

The Nature Of The Authority Of The Acting Daily Regional Head In Decision Making Based On Laws And Regulations

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Abstract

This research will use the type of sociological/empirical (nondoctrinal) legal research. This research is to analyze the existence/existence of the Regional Head Daily Executor according to the laws and regulations that apply to the government in several districts/cities in Central Sulawesi Province. The research results show that The essence of the existence of the Regional Head's Daily Executor according to the applicable laws and regulations, namely the 1945 Constitution, Law Number 23 of 2014 concerning Regional Government, Law Number 30 of 2014 concerning Government Administration, namely providing justice, legal certainty and expediency. The implementation of the Regional Head's Daily Executor duties in running the wheels of local government in Central Sulawesi Province, is less effective. The factors that influence the implementation of the Regional Head's Daily Executor tasks in running the wheels of government in the region, namely the legal substance factor and the legal structure factor and the legal culture factor.

As recommendations for this study are regulations are needed regarding the implementation of tasks or main tasks and functions of the Regional Head's

Daily Executor in running the wheels of regional government, which are more concrete and clear.

Keyword: The Authority, Decision, Regulations.

A. Introduction

The Unitary State of the Republic of Indonesia (NKRI), has basic principles in the administration and management of government, using legal norms or rules sourced from Pancasila as the national basic law, using the state constitutional system and popular sovereignty or democratic principles. This principle is a reflection that the country adheres to the notion of the rule of law. Indonesia expresses the notion of the rule of law in the 1945 Constitution in Article 1 paragraph (3), which states that the State of Indonesia is a state of law.

Continental European jurists call the state of law by the term Rechtsstaat, which in a simple definition, the state of law can be interpreted as a state whose administration of government power is based on legal provisions. In the implementation as a state of law, it is obliged to apply and enforce the principle called the supremacy of law, equality before the law and law enforcement in a manner that is not contrary to the law.

The supremacy of law is an effort to uphold the law and place the law in the highest position, meaning the placement of the law in its place that can protect all people without any intervention or interference from any party, including the state administrators themselves. The rule of law is also defined as fair, independent and free law enforcement, which will give birth to legal certainty that leads to the birth of a political culture that is obedient and aware of the law.

The rule of law aims to provide protection to the community from arbitrariness committed by other individuals, the rule of law is also a guarantee of equal position in the law for every citizen and can create security and comfort in life, nation and state.

Other basic principles implemented by the rule of law are equality before the law and due process of law. Equality before the law emphasizes that every citizen has the same position before the law without any exceptions, this basic principle is outlined in Article 27 paragraph (1) of the 1945

Constitution and later confirmed in Law Number 48 of 2009 concerning Judicial Power. Likewise, with the principle of due process of law, which is commonly used in the criminal justice system, this principle is defined as a good, correct and fair legal process, in this case law enforcers are required to ensure the fulfillment of rights for suspects or defendants.

One of the basic principles of the rule of law that must be upheld fairly, independently, freely and transparently, to create legal certainty by leading to the creation of a political culture that is obedient and aware of the law, is the implementation of the selection process and the appointment and appointment of acting regional heads who are experiencing a transition or vacancy of Regional Head officials in organizing the implementation of the wheels of government in the area, both at the provincial and district and city levels.

Regulations on Regional Heads mandated in the 1945 Constitution Article 18 paragraph (4), emphasizes that "Governors, Regents and Mayors as heads of provincial, district and city regions are elected democratically". Democratic norms or rules, are carried out to create a safe, peaceful and conducive atmosphere throughout the transition period from the cause of changes in the law on regional autonomy and the law on simultaneous national regional head elections in 2024, as a concrete effort of the state government towards better regional governance in public services and an elegant atmosphere of relations between the authority of the central and regional governments.

