Mechanism of Appointment of DPRD Chair according to National Law Perspective

Zainuddin
Faculty of Law, Universitas Muhammadiyah Sumatera Utara
E-mail: zainuddin@umsu.ac.id

Abstract
Democracy in the life of the state, one of which is reflected in the existence and implementation of elections. Elections are a manifestation of sovereignty held by the people. Elections held in Indonesia aim to be a means of democracy, maintain the establishment of the Unitary State of the Republic of Indonesia (NKRI), realize national goals, elect members of the legislature, elect the president and vice president. Legislative members who are elected through elections are representatives of the people in the legislature. This means that members of the legislature are representatives of the people who vote. They as representatives must have the ability or obligation to speak and act on behalf of a larger group being represented. Elections to elect representatives of the people are called legislative elections which are held to elect members of the People's Representative Council (DPR), Regional Representatives Council (DPD), and Regional People's Representative Council (DPRD). Based on Article 18 paragraph (3) of the 1945 Constitution, it is stated that provincial, district, and city regional governments have Regional People's Representative Councils whose members are elected through general elections. In a democratic country, the existence of the People's Representative Council (hereinafter abbreviated as DPR) and the Regional People's Representative Council (hereinafter abbreviated as DPRD) is a must. DPRD is a regional people's representative institution that carries out regional government functions as an equal partner to regional governments. In the structure of regional government, DPRD is located at two levels, namely at the provincial level called the Provincial DPRD and at the regency/city level it is called the Regency/Municipal DPRD. Members of the DPRD are directly elected to occupy/serve legislative positions within one period (five years), based on procedures, the purpose of this research is to find out the process of changing the leadership of the DPRD and the process of appointing the chairman of the DPRD according to the perspective of national law. In article 327 paragraphs 2 and 3 it is emphasized that in essence it is stated that the leadership of the DPRD and the chairman of the DPRD comes from the number of political parties that are counted as getting the first most seats in the Provincial DPRD, so that this also causes several pros and cons, for example taken from the example in 2015 members The East Nusa Tenggara DPRD conducted a judicial review to the Constitutional Court because they felt that their constitutional rights had been violated by the enactment of the a quo article. The Petitioner explained that the process of filling out and appointing the DPRD's equipment had eliminated his constitutional rights, then he said that as a result of this provision, the Petitioner had lost the opportunity to participate in the process of selecting the DPR's apparatus.

Keywords: Implementation, Regional People's Representative Council, National Law.

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A. Introduction
Indonesia is a country that adheres to a modern democracy with representative people's representatives, because in modern times it is impossible to carry out direct people's government despite the fact that Indonesia is a country with the fourth largest population in the world.¹ Democracy is a "political system regarding procedures for involving the people in making a decision". Thus, when the people or citizens are involved in making decisions, there is democracy. In simple terms democracy means "a system of government by involving the people". This is in line with the provisions of the

¹ Ismail Koto, and Ida Hanifah. 2021 “Problema Hukum Seputar Tunjangan Hari Raya Di Masa Pandemi Covid-19” Jurnal Yuridis 8.1, p. 28
Constitution article 1 paragraph (2), namely: "Sovereignty is in the hands of the people and implemented according to the Constitution". These provisions are based on the principle of the fourth precepts of Pancasila: "People led by wisdom in representative deliberation". These provisions and principles emphasize the existence and implementation of democracy in Indonesia.

The hallmark of a democratic state is the idea that a democratic government is a government that has limited powers and is not allowed to act arbitrarily against its citizens. State power is divided in such a way that the opportunity for abuse is minimized by handing it over to several people or entities and not concentrating government power in one hand or agency. Democracy is said to be the idea and institutionalization of the principles of freedom and equality towards political agreement through the sovereignty of the majority vote which is included in a juridical framework.

Democracy in the life of the state, one of which is reflected in the existence and implementation of elections. Elections are a manifestation of sovereignty held by the people. Elections held in Indonesia aim to be a means of democracy, maintain the establishment of the Unitary State of the Republic of Indonesia (NKRI), realize national goals, elect members of the legislature, elect the president and vice president. Legislative members who are elected through elections are representatives of the people in the legislature. This means that members of the legislature are representatives of the people who vote. They as representatives must have the ability or obligation to speak and act on behalf of a larger group being represented. Elections to elect representatives of the people are called legislative elections which are held to elect members of the People's Representative Council (DPR), Regional Representative Council (DPRD), and Regional People's Representative Council (DPRD).

