



**RESEARCH ARTICLE**

**THE PROBLEMS OF HORIZONTAL AND  
VERTICAL POLITICAL ACCOUNTABILITY  
OF ELECTED OFFICIALS IN INDONESIA**

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**ABSTRACT**

The accountability system for elected officials in Indonesia is inherently linked with the electoral system that is applied to unravel the problem in the context of a symmetrical system of people's sovereignty. This article analyzes the dynamics of the current regulations on the accountability system of elected officials. However, this article would only focus on the accountability system for regional leaders (governor, mayor, and regent), regional legislators (DPRD)

and the senatorial regional delegates (DPD) in Indonesia and the participation of constituencies in proposing a recall system. The purpose of this research is to construct an accountability mechanism for regional heads, DPRD and DPD to their constituents that are appropriate and in line with the electoral system applied in Indonesia. This research is expected to be a material for consideration for policy makers and the Indonesian people in general in designing an accountability system for elected officials that is appropriate and in line with the applied electoral system. To do such, this article is based on a descriptive study.

**Keywords:** accountability, horizontal and vertical politics, direct democracy, elected officials, recall, Indonesian election

## TABLE OF CONTENTS

ABSTRACT .....	83
TABLE OF CONTENTS .....	85
INTRODUCTION .....	86
THE LEGAL DYNAMICS OF ACCOUNTABILITY SYSTEM FOR REGIONAL HEAD, <i>DPRD</i> AND <i>DPD</i> IN INDONESIAN LEGAL SYSTEM .....	89
A. The Legal Politics of Regional Head Election .....	91
B. The Performance Monitoring and Evaluation Model for Regional Head, <i>DPRD</i> and <i>DPD</i> .....	98
WHAT MEASURES THE ACCOUNTABILITY OF ELECTED OFFICIALS? .....	100
A. The Benchmarks of Government Accountability .....	100
B. Duties and Functions of Regional Head, <i>DPRD</i> and <i>DPD</i> .....	104
C. The Performance Monitoring and Evaluation Model for Regional Head, <i>DPRD</i> and <i>DPD</i> .....	107
THE ROLE OF CONSTITUENCIES ON PROPOSING RECALL .....	113
CONCLUSION .....	120
REFERENCES .....	121



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## INTRODUCTION

THE REFORM MOVEMENT in 1999 has gradually opened the waves of consequential political regulation and democratization, as the antithesis of authoritarianism built by the Suharto regime.<sup>1</sup> The reform movement, among other things, triggered constitutional changes in the legal sector by changing the supremacy of the People's Consultative Assembly (*Majelis Permusyawaratan Rakyat/MPR*) to the supremacy of the constitution, and the recognition of human rights in a broader and more detailed manner.<sup>2</sup> In the political sector, reforms for the filling of political offices were established in both the legislative institutions (People's Representative Council/DPR, Regional People's Representative Council/DPRD, and Regional Representative Council/DPD) and the executive institutions (president and vice president) which included two major changes. First, all political offices are appointed through popular elections. Second, the establishment of bicameral representative system within the MPR which consists of two houses; the lower multi-partisans house of People's Representative Council (*Dewan Perwakilan Rakyat/DPR*) which directly represents the population and the non-partisan upper house of Regional Representative Council (*Dewan Perwakilan Daerah*) which represents the regions they delegated to. Whereas the offices of regional heads (governor, mayor, and regents) are just directly elected through popular election since 2005.

With the implementation of a direct election system by the people in this system of filling political positions, the sovereignty of

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<sup>1</sup> Cornelis Lay, *PKS's Policy Behaviour: Metamorfosa PKS dalam Kancah Politik di Indonesia*. 2 Monograph on Politics and Government 130, (2008).

<sup>2</sup> Saldi Isra, *Perubahan Lembaga Legislatif dan Eksekutif: Prosepek dan Tantangan*. 49 UNISIA. No. 49/XXVI/III/2003, (2003).

the people is truly recognized as the people are directly involved in the process of determining the names of candidates for political office elected through elections (hereinafter referred to as elected officials). This is reflected in the voter voting mechanism by using the method of directly electing the candidate's name, while the method of determining the elected candidate uses the basis of obtaining the most votes, both in the Presidential and Vice-Presidential elections, legislative elections (DPR, DPD and DPRD), and regional head elections.

This development in the voting system in elections marked the beginning of a complete shift in authority in elections. The general election for the DPD, the president and the regional head which implements the voting mechanism by directly electing the candidate's name, gives full authority to the voters as the holder of sovereignty in determining the candidate's victory. Likewise, in the DPR and DPRD elections (which previously relied on party power in determining elected candidates through serial numbers as a consequence of the implementation of a closed list proportional system) since the 2009 election have been using the voting mechanism directly to the candidate's name. In the elections for DPR and DPRD members, political parties that previously played a major role in determining who has the right to occupy seats in representative institutions through determining the serial number of candidates now lose this privilege.<sup>3</sup>

This system change is considered as a breath of fresh air for increasing the degree of application of the principle of people's sovereignty, and at the same time it is believed that it will be better able to produce elected officials who are closer to the people. In

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<sup>3</sup> Agus Riwanto, *Korelasi Pengaturan Sistem Pemilu Proporsional Terbuka Berbasis suara Terbanyak dengan Korupsi Politik di Indonesia*, 1 YUSTISIA JURNAL HUKUM 90, 89-102 (2015).

exercising their sovereignty during the Election period, the people / voters can free themselves from the intervention of political parties by directly choosing the names of candidates for legislative members they want. Problems are related to the dynamics of regulations regarding the accountability system of regional heads, DPRD and DPD in the legal framework in Indonesia, the involvement of constituents in proposing recall and the involvement of constituents in applying for recall.