In the context of the central government's monitoring of the regions, provisions are issued governing the selection and appointment of acting regional heads during the transition period of regional head officials, as stipulated in Article 201 paragraph (10) and paragraph (11) of Law Number 10/2016 on the Second Amendment to Law Number 1/2015 on the Stipulation of Government Regulation in Lieu of Law Number 1/2014 on the Election of Governors Regents, and Mayors, which provides attribution to the government in appointing Acting Provincial Heads from middle high leadership positions and Acting Regency / City Heads from pratama high leadership positions. Acting Regional Heads appointed by the government, because of their position as heads of autonomous regions, have the status of political officials who have political

authority in the implementation of government in their regions. The provisions stipulated in Article 201 paragraph (10) and paragraph (11) require that they be appointed and appointed from among Civil Servants (PNS) who in their status and position as State Civil Apparatus (ASN) are career officials who usually occupy positions based on career paths, professionals, and bureaucratic merit systems.

D. Theoretical Framework

The Rule of Law

In the Indonesian constitutional system, the term state of law after the amendment of the 1945 Constitution has been emphasized in Article 1 paragraph (3) that "The State of Indonesia is a state of law". This formulation is also found in the Constitution of the Republic of Indonesia 1949 (RIS 1949) and the Provisional Constitution of 1950. Conceptually, there are five concepts of the rule of law, namely, Rechtsstaat,¹ Rule of Law, Socialist Legality, Islamic Nomocracy, and State of Law (Indonesia), and the five terms of the rule of law each have their own characteristics.

The notion of the rule of law used in Indonesia and once popular is the term (rechtsstaat). Meanwhile, to give its "Indonesian" characteristics, the term state of law is also known by adding the attribute "Pancasila", so that it becomes "Pancasila state of law".²

Although there are differences in the background of understanding between rechtsstaat and the rule of law, the birth of the term "state of law" is inseparable from the influence of these two understandings. In an effort to better reflect Indonesian understanding, personification is carried out, so that in Indonesian literature, other terms are found, which give the attribute "Pancasila", as well as the term "democracy" given the additional attribute "Pancasila", so that it becomes "Pancasila Democracy". Likewise, the term "state of law" is given the attributes of Pancasila so that it becomes "Pancasila

¹ Jimly Assiddiqie, *Consolidation of the 1945 Constitution after the fourth amendment*, Centre for Constitutional Law Studies, Faculty of Law Universitas Indonesia, Jakarta, 2002, hal. 3 https://catalog.danlelibrary.net/index.php?p=show_detail&id=1885

² *ibid*

State of Law". By not discouraging efforts to reflect terms that are uniquely Indonesian, the term state of law is clear enough, to show that the term state of law is an Indonesian understanding and its validity is recognized by the 1945 Constitution in Article 1 paragraph (3), namely "The State of Indonesia is a state of law".

The basic understanding of the rule of law, where power grows on the law and all people are equal before the law; or a state that places the law as the basis of state power and the exercise of power in all its forms is carried out under the rule of law.

Based on the description above, from several concepts of the rule of law, it has become a theoretical basis for supervision, namely the government (in a broad sense), must be based on the principle of the constitutional system (constitutionalism), and the realization of the principle of equality in law.

Legal Function

Law and society are like two sides of a coin, where there is society there is law, the two cannot be separated. Cicero, in Lili Rasyidi and Wyasa Putra has described the relationship between law and society with his famous adage *Ubi societas, ibi ius*. There is no society without law and no law without society. Laws are made by society to regulate their lives. This can be interpreted as a form of relationship, society-law-society.³

Therefore, the two cannot be separated, a law that is not recognized or is not in accordance with its social context and is not communicated to the community will not be able to function properly in society and will not result in changes in accordance with the desired goals of the law. To achieve its goals, the law must function according to certain functions. According to Soetandyo Wignyosoebroto, the law is often treated as a means and must serve the development goals themselves. Instead of functioning as a goal, even once or twice the law has functioned to rationalize government

³ Cicero dalam Lili Rasyidi dan I.B. Wyasa Putra, *Law as a System*, PT. Remaja Rosdakarya, Bandung, 1993, hal. 100.
<https://opac.perpusnas.go.id/DetailOpac.aspx?id=407619>

policy, especially the policy of the executive.⁴ Regarding the function of law, Roscoe Pound said that the main function of law is to protect interests. The interests in question are public, social and private interests. The protection of the three interests must be balanced. This balance is the essence of justice.⁵