As an illustration, one can take a study of state institutions, the 1945 Constitution is known to state institutions, namely the People's Consultative Assembly, the People's Representative Council, the Supreme Advisory Council, the Financial Audit Board, and the Supreme Court. These state institutions have certain powers, such as the People's Consultative Assembly as the constitutive ruler, the House of Representatives and the President as the legislative ruler, the government and the president assisted by government officials as the executive ruler. Based on Article 18 paragraph (3) of the 1945 Constitution, it is stated that provincial, district, and city regional governments have Regional People's Representative Councils whose members are elected through general elections. In a democratic country, the existence of the People's Representative Council (hereinafter abbreviated as DPR) and the Regional People's Representative Council (hereinafter abbreviated as DPRD) is a must. DPRD is a regional people's representative institution that carries out regional government functions as an equal partner to regional governments. In the structure of regional government, DPRD is located at two levels, namely at the provincial level called the Provincial DPRD and at the regency/city level it is called the Regency/Municipal DPRD. DPRD members are directly elected to occupy/serve legislative positions within one period (five years).

The existence of DPRD in the regions is often referred to as a representative function because it is tasked with voicing the aspirations of the community and acting on behalf of the people (representative government) in the legislative field. This is also an application of democratic principles where the sovereignty and aspirations of the people are the main things so it is necessary to form a people's representative whose task is to do so. As a form of realization of democracy in Indonesia as described above, the DPRD in carrying out its duties and functions cannot be separated from the people because a democratic system places the people in the first place as a priority in making decisions and making policies. Because the DPRD is elected by the people, it must work for the people so that the form of relationship that DPRD has with the people is the representative and the represented.

In addition, as an element of the Regional Government that has authority in the legislative field, the DPRD has several rights and obligations including the right to budget, the right to ask questions, the right to ask for information, the right to make changes, the right to submit a statement of opinion, the right to initiative and the right to investigate. – the right is broad enough to enable the DPRD to carry out its functions as an element of the Government, Region. Apart from these rights, there are also.2

DPRD holds three important roles, in dealing with the people it represents. First, as an agent for formulating agendas for the people he represents. Second, DPRD acts as an institution that carries out the mission of managing conflict in its community. Third, DPRD is the bearer of an integrative role in

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2 Miriam Budiarjo & Ibrahim Ambong (edit). 1993, Fungsi Legislatif Dalam Sistem Politik Indonesia. Rajawali Pers dan AIPI, Jakarta, p. 110
society. The role of the people's representatives carried out by the DPRD can be interpreted as an intermediary role. DPRD is not only an intermediary that bridges the government (executive) with its people, but also bridges tensions from various segments of society who fight for their interests.

In the structure of the DPRD, there are also facilities for the Provincial DPRD as regulated in Article 326 of Law Number 17 of 2014 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representatives Council, and the Regional People's Representative Council. Following:

1. The apparatus for the provincial DPRD consists of:
   a. leader;
   b. Deliberation Body;
   c. commission;
   d. Regional Legislation Agency;
   e. Budget Agency;
   f. Honorary Body; and
   g. other necessary equipment and formed by the plenary session.

Based on the description of the background above, in this study, the researcher examines the process of changing the leadership of the DPRD and the process of appointing the Chairperson of the DPRD according to the perspective of national law.

This research is a normative legal research, so according to the type and nature of the research, the data sources used are secondary data consisting of primary legal materials and secondary legal materials consisting of books, scientific journals, scientific works, and articles that can provide explanations about the law. Primary material. Secondary legal materials include explanations of primary legal materials in the form of expert doctrine found in books, journals and websites. The procedure used to collect data in this study is in the form of documentation, namely the guidelines used in the form of notes or quotes, searching legal literature, books and others related to the identification of problems in this study offline and online. Analysis of legal materials is carried out using the content analysis method which is carried out by explaining the material of legal events or legal products in detail in order to facilitate interpretation in the discussion.

Analysis of legal materials is carried out using the content analysis method (content analysis method) which is carried out by explaining the material on legal events or legal products in detail in order to facilitate interpretation in the discussion through a statutory approach, namely formulating a legal definition based on legal principles from the results of a study of laws and regulations by looking at various opinions of experts and writers related to the issues discussed.