This research is legal research, namely research that is applied or applied specifically to legal science. The type used in this research is normative legal research,<sup>4</sup> namely done by examining library materials or secondary data. However, normative legal research does not close the space for the use of interview data as triangulation or confirmation of secondary data in the form of legal materials used.

Meanwhile, in terms of its nature, this research is a descriptive study (descriptive research). Descriptive research is a study to describe something in a certain space and time. In essence, descriptive study is an attempt to describe the variables being studied independently without associating with other variables that are comparing or connecting. In legal research, this descriptive research is very important to present the legal materials that exist appropriately, in which the prescriptions are compiled according to the materials.

In the same context, from the formal point of view, this type of research is prescriptive research. Research that aims to provide an overview or formulate problems in accordance with existing circumstances/facts.<sup>5</sup> The nature of this research is in line with the prescriptive characteristics of legal science. As a prescriptive science,

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<sup>4</sup> BAMBANG WALUYO, *PENELITIAN HUKUM DALAM PRAKTEK* 21-25 (Sinar Grafika, Jakarta 2002).

<sup>5</sup> *Id.*, at. 23.

law studies the aims of law, the values of justice, the validity of legal rules, legal concepts, and legal norms.<sup>6</sup> This prescriptive nature is used in analyzing and testing the values contained in the law, but not only limited to the values in the positive jurisdiction, but also the values that underlie and encourage the birth of the law. With its descriptive nature and prescriptive form, this study can reveal what and how people's involvement should be in holding regional heads and DPRD accountable in accordance with the electoral system applied in Indonesia.

## THE LEGAL DYNAMICS OF ACCOUNTABILITY SYSTEM FOR REGIONAL HEAD, DPRD AND DPD IN INDONESIAN LEGAL SYSTEM

JOSEPH SCHUMPETER gave an understanding of the theory of democracy as a means of controlling the aristocratic elite, giving a meaning that democracy is a movement to exercise control over the elites, "*... a "tory democracy" movement and to reestablish elite control over Austria-Hungary's democratizing and fragmenting society. It began not as a general "theory of democracy" but as an argument contending that aristocratic elites, employing the right techniques, could curb democracy and national fragmentation and preserve traditional social and political hierarchies in Austria-Hungary*".<sup>7</sup>

Schumpeter's context in campaigning for democracy is directed at criticizing the Austro-Hungarian kingdom system which

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<sup>6</sup> PETER MAHMUD MARZUKI, *PENELITIAN HUKUM* 56 (Kencana Prenada Media Group, Jakarta, 2006).

<sup>7</sup> JOHN MEDEARIS, *JOSEPH SCHUMPETER'S TWO THEORIES OF DEMOCRACY* (Harvard University Press, London, 2013).

is his own country. Even so, Schumpeter was a fan and supporter of the Nazi government. Apart from that, the meaning of democratic theory is about the existence of control, the State should not be held by several elites who have full power to run the country.

Democracy is not only a control room used by the community against the elites but can also be used as an entry point for the circulation of office. Meanwhile, the mechanism to become a democracy as a circulation space for positions in many countries uses the election mechanism. Where the position has a time limit after which an election will be held after the term of office will end. Democracy is a very pleasant space for society because it provides an important position, where the position is as a voter (voter), people have the right to vote directly. When his position as a voter and the term of office of the person he has elected has ended, the voter also has the right not to vote for the candidate he has previously elected. This method is a form of control over the elites, so that the elites who are in office must really be able to act properly when they are going to continue their power.

The above is an overview related to the importance of elections in a democratic country because democracy (as stated by Schumpeter) is a movement to exercise control over the elite. Indeed, in many countries that implement a democratic system, direct election is both a symbol and a measure of democracy itself. However, in the implementation of the elections each country has its own specialties.

In Indonesia, the technical implementation of elections is regulated by separate statutory regulations, even Indonesia seems to have legislative regulations regarding dynamic elections because they keep up with the times, so that legal politics in election policy are always developing. It is necessary to know in advance that the political situation also has a major impact on changes or developments in the electoral legal system because law politics is

directly proportional to the situation at that time. Padmo Wajono gave his understanding of legal politics as a basic policy that determines the direction, form, and content of the law to be formed.<sup>8</sup> Meanwhile, Satjipto Rahardjo defined legal politics as an activity of choosing and the methods to be used to achieve certain social and legal goals in society.<sup>9</sup>

In the understanding of legal politics above, the thread can be drawn, the circumstances at that time will have a major influence on policy making. Policies can be interpreted as regulations or decisions. Changes after changes that have occurred to the regulations regarding elections provide an illustration behind the changes in the political law that affect these changes. In order to read the basis for changes related to regional head elections, DPRD elections and DPD elections it is important to study the legal politics made of these regulations.

