



Abstract

Pursuant to Law on Regional Government prevailing during the era of Old and New Order, the dismissal of Regional Head in the middle of the term was designed with a single (centralized) system in the unitary system in Indonesia. This system centralized all authority of dismissal in the hand of the President (centripetal). During the transition period, along with changes in the Regional Head Election system, the authority of dismissal was partly delegated to the Regional House of People's Representatives (DPRD). The combination of centripetal and centrifugal pattern gave colors to the pattern of dismissal and simultaneously described the collaboration between the unitary state system and the government system. The characteristics of the parliamentary government system emerged, but were not fully similar. At the present time, after the amendment to the 1945 Constitution, the design of the dismissal remains the same with two parameters by strengthening the presidential system. The DPRD will dismiss the Regional Head through an impeachment system, which is similar to the presidential impeachment based on Article 7A and 7B of the 1945 Constitution.

This research aims: (1) to analyze the system of dismissal of Regional Heads that had been valid in Indonesia in the Regional Government Law in the Old Order, the New Order, and the transition period. (2) to analyze the system of dismissal of Regional Heads based on the unitary state system in Indonesia in the regional government law in the period after the amendment to the 1945 Constitution. (3) to form a system for dismissal of Regional Heads in the Unitary State of the Republic of Indonesia in accordance with the unitary state system and presidential government system

This research is a normative legal and literature research which was conducted by investigating library materials or secondary data. The materials consisted of primary legal materials, namely legislations concerning the impeachment of regional heads. In addition, this research also employed secondary legal materials such as books, research results, and international journals. It was added with tertiary legal materials such as legal dictionaries, and so forth.

The research results conclude that: (1) the dismissal of the Regional Head after the amendment to the 1945 Constitution strengthens the unitary state system and central-regional relations. (2) the dismissal of the Regional Head was not performed in a centralized manner, but in a decentralized manner. (3) This reflects that the dismissal is similar to the dismissal of the President in a presidential government system, with the following indicators: a) it is very difficult the DPRD to dismiss the Regional Heads because quorum requires a considerable percentage of members. b) the requirements for the dismissal of the regional head are stricter than those of the presidential impeachment. c) in addition to being difficult in terms of the requirements to start the impeachment process, the impeachment of Regional Heads in Law No. 23 of 2014, also constructs an impeachment which has a mixed character between the concept of unitary state and presidential government system.

Keywords: impeachment, unitary state, presidential system



Abstrak

Pemberhentian Kepala Daerah di tengah masa jabatan dalam sistem kesatuan di Indonesia di dalam UU pemerintahan daerah yang pernah berlaku di era Orde Lama dan Orde Baru didesain dengan sistem tunggal (memusat). Sistem ini memusatkan semua kewenangan pemberhentian di tangan Presiden (sentripetal). Pada masa transisi, bersamaan dengan perubahan sistem Pilkada, wewenang pemberhentian dilimpahkan sebagian kepada DPRD. Pola kombinasi sentripetal dan sentrifugal mewarnai corak pemberhentian, sekaligus menggambarkan kolaborasi sistem negara kesatuan dan sistem pemerintahan. Karakteristik sistem pemerintahan parlementernya muncul, namun tidak berisifat penuh. Saat ini, di masa setelah perubahan UUD 1945, desain pemberhentian tetap dengan dua parameter dengan penguatan pada sistem presidensial. DPRD akan memberhentikan Kepala Daerah melalui sistem *impeachment* yang mirip dengan pola *impeachment* Presiden berdasar Pasal 7A dan 7B UUD 1945.

Penelitian ini bertujuan: (1) untuk menganalisis sistem pemberhentian Kepala Daerah yang pernah berlaku di Indonesia dalam UU pemerintahan daerah di masa Orde Lama, Orde Baru, dan masa transisi. (2) untuk menganalisis sistem pemberhentian Kepala Daerah berdasar sistem negara kesatuan di Indonesia dalam UU pemerintahan daerah di masa sesudah perubahan UUD 1945. (3) untuk merumuskan sistem pemberhentian Kepala Daerah dalam Negara Kesatuan Republik Indonesia yang sesuai dengan sistem negara kesatuan dan sistem pemerintahan presidensial.

Penelitian ini merupakan penelitian hukum normatif dan kepustakaan yang dilakukan dengan cara meneliti bahan pustaka atau data sekunder. Bahan penelitian ini adalah bahan hukum primer yaitu peraturan perundang-undangan yang menyangkut pemakzulan Kepala Daerah. Selain itu, dalam penelitian ini digunakan pula bahan hukum sekunder berupa buku-buku, hasil-hasil penelitian, dan jurnal internasional. Ditambah dengan bahan hukum tersier seperti kamus hukum, dan lain-lain.

Hasil penelitian ini menyimpulkan: (1) pemberhentian Kepala Daerah setelah perubahan UUD 1945 memperkuat sistem negara kesatuan dan hubungan pusat-daerah. (2) pemberhentian Kepala Daerah tidak terselenggara secara sentralisasi, melainkan dilaksanakan secara desentralisasi. (3) mencerminkan pemberhentian yang sejalan dengan pemberhentian Presiden dalam sistem pemerintahan presidensial, dengan indikator: a) pemberhentian Kepala Daerah sangat sulit dilakukan oleh DPRD karena syarat quorum sangat berat. b) syarat pemberhentian Kepala Daerah lebih sulit dibandingkan syarat pemakzulan Presiden. c) *impeachment* terhadap Kepala Daerah dalam UU No. 23 Tahun 2014, selain sulit dari segi syarat untuk memulai proses *impeachment*, juga mengonstruksi *impeachment* yang berkarakter campuran antara konsep negara kesatuan dan sistem pemerintahan presidensial,

Kata kunci: pemakzulan, negara kesatuan, sistem presidensial