B. Discussion

1. Implementation Process for the Dismissal of the Chairperson of the Regional People's Representative Council

Every letter that enters the DPRD, such as a proposal to change the leadership of this institution, can be read out at a joint commission meeting. After that, following up the letter, of course, it will be submitted to the chairman of the DPRD who is still valid for further response with a number of similar steps to be discussed at the DPRD Deliberative Body (Bamus). It is known that the Deliberative Body (Bamus) is in charge of scheduling DPRD activities, the trend so far is that the schedule is prepared for the following month, usually BAMUS is held in the afternoon or the next day if there is another agenda

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3 Ismail Koto dan Erwin Asmadi, “Pertanggungjawaban Hukum Terhadap Tindakan Malpraktik Tenaga Medis di Rumah Sakit” Volksgeist: Jurnal Ilmu Hukum dan Konstitusi 4.2 (2021): 181-192, p. 184
4 Ismail Koto, "Kewenangan Jaksa Dalam Melakukan Penggabungan Perkara Korupsi Dan Money Laundering (Studi Kejaksaan Tinggi Sumatera Utara)", IURIS STUDIA: Jurnal Kajian Hukum 2, No. 2 (2021): p. 158.
5 Ismail Koto, and Faisal, “Penerapan Eksekusi Jaminan Fidusia Pada Benda Bergerak Terhadap Debitur Wanprestasi” Journal of Education, Humaniora and Social Sciences (JEHSS) 4.2 2021, p.777
6 Peter Mahmud Marzuki, Penelitian Hukum, Jakarta: Kencana Prenada Media Group, (2011), p. 171
7 Rahmat Ramadhani dan Ummi Salamah Lubis, “The Function of the Delimitation Contradictory Principle in the Settlement of Land Plot Boundary Disputes”, IJRS: International Journal Reglement & Society 2, No. 3, (2021): p. 138
8 Rahmat Ramadhani, “Legal Protection For Land Rights Holders Who Are Victims Of The Land Mafia”, IJRS: International Journal Reglement & Society 2, No. 2, (2021): p. 89.
being held. All DPRD agendas, such as equipment activities and DPRD activities as a whole are compiled, discussed and scheduled in the Deliberative Body (Bamus).

The mechanism at the joint commission and internal plenary meetings is that letters that go to the secretariat are read out, now there are discussions such as discussing agendas that are carried out such as accountability for the APBD, RPJMD, meetings on regional regulations and including other things that are deemed necessary. The Deliberative Body (Bamus) is a member of the DPRD, so there is no Faction Bamus. The number of Bamus members is 11 people, chaired by the DPRD Leader (Chairman of DPRD), Deputy Chairperson of the DPRD (Bamus representative), DPRD members from faction representatives and DPRD Secretary (Sekwan), but Sekwan is a secretary but not a member.

It is necessary to understand and comply with the mechanism for dismissing the Chair of the Regional People's Representative Council which is enforced, the first step is the political party (Parpol) concerned submits a letter to the DPRD, so that the letter will be discussed by the Bamus, where the Bamus determines the plans, for example there are said the replacement earlier, it will be scheduled for a plenary implementation of the replacement. So, the plenary schedule was agreed upon by Bamus at the Bamus meeting.9

Then Bamus has just scheduled the stages for a plenary meeting to dismiss the leadership of the DPRD, after that there are several steps that must be carried out similar to the leadership of the DPRD writing a letter to the governor through the mayor by completing a number of required attachments, namely:

1. Certificate of Authenticity of Documents from the government/district city government (Assistant for Government Affairs)
2. Photocopy of the governor's decision regarding the inauguration of the appointment in question as the head of the Regency/City DPRD
3. Photocopy of the minutes of taking the oath/promise in question as the head of the district/city DPRD
4. the decision of the DPP of a political party regarding the proposed dismissal of the person concerned as the head of the Regency/City DPRD
5. Certificate from the local District Court stating that there is no lawsuit against the decision of the DPP of a political party (in the event that there is no lawsuit),
6. A copy of the Court's decision that has obtained permanent legal force (in the case of a lawsuit against the decision of the DPP of Political Parties)
7. Minutes and minutes of the plenary meeting of the district/city DPRD in the context of dismissing the person concerned as the head of the district/city DPRD
8. Decision of the Regency/City DPRD regarding the dismissal of the person concerned as the head of the Regency/City DPRD
9. Letter from the leadership of the district/city DPRD to the Governor through the Regent/Mayor, and
10. Letter of the Regent/Mayor to the Governor.