### **A. The Legal Politics of Regional Head Election**

The history of regional head elections cannot be separated from the laws that govern regional government. Starting from the old order (post-independence), the regional government system was regulated in Law No. 1/1957 on The Principles of Regional Government. Article 5 states that the regional government system consists of the regional legislative authority that is the Regional People's Representative Council (DPRD) and the "Regional Government Council" which is a regional executive authority/office headed by the elected regional head.

The division of regions according to this law is carried out by mentioning the levels, namely level I and level II. The first level

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<sup>8</sup> PADMO WAHYONO, *INDONESIA NEGARA BERDASATKAN ATAS HUKUM* 24 (Ghalia Indonesia, Jakarta, 1986).

<sup>9</sup> SATJIPTO RAHARJO, *ILMU HUKUM* 35 (Citra Aditya Bakti, Bandung, 2004).

regions cover provinces (including special regions), while the second level regions are regencies and municipalities. If the area is not mentioned based on its level, it means that it is included in the category of a self-reliant area or a special area. In this law the regional head is elected by the local DPRD. Once elected and in office, the Regional Head automatically becomes the Chair of the Regional Government Council. Meanwhile, the DPRD representatives are members of the Regional Government Council who are elected by the members of the Regional Government Council itself. This is because the position of DPRD was not equal and independent from the executive. But instead, the DPRD was absorbed as a part of the Regional Government Council and thus, below the regional head.

After being elected, to become a regional head must first be approved by the central government (President or Minister of Home Affairs). Level 1 Regional Heads are authorized by the President and the Minister of Home Affairs, or the authorities appointed by them to validate the Regional Heads from level II (Article 24). Presidential Regulation No. 6/1959 on Regional Government provides an explanation of the technicality of regional head elections in which a regional head is appointed from the candidates submitted by the DPRD. The authority of DPRD only proposes because in Article 4 paragraph (3) it gives authority to the Minister of Home Affairs and the President may determine the appointment of the Regional Head. The phrase "*may*" in the presidential regulation gives meaning when the Minister of Home Affairs and the President does not want the DPRD proposal, so it does not matter. This means that in regional head elections, the Central Government has a central role in choosing according to its wishes as shown and explained on Table 1.

**Table.1 Resume of Scheme of Regional Election based on Law Number 1 of 1957**

Type of Election	Voter	Determination of Candidate
Mayoral/ Regency	The DPRD appoints candidate to the Minister of Home Affairs	The Minister of Home Affairs may or may not affirm the candidate. If the latter, the central government may take over and redo the candidacy process.
Gubernatorial	The DPRD appoints candidate to the President via the Minister of Home Affairs	The President may or may not affirm the candidate. If the latter, the President can solely appoint his/her own pick to be a candidate.

After the regional head is ratified by the President or the Minister of Home Affairs, his duties as regional head are assisted by the Daily Government Agency. Where in the determination of the members of the agency, DPRD is also given a share to "entrust" people because Article 10 paragraph (2) states that "Members of the Daily Government Agency referred to in paragraph (1) of this article can be appointed as far as possible from the candidates submitted by The Regional People's Representative Council concerned from members or outside the members of the Council".

The regional government legal regime based on Law No. 1 of 1957 ended after the issuance of Law No. 18 of 1965 concerning the Principles of Regional Government. This law clearly provides attribution authority to revoke Law No.1 of 1957. Law No. 18 of 1965 arranges regions with three levels, namely:

- 1) Province and / or Metropolitan Special Municipality as Level I Regions;
- 2) Regency and / or Municipality as Level II Regions; and
- 3) Districts and / or Municipalities as Level III Regions.

The regional head election mechanism is also divided according to the aforementioned levels. The election for regional heads of level I is appointed by the President. The President elects the Regional Head who is nominated by the DPRD of the region concerned, in which the DPRD has at least 2 (two) and a maximum of 4 (four) candidates to the President. So, in the mechanism for electing the first level regional head, the President has the power to determine the candidate he chooses because when the President does not agree with the candidate presented by the DPRD, the DPRD is asked to propose another nomination. Meanwhile, if the President does not want the second candidate, the President is given the authority to appoint a regional head outside of the candidacy (Article 12).

Likewise with the regional head election mechanism level II the President has room to intervene. The mechanism is the same, but what distinguishes it is that the candidates are submitted by the DPRD to the Minister of Home Affairs, then through the President's approval the minister of interior appoints the regional head. And if for the second time the candidate nominated by DPRD is deemed no longer eligible, the President shall appoint a regional head outside of the candidacy.

Compared to the hierarchy of elections above, the election for regional heads at level III (three), the authority to nominate someone to become a regional head remains with the DPRD concerned but is submitted to the head of a level I region with the approval of the Minister of Home Affairs. The difference occurs in the second stage of candidacy, if the candidate submitted by the DPRD is not approved by the Minister of Home Affairs, the regional head is required to choose his own candidate which is then submitted to the Minister of Home Affairs. And if the candidate submitted by the Head of the Level I Region is also not approved by the Minister of Home Affairs,

the Minister of Home Affairs has the authority to elect a regional head outside of the candidacy as shown on Table 2.