Soerjono Soekanto, that the law as a tool to change society in the sense that the law may be used as a tool by the agent of change or the pioneer of change is a person or group of people who gain the trust of the community as the leader of one or more social institutions. The pioneer of change leads the community in changing the social system and in doing so is directly involved in pressures to make changes and may even cause changes in other social institutions. A desired or planned social change is always under the control and supervision of the pioneer of change.⁶

Meanwhile, the function of law in the view of Mochtar Kusumaatmadja, that law as one of the social rules, law is called Mochtar aims to maintain and realize order (order) society. He, order, is the main and first goal of all law. The need for order is a fundamental requirement for the existence of an organized society.

C. Discussion

The existence of the Daily Executive Head of the Region according to the applicable laws and regulations.

In the context of carrying out government duties, sometimes the definitive official is unable to carry out his duties. To fill the

⁴ Soetandyo Wignyosoebroto, A Little Explanation of Legal Studies from a Social Science Perspective, Law and Society Journal, Surabaya, 1993, hal. 230 http://mitrahukum.org/wp-content/uploads/2012/09/teori_hukum_soetandyo.pdf

⁴Soejono Dirdjosiwono, Sinopsis Kriminologis Indonesia, CV. Mandar Maju, Bandung, 1994, hal. 154-155. <https://onesearch.id/Record/IOS1.INLISM0000000074574?widget=1>

⁵ https://www.google.com/search?q=Fungsi+Hukum+Roscou+Pound&oq=Fungsi+Hukum+Roscou+Pound+&gs_lcrp=EgZja_HJvbWUyBggAEEUYOTIKCAEQABgFGA0YHtlBCTE4NzA4ajBqNKgCALACAA&sourceid=chrome&ie=UTF-8

⁶ Soerjono Soekanto, Some Legal Issues in Indonesia's Development Framewor, UI Press, Jakarta, 1983, hal. 104-105. <https://onesearch.id/Record/IOS4813.INLIS00000000025208>

vacancy, the government official has the right to exercise authority in making decisions and/or actions, namely appointing a Daily Executive (Plh) or Task Executive (Plt) in carrying out duties. Article 14 paragraph (2) of Law No. 30 of 2014 concerning Government Administration stipulates that Government Agencies and / or Officials obtain a Mandate if assigned by a Government Agency and / or Official above, and is the implementation of routine tasks.

Officials who carry out routine tasks consist of daily executors who carry out routine tasks from definitive officials who are temporarily absent; and task executors who carry out routine tasks from definitive officials who are permanently absent.

Some limitations on the authority of task implementers are as follows: Government agencies and/or officials are not authorized to make strategic decisions and/or actions that have an impact on changes in legal status in the aspects of organization, staffing, and budget allocation. Strategic decisions and/or actions are decisions and/or actions that have a major impact such as the determination of changes to the strategic plan and Government work plan. and task executors are not authorized to make decisions and/or actions on personnel aspects which include appointment, transfer, and dismissal of employees. The acting head has the authority to take decisions and/or actions other than strategic decisions and/or actions that have an impact on changes in legal status in the aspects of organization, staffing.

Civil Servants who are ordered as Daily Executors or Task Executors do not need to be inaugurated or take an oath, the appointment of Civil Servants as Daily Executors or Task Executors does not need to be stipulated by decree but only by an Order from the Government Official who gives the mandate. Daily Executors and Task Executors are not definitive positions, therefore Civil Servants who are ordered as Daily Executors or Task Executors are not given structural position allowances, so the warrant does not need to include the amount of position allowances.

Appointment as an acting official may not cause the person concerned to be released from his definitive position, and his position allowance is still paid in accordance with his

definitive position, and his position allowance is still paid in accordance with his definitive position.