Then the follow-up after going through several stages above, then the complete dismissal of the old DPRD leadership as well as the appointment of the new DPRD leadership from the same political party. Furthermore, it must also complete the requirements, among others:

1. Certificate of authenticity of documents from the government/regency/municipal regional government division (assistant in the field of government)
2. photocopy of the Governor's Decree regarding the inauguration of the dismissal of the previous district/city DPRD leadership
3. a letter of recommendation from the leadership of a political party (central level)
4. Minutes and minutes of the plenary meeting of the Regency/City DPRD in the context of appointing the leadership of the Regency/City DPRD
5. Decision of the Regency/City DPRD regarding the appointment of the leadership of the Regency/City DPRD

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9 Diakses https://rri.co.id/bukittinggi/daerah/1138026/pergantian-pimpinan-dprd-itu-ada-mekanismenya Diakses Pada 16 Februari 2022, pukul 20.00 wib
6. a letter from the leadership of the district/city DPRD to the governor through the regent/mayor, and
7. Letter of the Regent/Mayor to the Governor.

Observing this, all parties such as political parties can understand the mechanism and follow the existing process. In Government Regulation Number 12 of 2018 concerning Guidelines for the Preparation of Orders for the Provincial, Regency and City Regional People's Representative Councils, it is stated that the leadership of the DPRD can be dismissed as the leader of the DPRD in several ways, namely:
   a. Proven to have violated the oath and promise of office and the code of ethics Based on the Decree of the Honorary Board,
   b. The political party in question proposes the dismissal of the person concerned as the chairman of the DPRD with a statutory regulation.

So that political parties may make changes, of course they must be in accordance with the stages that have been explained, related to the time it is returned to the Deliberative Body (Bamus).

2. The Process of Appointing the Chairperson of the DPRD According to the Perspective of National Law

The process of appointing the Chairperson of the DPRD itself is regulated in Law Number 17 of 2014 concerning the MPR, DPR, DPD, and DPRD in the Eighth Part of DPRD accessories articles 326 to 329 which reads as follows:

Article 326
(1) The apparatus for the provincial DPRD consists of:
   a. leader;
   b. Deliberation Body;
   c. commission;
   d. Regional Legislation Agency;
   e. Budget Agency;
   f. Honorary Body; and
   g. other necessary equipment and formed by the plenary meeting
(2) In carrying out its duties, the secretariat shall assist the completeness of the equipment.
(3) Provisions regarding the procedure for the formation, composition, as well as the authority and duties of the provincial DPRD apparatus are regulated in a provincial DPRD regulation concerning rules and regulations

In article 326 paragraph 1 it is stated that there are 7 accessories for DPRD, in paragraph 2 it is explained that in carrying out the duties of regional apparatuses, DPRD is assisted by the secretariat.

Article 327
(1) The leadership of the provincial DPRD consists of:
   a. 1 (one) chairman and 4 (four) deputy chairmen for the provincial DPRD consisting of 85 (eighty five) to 100 (one hundred) people;
   b. 1 (one) chairman and 3 (three) deputy chairmen for the provincial DPRD consisting of 45 (forty five) to 84 (eighty four) people;
   c. 1 (one) chairperson and 2 (two) deputy chairpersons for the provincial DPRD consisting of 35 (thirty five) to 44 (forty four) people.
(2) The leadership as referred to in paragraph (1) shall come from political parties based on the order of obtaining the most seats in the provincial DPRD.
(3) The chairman of the provincial DPRD is a member of the provincial DPRD who comes from a political party that gets the first most seats in the provincial DPRD.
(4) In the event that there are more than 1 (one) political party that obtained the first most seats as referred to in paragraph (3), the chairman of the provincial DPRD is a member of the provincial DPRD who comes from the political party that obtained the most votes.
(5) In the event that there are more than 1 (one) political party that obtains the same majority of votes as referred to in paragraph (4), the determination of the chairman of the provincial DPRD
is carried out based on the distribution of the area of the political party's vote acquisition which is wider in stages.