**Table.2 Resume of Scheme of Election based on Law Number 16 of 1965**

Type of Election	Voter	Determination of Candidate
Regency/ Mayoral	The DPRD (municipal/regent level) may appoint several candidates to the Governor who is then passed to the central government via the Minister of Home Affairs.	If the minister does not approve the candidates, the governor may choose his/her own candidates. But if the candidates are not eligible, the minister is authorized to appoint his/her own candidates.
Gubernatorial	The provincial DPRD may appoint several candidates to the President.	The President may or may not affirm the candidates. If the latter, the President may appoint his/her own candidates.

Elections for Regional Heads based on Law No. 16 of 1965 are still centralized because the central government still holds greater authority. Meanwhile, DPRD which is positioned as the body conducting the selection cannot give a final decision because it still has to be submitted to the central government.

After studying regional head elections based on Law No. 16 of 1965 it was replaced by the regime of Law No. 5 of 1974 concerning the Principles of Regional Government. In the counseling of this law, it clearly states the principle of regional autonomy as the main principle for the formation of this law, so that it will also affect the regional government system. In the form of regional government in this law it is different from the previous law because the daily agency has been dissolved and replaced by the regional secretary. Even

though organizationally the regional government has changed, related to the regional head selection mechanism has not changed, it still positions DPRD as the selection authority, even politically the DPRD's authority in proposing regional head candidates is weakened because Regional Head is the prerogative of the President.<sup>10</sup>

The change in the mechanism for regional head elections is in Law No. 22 of 1999 where the authority of the DPRD is strengthened from only proposing to become a body that has the authority to elect and determine regional heads through elections. Meanwhile, the president only endorsed it.<sup>11</sup> The change in the mechanism for regional head elections in Law No. 22 of 1999 was chosen and stipulated by the DPRD to become elected by the local people when the issuance of Law No. 32 of 2004. In article 24 paragraph (5) it is clearly stated that the Regional Head and Deputy Regional Head are elected by the people in the region concerned. Indeed, Law No. 32 of 2004 has been amended by Law No. 12 of 2008, but the essence related to the election of a regional head directly elected by the people has not changed because what has changed is only related to the mechanism of nomination requirements which involve a coalition of political parties.

The law above is the last one that regulates regional head elections to be included in the substance of the law on Regional Government because related to regional head elections, it has specifically become a separate law. The emergence of Law No. 22 of 2014 concerning the Election of Governors, Regents and Mayors wants to return the Regional Heads elected by the DPRD. The Governor is elected by the Provincial DPRD, while the Regent and

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<sup>10</sup> Article 15 Law No 5 of 1974 concerning The Basics of Local Government (Pokok Pokok Pemerintah Daerah).

<sup>11</sup> Article 40 Law No 22 of 1999.

Mayor are elected by the Regent/Municipal DPRD<sup>12</sup>. However, this law has not been enforced because of pressure from the community so that the President at that time made a Government Regulation in Lieu of Law No. 1 of 2015 which was later changed to Law No. 10 of 2016 which restores Regional Head Elections to be directly elected by the community (*see* Table 3).

**Table.3 Brief History of Regional Head Election Mechanism**

Legal Basis	Election Mechanism	Explanation
Law No.1/1957	<ol style="list-style-type: none"> <li>1. DPRD may nominate a regional head candidate to the President</li> <li>2. the deputy regional head may be appointed by the office-elect</li> </ol>	DPRD only conducts selection then a minimum of two and a maximum of 4 people to the President
Law No. 1/1965	The DPRD may nominate a candidate for regional head to the President who has the sole power to affirm the proposal.	If the President refuses the first and second candidate nominations, then the President can appoint his/her own candidates beyond DPRD's proposal.
Law No. 5/1974	The DPRD may nominate a regional head candidate to the President.	The President has the prerogative right to confirm or deny the nomination.
Law No. 22/1999	The DPRD may nominate, elect, and appoint regional head through internal election process	The President may only affirm the election result.
Law No. 32/2004	Regional head is elected through a direct popular election by the people	The President may only affirm the election result.
Law No. 2/2014	Regional Head is elected and appointed by the DPRD	<ol style="list-style-type: none"> <li>1. Had a separate election mechanism from the previous regulation (law No. 32/2004)</li> </ol>

<sup>12</sup> Article 3 Law No 22 of 2014.

		2. Had not been implemented yet due to public pressure until the central government issued the Government Regulation in-lieu of Law No. 1/2015
The Government Regulation in-lieu of Law No. 1/2015 and the subsequent Law No. 10/2016	Regional head is elected through a direct popular election by the people	The appointment is done formally by the upper-rank official (i.e., the governor-elect is appointed ceremonially by the President, a mayor-elect by the sitting governor, etc.)

The electoral mechanism also influences the arrangements regarding the accountability system, since job reports are based on who voted for them. From the above, it can be seen that there are two parts, which are the period before direct election and after direct election. When the regional head has not been directly elected, the people cannot access reports from the regional head because the people's supervision is represented by representatives of the people in the DPR or in government agencies. However, if the regional head is elected directly, the people can participate in conducting an evaluation, at least a political evaluation in each period.