Civil Servants or Officials who occupy high leadership positions, administrator positions, or supervisory positions can only be ordered as Plh or Plt in high leadership positions, administrator positions, or supervisory positions that are the same or at a higher level within their work unit.

Based on the description above, it is clear that the essence of the existence of the Daily Executive of the Regional Government is to run the wheels of government optimally with the principles of legal certainty, justice and expediency.

D. Factors affecting the Regional Head Daily Executive in running the wheels of government in the region.

There are 3 (three) factors that influence the implementation of the duties of the Daily Executive (PLH) of the regional head in running the wheels of government in Central Sulawesi Province, namely legal substance, legal structure (education, quality, and morals) and culture.

The following table confirms or explains the effect of legal substance factors on the implementation of the duties of the Daily Executive (PLH) regional head in running the wheels of government in Central Sulawesi Province.

Legal Substance Factor

Table 1 The influence of legal substance factors on the implementation of the duties of the Daily Executive (PLH) regional head in running the wheels of government in Central Sulawesi Province

No	Description	Frequency	Percentage (%)
1	Influential	77	67.54
2	Less Influential	25	21.93
3	Not Affected	12	10.53

	Total	114	100.00
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Data Source: Results of primary data processing Year 2023

The table above confirms or explains the influence of legal substance factors on the implementation of the duties of the Daily Executive (PLH) of the regional head in running the wheels of government in Central Sulawesi Province.

Listening to the table above, it is clear that 67.54% of respondents answered that legal substance factors affect the implementation of the duties of the Daily Executive (PLH) regional head in running the wheels of government in Central Sulawesi Province, and it also appears that 21.93% of respondents answered that legal substance factors had little effect on the implementation of the duties of the Daily Executive (PLH) regional head in running the wheels of government in Central Sulawesi Province.

Furthermore, the table above confirms that 10.53% of respondents answered that the legal substance factor had no effect on the implementation of the duties of the Daily Executive (PLH) of the regional head in running the wheels of government in Central Sulawesi Province. The following table presents a table that confirms or explains the effect of educational factors on the implementation of the duties of the Daily Executive (PLH) regional head in running the wheels of government in Central Sulawesi Province.

Table 2 The influence of educational factors on the implementation of the duties of the Daily Executive (PLH) of regional heads in running the wheels of government in Central Sulawesi Province

No	Description	Frequency	Percentage (%)
1	Influential	80	70.18
2	Less Influential	20	17.54
3	Not Affected	14	12.28
	Total	114	100.00

Data Source: Results of primary data processing Year 202

The table above confirms or explains the effect of educational factors on the implementation of the duties of the Daily Executive (PLH) of the regional head in running the wheels of government in Central Sulawesi Province.

Listening to the table above, it is clear that 70.18% of respondents answered that the education factor affects the implementation of the duties of the Daily Executive (PLH) of the regional head in running the wheels of government in Central Sulawesi Province, and it also appears that 17.54% of respondents answered that the education factor had little effect on the implementation of the duties of the Daily Executive (PLH) of the regional head in running the wheels of government in Central Sulawesi Province.

Furthermore, the table above confirms that 12.28% of respondents answered that the education factor has no effect on the implementation of the duties of the Daily Executive (PLH) of the regional head in running the wheels of government in Central Sulawesi Province. Furthermore, a table is presented which confirms or explains the effect of the PLH quality factor on the implementation of the duties of the Daily Executive (PLH) of the regional head in running the wheels of government in Central Sulawesi Province.

Tabel 3 he influence of quality factors on the implementation of the duties of the Daily Executive (PLH) regional head in running the wheels of government in Central Sulawesi Province

No	Description	Frequency	Percentage (%)
1	Influential	80	70.18
2	Less Influential	25	21.93
3	Not Affected	9	7.89
	Total	114	100.00

Data Source: Results of primary data processing Year 2023

The table above confirms or explains the influence of quality

factors on the implementation of the duties of the Daily Executive (PLH) of the regional head in running the wheels of government in Central Sulawesi Province.