(6) In the event that there are more than 1 (one) political party that gets the first most seats as referred to in paragraph (3), the deputy chairman of the provincial DPRD is a member of the provincial DPRD who comes from the political party that gets the second, third and/or most votes. or fourth.

(7) If there is still an unfilled seat for the deputy chairman of the provincial DPRD as referred to in paragraph (6), then the deputy chairman seat will be filled by members of the provincial DPRD who come from the political party that has the second most seats.

(8) In the event that there are more than 1 (one) political party that obtains the same second most seats, the deputy chairperson as referred to in paragraph (7) is determined based on the order of the results of the majority of votes.

(9) In the event that there are more than 1 (one) political party that obtains the second most seats as referred to in paragraph (7), the determination of the deputy chairman of the provincial DPRD as referred to in paragraph (8) is carried out based on the wider distribution of the political party's vote acquisition area. in stages.

In article 327 paragraphs 2 and 3 it is emphasized that in essence it states that the leadership of the DPRD and the chairman of the DPRD come from the number of political parties that are counted as getting the first most seats in the provincial DPRD, so that this also causes several pros and cons, for example taken from the example in 2015 members The East Nusa Tenggara DPRD conducted a judicial review to the Constitutional Court because they felt that their constitutional rights had been violated by the enactment of the a quo article. The Petitioner explained that the process of filling out and appointing the DPRD's equipment had eliminated his constitutional rights, then he said that as a result of this provision, the Petitioner had lost the opportunity to participate in the process of selecting the DPR's apparatus. The Petitioner considers that this is because Article 327 paragraph 2 has explicitly eliminated the Petitioner's opportunity. 10

Article 328
(1) In the event that the leadership of the provincial DPRD as referred to in Article 327 paragraph (1) has not yet been formed, the provincial DPRD shall be led by the interim leadership of the provincial DPRD.

(2) The provisional leadership of the provincial DPRD as referred to in paragraph (1) consists of 1 (one) chairman and 1 (one) deputy chairman from 2 (two) political parties that obtained the first and second most seats in the provincial DPRD.

(3) In the event that there are more than 1 (one) political party obtaining the same number of seats, the chairman and temporary deputy chairman of the provincial DPRD shall be determined by deliberation by the representatives of the political party concerned in the provincial DPRD.

(4) The chairman and deputy chairman of the provincial DPRD are inaugurated by a decision of the Minister of Home Affairs.

(5) The leadership of the provincial DPRD before taking office shall take an oath/promise whose text is as referred to in Article 293 which is guided by the head of the high court.

(6) Further provisions regarding the procedure for determining the leadership of the provincial DPRD shall be regulated in a provincial DPRD regulation concerning rules and regulations

Article 329
The Commission as referred to in Article 326 paragraph (1) letter c is established with the following provisions:

a. Provincial DPRD consisting of 35 (thirty five) to 55 (fifty five) people to form 4 (four) commissions;

b. Provincial DPRD consisting of more than 55 (fifty five) people shall form 5 (five) commissions.

10 Diakses https://www.liputan6.com/news/read/2164878/mk-tentukan-nasib-mekanisme-pemilihan-pimpinan-dprd Diakses pada 15 Februari 2022
C. Conclusion

The author concludes that the mechanism for dismissing the Chair of the Regional People's Representative Council is enforced, the first step is the political party (Parpol) concerned submits a letter to the DPRD, so that the letter will be discussed by Bamus, where Bamus determines the plans, for example there is the word This change will be scheduled for a plenary implementation of the replacement, then in Government Regulation No. 12 of 2018 concerning Guidelines for the Preparation of Orders for the Provincial, Regency and City Regional House of Representatives, it is stated that the leadership of the DPRD can be dismissed as the leader of the DPRD in several ways, namely: a.) Is proven to have violated the oath and promise of office and the code of ethics. Based on the Decree of the Honorary Board, b.) The political party concerned proposes the dismissal of the person concerned as the chairman of the DPRD with statutory regulations. Then the process of appointing the chairman of the DPRD is regulated in Article 327 paragraphs 2 and 3 which basically states that the leadership of the DPRD and the chairman of the DPRD comes from the number of political parties that are counted as obtaining the first highest number of seats in the Provincial DPRD.

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