## **B. The Performance Monitoring and Evaluation Model for Regional Head, DPRD and DPD**

The mechanism for filling positions at the regional head of the DPRD has changed several times but the monitoring mechanism has not changed much because the Regional Head and DPRD are partners in running regional government within the framework of the Unitary State of the Republic of Indonesia. Where there is no separation of

powers in the regions. In regional government, the organizing elements are the Regional Head and the DPRD so that the two institutions cannot be separated. The powers of these two institutions are separated because it is to create checks and balances in running government in the regions. The combination of the two creates good government. However, the separation of powers referred to is not unlike the power referred to by Montesquieu, who gave the name *trias politica* (*Tri = three, as = axis/center, and politica = power*).<sup>13</sup> Regional government does not apply *trias politica* because Indonesia adheres to a unitary state known as a unitary state, where unitary is a single state (one country) which is monocentric (one centered), consisting of only one country, one government, one head of state, one legislature which applies to all regions in the territory of the country concerned.<sup>14</sup> So in fact a regional legislature in a unitary state does not exist, but Indonesia is a unitary state that prioritizes regional autonomy and in the context of implementing democracy and assisting the Regional Head in making Regional Regulations, the DPRD is formed.

After a person is elected in a direct election, he / she automatically becomes a state official so that the form of supervision also follows the rules of constitutional law where in the supervision of state officials who are members of regional governments (Provinces, Districts and Cities) DPRD and Regional Heads are partners so that their authority is (1) Regional Law and Policy Products, Implementation of Regional Government Administration and Regional Finance.<sup>15</sup> So that the object of supervision is also taken from these three types. To be able to see the oversight mechanism of

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<sup>13</sup> M. Agus Santoso, *Peran Dewan Perwakilan Rakyat Daerah Dalam Menjalankan Fungsi Pengawasan*, 4 JURNAL HUKUM IUS QUIA IUSTUM 609, (2011).

<sup>14</sup> Budi Sudijono *In Santoso, Id.*, 610.

<sup>15</sup> CENTER FOR INTERNATIONAL FORESTRY RESEARCH, *SISTEM PENGAWASAN TERHADAP PENYELENGGARAAN PEMERINTAH DAERAH KABUPATEN 2* (Governance Brief, 2004).

these three types, it cannot rule out the hierarchical system in a unitary state, whatever it is the central government has great authority in conducting evaluations because Indonesia is a unitary state so that in this case the nature of its supervision can be seen, where DPRD has political oversight authority. regional heads while the central government has administrative oversight authority over regional heads who then also have the authority to provide guidance to regional heads. DPRD political authority over regional heads and central government administrative authority over regional heads are written in the Regional Government Act (Law No. 2 of 2014).

Meanwhile, the oversight mechanism for DPRD, institutional-wise, is the supervision that is carried out directly by the community because DPRD members are the results of elections who have the task of being partners in implementing government in the regions. Indeed, in this case the regional head has more duties than the DPRD because apart from being directly elected by the community, he is also always supervised by the DPRD politically and administratively by the officials above him.

## WHAT MEASURES THE ACCOUNTABILITY OF ELECTED OFFICIALS?

### **A. The Benchmarks of Government Accountability**

Sumaryadi provides several definitions of government as an organization whose authority rules from a political unit, power that governs a public society, apparatus which is a government body that functions and exercises power, power to make laws and regulations to handle disputes and discuss administrative decisions and with

monopoly over legitimate power.<sup>16</sup> Furthermore, Ndraha stated that government is an organ authorized to process public services and is obliged to process civil services for everyone through government agencies, so that each member of the community concerned receives it when needed, in accordance with the provisions (expectations) which are governed or the public.<sup>17</sup>

In the above explanation, the red thread can be drawn is that the government is a public body located in a country where its duties and functions are for the benefit of public services. Then it was emphasized again by the existence of the Information Disclosure Law (Law No. 14 of 2008), where what is meant by a Public Agency is that its funding comes from the State Revenue and Expenditure Budget (APBN) / Regional Revenue and Expenditure Budget (APBD).

These agencies / institutions are established by the constitution and by laws and regulations that are domiciled in a country. And in carrying out its duties or management in making decisions and / or actions (both by bodies and officials) it is mandatory to use the guidelines of Law Number 30 of 2014 concerning Government Administration. Therefore, the Regional Head, DPRD, and DPD are included in the category of government because they are held by the constitution and laws and regulations, all of which comes from the APBN / APBD

As a public agency whose operations are financed by funds originating from the public, all its actions must have a basis and benchmarks, so that it fulfills the principle of performance accountability, so that it can be accountable to the public. Public administration accountability is an important issue in scientific and practical studies because it pertains to public services. In tax law, there

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<sup>16</sup> H. Rahyuni, *Perubahan Kedudukan Kelurahan dari Perangkat Daerah Menjadi Perangkat Kecamatan*, 3 JURNAL WEDANA 223, (April, 2017).

<sup>17</sup> *Id.*, at. 223.

is a theory of justification, namely the theory of interest, the relationship between citizens and the State is a relationship of interest in which the costs incurred by the state to carry out its duties are borne by citizens. Therefore, the state is obliged to protect the interests of its citizens.<sup>18</sup> Public agencies are a part of the whole government body which is liable to be held accountable for its financial management.

It cannot be denied that the actions or policies of public bodies or their officials are always related to the budget so that there must be clear accountability. To be able to fulfill this, the program and budget must be measured, this is where the characteristics of accountable program and budget management because the public places great importance on the implementation of policies, programs, projects, and routine activities carried out by government organs.