Listening to the table above, it is clear that 70.18% of respondents answered that quality factors affect the implementation of the duties of the Daily Executive (PLH) regional head in running the wheels of government in Central Sulawesi Province, and it also appears that 21.93% of respondents answered that quality factors had little effect on the implementation of the duties of the Daily Executive (PLH) regional head in running the wheels of government in Central Sulawesi Province.

Likewise, the table above also confirms that 7.89% of respondents answered that the quality factor had no effect on the implementation of the duties of the Daily Executive (PLH) of the regional head in running the wheels of government in Central Sulawesi Province. or explain the influence of moral factors on the implementation of the duties of the Daily Executive (PLH) of the regional head in running the wheels of government in Central Sulawesi Province.

Moral Factors

Tabel 4 The influence of moral factors on the implementation of the duties of the Daily Executive (PLH) of regional heads in running the wheels of government in Central Sulawesi Province

No	Description	Frequency	Percentage (%)
1	Influential	70	61.40
2	Less Influential	23	20.18
3	Not Affected	21	18.42
	Total	114	100.00

Data Source: Results of primary data processing Year 2023

The table above confirms or explains the influence of moral factors on the implementation of the duties of the Daily Executive (PLH) of the regional head in running the wheels of government in Central Sulawesi Province.

Listening to the table above, it is clear that 61.40% of respondents answered that moral factors affect the implementation of the duties of the Daily Executive (PLH) regional head in running the wheels of government in Central Sulawesi Province, and it also appears that 20.18% of respondents answered that moral factors had little effect on the implementation of the duties of the Daily Executive (PLH) regional head in running the wheels of government in Central Sulawesi Province. Furthermore, the table above confirms that 18.42% of respondents answered that moral factors have no effect on the implementation of the duties of the Daily Executive (PLH) regional head in running the wheels of government in Central Sulawesi Province, the table explains the influence of legal culture factors on the implementation of the duties of the Daily Executive (PLH) regional head in running the wheels of government in Central Sulawesi Province.

Cultural Factors

Tabel 5 The influence of cultural factors on the implementation of the duties of the Daily Executive (PLH) regional head in running the wheels of government in Central Sulawesi Province

No	Description	Frequency	Percentage (%)
1	Influential	50	43.86
2	Less Influential	31	27.19
3	Not Affected	33	28.95
	Total	114	100.00

Data Source: Results of primary data processing Year 2

The table above confirms or explains the influence of cultural factors on the implementation of the duties of the Daily Executive (PLH) of the regional head in running the wheels of

government in Central Sulawesi Province.

Listening to the table above, it is clear that 43.86% of respondents answered that cultural factors affect the implementation of the duties of the Daily Executive (PLH) regional head in running the wheels of government in Central Sulawesi Province, and it also appears that 27.19% of respondents answered that cultural factors have little effect on the implementation of the duties of the Daily Executive (PLH) regional head in running the wheels of government in Central Sulawesi Province.

Furthermore, the table above confirms that 28.95% of respondents answered that cultural factors had no effect on the implementation of the duties of the Daily Executive (PLH) regional head in running the wheels of government in Central Sulawesi Province.

D. Conclusion

The essence of the existence of the Daily Executive (PLH) of the Regional Head according to the applicable laws and regulations, namely the 1945 Constitution, Law Number 23 of 2014 concerning Regional Government, Law Number 30 of 2014 concerning Government Administration, namely running and continuing the wheels of regional government normally, until the existence of definite officials again. The implementation of the Regional Head's Daily Executor (PLH) duties in running the wheels of regional government in Central Sulawesi Province, is less effective. Factors that influence the implementation of the Daily Executive (PLH) duties of regional heads in running the wheels of government in the regions, namely legal substance factors and legal structure factors and legal culture factors.

Daily Executive (PLH) regional heads in running the wheels of regional government in Central Sulawesi Province, need to better understand the legal basis for their authority and understand their main duties and functions.

In order for the Daily Executive (PLH) of the regional head to run the wheels of regional government in Central Sulawesi Province, it is necessary to be given greater authority to take policies and decisions in overcoming various problems while running the wheels of government.

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