, the DPRD's cold attitude towards regional heads is based more on party "instructions" than on objective conditions on the performance of regional heads. Members of the DPRD prioritize the aspirations and will of the party rather than the voice of conscience and regional interests. Members of the DPRD have not been able to "let go" of their party's interests when sitting as people's representatives.

### **The Impact of Disharmony Relation Between Regional Head and DPRD**

The pattern of disharmonious communication between regional heads and DPRD has certainly shown various implications for the dynamics of government at the regional level including;

#### **1. Regional Budget (APBD)**

One of the negative implications of the disharmony between the regional head and the DPRD is related to the Regional Budget (APBD). The Regional Revenue and Expenditure Budget is a financial arrangement for each region for one year of government. This APBD is prepared by the regional head together with the Regional Apparatus Organization (OPD) and then discussed together with the DPRD. A draft Regional Budget (RAPBD)



prepared by a regional government cannot be immediately implemented because a draft budget can be declared valid if it has obtained mutual agreement between the government and the DPRD. The consent of these two parties is absolute. That is, if one party does not agree, a draft APBD cannot be applied (Jumadin & Wibisono, 2021).

Because the APBD requires the approval of both parties, there must automatically be a common view between the regional head and the DPRD, if there is no alignment of views, then automatically a region will not have an APBD for one year. However, the disharmony between regional heads and DPRD has caused the APBD to become one of its "victims" where between regional heads and DPRD there is no agreement to make the Regional Revenue Budget Draft (RAPBD) into a Regional Regulation on Regional Revenue and Expenditure Budget (APBD).

The most prominent case regarding the inability to ratify a RAPBD into a Regional Regulation on the Regional Budget is the disharmony between the Governor of DKI Jakarta and the Jakarta DPRD. Due to the disharmonious relationship between the DKI Regional Head and the DPRD, the DKI Regional Budget in 2015 cannot be ratified into the Regional Budget. The non-ratification of a RAPBD into an APBD certainly does not only harm regional heads and DPRD but the entire people in a region. Because, APBD is related to all aspects of people's lives. In general, there are several implications of not passing the APBD.

## 2. Impeachment

Disharmony between regional heads and DPRD can also lead to the process of dismissing regional heads during their tenure. The DPRD will certainly continue to carry out various political maneuvers to appoint the incumbent regional heads. The impeachment effort is certainly the culmination of efforts by the DPRD to bring down a regional head whom they have positioned as a political opponent instead of a partner (Noor et al., 2021). Impeachment of regional heads during their tenure is a matter that is possible in applicable law (*ius contitutum*). Under applicable law, a regional head can resign or be dismissed during his term of office. Regional heads can quit their term of office of their own accord such as resigning. Meanwhile, dismissal by the DPRD is related to efforts to dismiss regional heads during their term of office because they are based on the will of the DPRD. The process of impeaching regional heads can indeed start from the DPRD where the DPRD can exercise the right to express an opinion that the incumbent head has been considered incompetent to continue his position as regional head. After the exercise of the right to express such opinions,





the process of dismissing the regional head can be continued to the President/Minister of Home Affairs.

### **Design to Prevent Disharmony Between Regional Heads and DPRD**

The relationship between the regional head and the DPRD must not be in relation to destructive conflicts. The relationship between regional heads and DPRD must be functional and harmonious. There are several patterns that can be applied to maintain the relationship between the regional head and the DPRD. First, the imposition of sanctions. Regional heads and deputy regional heads who are in a disharmonious relationship must apply sanctions to both. That is, sanctions are given in order to end the conflict between regional heads and DPRD so that it is not prolonged. The threat of sanctions can be raised because sanctions can be the "strongest" means to "scare" regional heads and DPRD. The threat of sanctions can make both parties try as much as possible to prevent conflicts, especially conflicts of a political nature considering that with these sanctions, automatically regional heads and DPRD will avoid sanctions considering that any sanctions can harm their rights. The question then is about what form of sanctions can be given to Regional Heads and DPRD? The formulation of this form of sanctions is important because sanctions in this context are certainly not criminal sanctions. This is because criminal sanctions can only be imposed when actions committed by regional heads and DPRD commit violations or crimes regulated in criminal law, while the disharmony between regional heads and DPRD is a conflict of a political nature in the context of functional relations and communication between executive and legislative institutions.

Sanctions against regional heads and DPRD are certainly administrative sanctions. Administrative sanctions are sanctions related to the position of an official or state administrator. Administrative sanctions can generally take the form of forced money, administrative fines or withdrawal of advantageous decisions. Of the several sanctions options, the sanctions that can be applied to regional heads and DPRD are sanctions in the form of reducing allowances or cutting salaries or operational money. Sanctions like this are an alternative form of sanctions that can be taken so that both parties can put aside their egos which can result in creating disharmony and political uproar alone (Fadli et al., 2018).

Sanctions are a form of consequence of mutual wrongdoing. Sanctions against regional heads and DPRD are the result of both parties being unable to use consensus channels for the benefit of the people due to policies that cannot be executed because between regional heads and DPRD are holding each other hostage and maintaining their respective sectoral egos. Who can sanction it?



The next issue is related to who can sanction regional heads and/or DPRD. If administrative sanctions are to be given, what is common in the administrative law environment is that the sanctioner can be a superior organization or a higher organization. It is impossible for a sanction to be imposed by an office or organization that has a horizontal equal position.