The concept of accountability is also included as the main focus in new public management or what is commonly referred to as New Public Management (NPM), for that accountability can be said to be the main differentiating factor between the study of old public administration and new public management. This is because classical administration is oriented to power alone (command), whereas in new public management government management agencies are more inclined towards public service orientation for the main purpose of the people's welfare.<sup>19</sup>

In order to ensure accountability for the performance of government agencies, a clear, precise, orderly and effective accountability system known as the Performance Accountability System for Government Institution (*Sistem Akuntabilitas Kinerja Instansi Pemerintah/SAKIP*) was developed. SAKIP is then applied

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<sup>18</sup> MUHTAR SAID & M. HASAN MUAZIZ, *PENGANTAR HUKUM PAJAK INDONESIA* 28 (Thafa Media, Yogyakarta, 2020).

<sup>19</sup> MUHTAR SAID, *ASAS-ASAS HUKUM ADMINISTRASI NEGARA* 33-35 (Thafa Media, Yogyakarta, 2019).

through the setting of performance targets accompanied by performance indicators that describe the success of government agencies.<sup>20</sup> SAKIP is an order, instrument and method of accountability which essentially includes the following stages:<sup>21</sup>

1. Determining strategic planning, performance planning, and establishing work plans, including making a vision, mission, goals, objectives, policies, and programs. It is at this stage that government agencies produce a five-year medium-term work plan (RPJM / RPJMD) which is later derived into an annual performance plan (RKP / RKPD), budget plan (RKA), Performance Agreement (PK), SOP, and so on;
2. Performance measurement, including measuring performance indicators, collecting performance data, comparing realization with work plans, previous year's performance, or comparing with other similar organizations that are the best in their fields;
3. Performance reporting, in the form of making a Government Agency Performance Accountability Report (LAKIP) with a predetermined standard report format (detailed with various indicators, evidence, and their achievements); and
4. The use of performance information for continuous improvement of the next agenda.

The implementation of the accountability system through SAKIP is very important because it is an instrument in realizing the concept of good governance. The concept of SAKIP is a mandate from Law Number 17 of 2003 concerning State Finance which contains a mandate to integrate financial and performance information in a system. This is consistent with public management characterized by

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<sup>20</sup> WAHYUDI *In* PAULUS JULIUS & SALSABILA, *AKUNTABILITAS: MENUJU INDONESIA BERKINERJA* (Deputi Bidang Reformasi Birokrasi Akuntabilitas Aparatur dan Pengawasan, 2018).

<sup>21</sup> *Id.*

good governance, namely public sector organizations to pay attention to value for money in carrying out their activities. Where is the smallest input cost to achieve optimum output?<sup>22</sup>

The programs or actions of government agencies cannot be separated from publicly financed funding, the management methods must also be based on existing finances. As for the benchmarks for the management of government agencies based on Law Number 17 of 2003 concerning State Finance which was then drafted through SAKIP. Meanwhile, the Regional Head, DPRD, DPD are government agencies that are clearly included in the organization of public bodies so that performance benchmarks can be measured using SAKIP itself. This is done so that the concept of good government can be achieved. This SAKIP can be applied to every institution, although each institution has different tasks and functions, however, program management cannot be separated from the management of state finances.

## **B. Duties and Functions of Regional Head, DPRD and DPD**

The regional head and the DPRD are inseparable due to their vital roles as the organizer/operator/administrator of the regional government.<sup>23</sup> With the principles of decentralization and de-concentration, the governor has a key role as the leader of not only the provincial government but also its lesser regional government (municipalities and regencies). These two figures (the regional head and the DPRD) have different duties and functions yet related. The

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<sup>22</sup> Alwi Hasyim Batubara, *Konsep Good Governance dalam Konsep Otonomi Daerah*, 3 JURNAL ANALISIS ADMINISTRASI DAN KEBIJAKAN 4 (2006).

<sup>23</sup> Article 57 Law No 23 of 2014 concerning Local Government (Pemerintahan Daerah).

regional head has three main duties: addressing reports on regional administration, addressing accountability reports, and addressing brief reports on regional government's performances (*see* Table 4).<sup>24</sup>

**Table.4 Resume of Duties & Functions of Regional Head, DPRD, and DPD in Indonesian Legal System**

Duties	Report Details	Recipient
Addressing reports on regional administration	Achievement of regional governance performance and implementation of co-administration tasks (Duties from central government to Province / From Province to Regency / City)	For the Governor: To the President through the minister, once under the knowledge. Performed once a year For the Regent / Mayor: to the Minister through the Governor (as the representative of the central government / decentralization). Performed once a year
<i>Note: submission is submitted no later than three months after the end of the fiscal year</i>		
Addressing accountability reports	Results of the administration of government affairs carried out by the Regional Government	
Brief reports on regional government's performance	It contains the implementation of mandatory and optional affairs	To the public through media that can be accessed by the public. The submission is concurrent with the submission of reports on the implementation of regional government

<sup>24</sup> Article 69 Law No 23 of 2014 concerning Local Government (*Pemerintahan Daerah*) online at <<https://peraturan.bpk.go.id/Home/Details/38685/uu-no-23-tahun-2014>>

As an element of regional government, the DPRD has legislative, budgeting, and supervisory functions.<sup>25</sup> Legislation is the function of making and approving regional regulations and the function of the budget is that it requires the design or entry of regional funds to also go through the DPRD deliberations. Then to carry out the supervisory function the DPRD has the right to interpellation, questionnaire, and express opinions.

The right of interpellation is the right of the DPRD to request information from regional heads regarding policies that are important and strategic and have a broad impact on the life of society and the state. After the interpellation was carried out, it was found that there were several things that needed to be investigated, so the right to inquiry was carried out, namely an in-depth investigation to find out whether the regional head had taken an action that was contrary to the laws and regulations. After the right to inquiry is carried out, the DPRD has the right to express an opinion related to an extraordinary event that has occurred in its area accompanied by a recommendation for resolution or follow-up on the implementation of the interpellation and inquiry rights.

Then it leads to the functions and duties of the DPD regulated in the 1945 Constitution and the Law on the MPR, DPR, DPD and DPRD limited to regional autonomy, central and regional relations, the formation and expansion and amalgamation of regions, management of natural resources and other economic resources. as well as relating to the financial balance between central and regional.

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<sup>25</sup> Law of the Republic of Indonesia Number 17 of 2014 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council (*Undang-Undang Republik Indonesia Nomor 17 Tahun 2014 Tentang Majelis Permusyawaratan Rakyat, Dewan Perwakilan Rakyat, Dewan Perwakilan Daerah, dan Dewan Perwakilan Rakyat Daerah*). <<https://parlemenindonesia.org/uu-md3/>>

### C. The Performance Monitoring and Evaluation Model for Regional Head, DPRD and DPD

There are three types of supervision, namely legal supervision, administrative supervision, and political supervision.<sup>26</sup> However, at the peak point is the principle of *contrarius actus*, where this principle states that State Administrative Officials (TUN) who issue TUN Decrees by themselves also have the authority to cancel them. Meanwhile, cancellation or cancellation of a decision (*beschikking*) can still be tested through the State Administrative Court.

The explanation above provides an illustration, basically there is a vertical accountability in which state administrative officials must be accountable to the official who gave them a decree making them official as state administrative officials. This means that the Governor is appointed by a Presidential Decree, so he has the responsibility to the President even though through the minister, then the Regent or Mayor is appointed by the minister, so he must be accountable administratively to the minister. Then the Provincial DPRD is appointed by the minister, the peak is in the minister, while Regency / City DPRD is appointed by the Governor, so the revocation of the SK is on the governor while the DPD is appointed by the President so administratively the right to revoke its membership is the president.

The existence of the DPD actually existed before the amendments to the 1945 Constitution, but its name was not DPD but regional representatives. and one of the MPR members are delegates from the regions, so that the regional representatives are then referred to as regional representatives. then the way in which regional delegates become members of the MPR is different from others. This

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<sup>26</sup> See Jumadi, *Penguatan Fungsi Pengawasan Dewan Perwakilan Daerah Republik Indonesia dalam Sistem Bikameral Parlemen*, 6 JURISPRUDENTIE (2019).

regional delegation is proposed by the Regional People's Representative Council (hereinafter referred to as DPRD) at the maximum of twice the predetermined quota. The President then appointed the regional delegation as a member of the MPR.<sup>27</sup>

In institutional work, the DPD is not like the DPR which has more authority, but its position in terms of program harmonization between the regions and the center is very important because the DPD represents the regional struggle while the DPR represents the people's struggle. Although its position is very important, it does not have executive authority so that the DPD's authority is at the level of advocating regional interests to the center. From this, it can be seen that the benchmarks for the success of the DPD's performance are a matter of the entry of DPD ideas or ideas into the national legislation program and can even become a draft bill. Because the DPD can only propose while the one who discusses and determines it is the DPR.

The heavy burden of the DPD, which was not balanced with adequate duties and authorities, made it ambiguous. The basis of democracy which places the people as the holder of the highest sovereignty which is then carried out by various state institutions to realize people's welfare. The mechanisms for achieving democratic goals consist of direct and representative democracy. Direct democracy involves involving the participation of all the people while representation by selecting candidates who will represent in representative institutions. Therefore, in a representative democracy it is necessary to have a system and mechanism for the formation of representative bodies or institutions as representatives of the people's voice. This is in line with the formulation of democracy conveyed by CF Strong, namely: "A system of government in which the majority of the grown members of a political community participates through a

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<sup>27</sup> Khoirotin Nisa, *Dewan Perwakilan Daerah Republik Indonesia: Sistem Perwakilan Rakyat Bikameral yang Mandul*, 4 JURNAL WAHANA AKADEMIKA 134, (2017).

method of representation which secures that the government is ultimately responsible for its actions so that the majority".<sup>28</sup>

With the burden of duty as regional representatives, the DPD must liaise with the DPRD and the Regional Government. This is because the DPD is a regional representation. It should also be explained that the DPD is a non-party regional representative institution whose members are elected through individual elections. DPD will meet 3 components of society when in the area as a stakeholder, namely the community, DPRD and Local Government. However, the problem is that there are no specific arrangements regarding the relationship and authority of the DPD RI in relation to the Regional Government. This is really risky, considering the DPD RI members have the obligation to absorb, collect, accommodate and follow up on the aspirations of the community and the region. Formal communication is only carried out during the aspiration absorption period or work visits in the regions.