If the sanctioning authority will be given to the superior organization, it is certainly very easy to determine which institution can be appointed considering the organizational structure of local government must have a superior organization. If sanctions will be given to the regional head, it remains to be seen whether the regional head is the regional head for the Regency / City area or the province area. If the head of the region is the head of the regency/city level, the one who can sanction is the Governor as the head of the provincial level. If the person to be sanctioned is the regional head for the province (Governor), then sanctions can be given by the Minister of Home Affairs or even the President.

The provision of sanctions by superior organizations for regional heads is not excessive. This is because the regional head is an official or representative of the central government. Between the head of the region and the organization above it is bound in a straight line of command within the framework of the executive branch of power. Regional heads and governments above are bound in a unified working model where between local governments and the central government may not take policies individually or must be in rhythm in one executive carriage.

The difficult thing is about who sanctioned the DPRD. DPRD is an organization in the local government structure that does not have structural and functional relationships with the organizations above it so that there is no basis for organizational relations to give authority to the government above it in order to sanction the DPRD. This applies to the DPRD for the Regency / City level area and the DPRD at the Provincial level. The district/city level DPRD does not have an organizational hierarchical relationship with the provincial level DPRD. Likewise with the Provincial DPRD which does not have a structural relationship with the DPR RI. The absence of this functional and structural relationship causes the Regency / City DPRD cannot be sanctioned by the Provincial DPRD level and the Provincial DPRD cannot be sanctioned by the House of Representatives of the Republic of Indonesia (DPR RI).

Second, takeover of authority, the option of taking over authority is one option that can be taken to prevent conflicts between regional heads and DPRD. The takeover of this authority is the takeover of functions and duties from the regional government, especially the regional head when there is a conflict



between the regional head and his DPRD. The takeover of such authority can be justified by the proposition that:

- a) That in order to ensure the running of the runs of government at the regional level, the duties of the regional head can be taken over by the government above it. Because, if there is no takeover of authority, there is the potential for government stagnation and lead to obstruction of public rights. That is, expropriation in this context to ensure that people's rights can still be given and are not hindered even though there is conflict at the level of regional leaders (regional heads and DPRD);
- b) That the takeover is carried out so that both parties who are in conflict can ease emotions and atmosphere and can return to cooperation within the framework of a harmonious *check and balance* relationship. This is important because political relations or tensions can naturally subside when between regional heads and DPRD are in a disharmonious relationship. Both parties will slowly but surely process to lower their respective egos;
- c) The takeover of authority from the government above him to the government below him is common in certain circumstances. In this context, it can be analogous to the appointment of a temporary Regional Secretary official by the Provincial Government if in a region the term of office of the regional secretary has entered retirement. Another example is also about the appointment of acting or acting regional heads carried out by the superior government because the term of office of the regional head in a region has ended.
- d) That what is taken over by the government above is the authority not the position of the regional head. That is, the position of the regional head who is against the DPRD remains attached but for the time being his authority or duties as regional head are only taken over by the government above him.
- e) Takeover of authority can only be carried out on the position of regional head because:
  - 1) Regional heads have a clear structural relationship with the government above them. This happens because the government system of the Unitary State of the Republic of Indonesia is hierarchical. Namely, the Central Government (President), Provincial Government (Governor), and Regency / City Government (Regent / Mayor). This condition then became the basis for the takeover of the authority of the regional head. However, this model cannot be applied to the DPRD because the position of the DPRD is not bound by the DPRD and DPR RI.



This means that the Provincial DPRD cannot take over authority from the District/City DPRD. The DPR RI also cannot take over the authority of the Provincial DPRD;

- 2) Takeover is also not impossible or unnecessary for the DPRD because the function of the DPRD does not have a quick impact on the running of the runs of government in the regions. This means that the function of the DPRD can be postponed sometime later. This is related to the function of the DPRD which is not individual and executory. The three functions of the DPRD in the form of legislation functions, budget functions and supervisory functions are functions that cannot be carried out by superior organizations. The legislative function of the DPRD in the form of the function to plan, compile, discuss and approve a draft regional regulation (Raperda) is an absolute function attached to the DPRD. This function cannot be performed by the superior DPRD. For example, the legislative function of the District/City DPRD regarding the establishment of District/City Regional Regulations is a function that cannot be taken over by the Provincial DPRD. If, the Provincial DPRD discusses and approves the Draft Regency / City Regional Regulation, the draft regional regulation is automatically null and void.

### **Kesimpulan**

The disharmony or harmony between the regional head and the Regional People's Representative Council (DPRD) was triggered by the absence of a sense of indebtedness from the regional head to the DPRD. This happens because what makes someone a regional head is not the DPRD but the people directly (Pilkada). The disharmony between regional heads and DPRD certainly has implications for the dynamics of law and politics in both institutions. Where the two institutions do not cooperate with each other in accordance with their respective functions to advance the region. The two institutions intrigue each other, such as the DPRD will always ignore government programs such as rejecting the Regional Budget and Revenue Bill (RAPBD) to impeachment efforts. Therefore, the disharmony between regional heads and DPRD must be minimized immediately. Efforts to minimize this can be done by threatening sanctions against regional heads or taking over temporary authority.

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