In order to discuss the pattern of cooperation between the DPD RI and the Regional Government, on 29 April-1 May 2005 PAH II (now a committee II) DPD RI held a workshop inviting the governors and the Provincial DPRD. Through this workshop an agreement was reached on a formal mechanism for regional consultation. Likewise, the DPD support pattern for the Provincial Government has also been agreed upon. With the opening of this space, each time a working visit is made, each member has brought a collective agreement which will then be followed up in the form of DPD support and programs.

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<sup>28</sup> C. F. STRONG, *MODERN POLITICAL CONSTITUTIONS: AN INTRODUCTION TO THE COMPARATIVE STUDY OF THEIR HISTORY AND EXISTING FORM* 13-15 (London, Sidgwick Jackson, 1963).

Meanwhile, to find DPRD benchmarks (both at the provincial and district/city levels) Hifdzil Alim<sup>29</sup>, an expert on constitutional law, said that DPRD is measured by its legislative achievements, namely the Government's priority programs taken from the *Musrembang* screening, which are then raised to be the main issue in the regional legislation program, and from this regional legislation program can be measured, how many Regional Legislation Programs (Prolegda) and how many results are stipulated by the number of Prolegda. If in the regional legislation program there are seven regional regulations that will be drafted but, in the end, only four regional regulations are successfully drafted, it can be said that the DPRD's achievements are minimal.

In regional government, the organizing elements are the Regional Head and the DPRD so that the two institutions cannot be separated. The powers of these two institutions are separated because it is to create checks and balances in running government in the regions. The combination of the two creates good government. However, the separation of powers referred to is not unlike the power referred to by Montesquieu, who gave the name *trias politica* (*Tri = three, as = axis / center, and politica = power*).<sup>30</sup> Regional government does not apply *trias politica* because Indonesia adheres to a unitary state known as a unitary state, where unitary is a single state (one country) which is monocentric (one centered), consisting of only one country, one government, one head of state, one legislature which applies to all regions in the territory of the country concerned.<sup>31</sup> So in fact there is no regional legislature in a unitary state, but Indonesia is a unitary state that prioritizes regional autonomy and in the framework of implementing democracy and assisting the Regional Head in making

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<sup>29</sup> Personal Interview, 15 August 2020.

<sup>30</sup> Santoso, *supra* note 13, at. 609.

<sup>31</sup> *Id.*, at. 610.

Regional Regulations, the DPRD is formed. However, the supervision has a different mechanism. Because supervision is divided into three types, namely legal supervision, administrative supervision, and political supervision as shown on Table 5.

**Table 5. Types of Supervision on Local Government Concept in Indonesian Legal System**

Institutions	Benchmarks	Types of Supervision		
		Legal Supervision	Political Supervision	Administrative Supervision
Regional Head	Development Planning Forum → work programs/agenda → SAKIP		<ol style="list-style-type: none"> <li>1. DPRD through interpellation, questionnaire, then at its peak states the opinion given by the Supreme Court to make a decision</li> <li>2. The DPD also participates in supervising matters concerning regional autonomy, central and regional relations, the formation and expansion and merger of regions, management of natural resources and other economic resources, as</li> </ol>	Minister for governor level and governor at district / city level

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		well as relating to the balance of central and regional finances. It is in the form of a proposal	
DPRD	Development Planning Forum → Regional Legislation Programs → Regional Regulations	Public society	Minister supervision for provincial DPRD and Governor for municipal/regent DPRD
DPD	The success of advocacy on regional interests includes proposals being included in the National Legislation Program which then become a legislation draft or a bill.	Public society	President

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The three types of institutions discussed above are political positions because they are directly elected by the community but have different duties and functions. If seen in the table above, tight supervision lies with the regional head because it has the authority to run regional programs and also to carry out assistance tasks from the center to the province or from province to district/city. This is natural because Indonesia is a unitary state so that there is no pure division of power as in *trias politica*.

## THE ROLE OF CONSTITUENCIES ON PROPOSING RECALL

TO BIND OR ATTRACT voters is a vision, mission, and program. Meanwhile, it must be in accordance with the Regional Long Term Development Plan (*Rencana Pembangunan Jangka Panjang Daerah/ RPJPD*).<sup>32</sup> The RPJPD is an elaboration of the vision, mission, policy direction and main targets of long-term regional development for 20 (twenty) years which is compiled based on the RPJPN or National Long Term Development Plan and regional spatial planning, the RPJPD is stipulated by regional regulations.<sup>33</sup>

From here it can then be drawn when the regional head when carrying out his duties and functions is not in accordance with what is in the RPJPD, there is the potential for the community to file a lawsuit through “tort complaint against the government” (*Onrechtmatige Overheidsdaad*) and also through Citizen Lawsuit (CLS). These two actions can be used by the public or voters to conduct evaluations to regional heads other than the political route, namely elections. The point is, regional heads who are directly elected by the community can be evaluated directly by the community through two routes, namely politics and law. There have been many discussions related to evaluation through political channels, namely through elections. Therefore, the research here prioritizes the evaluation of citizens of the candidates they choose through legal channels. Evaluation through legal channels, namely through the *onrechtmatige overheidsdaad* lawsuit and also through the citizen lawsuit. As explained above, the legal route is a line of “tort suit against the administration” (*onrechtmatige Overheidsdaad*) and citizen

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<sup>32</sup> Article 24 (1) point a PKPU No 18 of 2019.

<sup>33</sup> Article 264 (2) Law No 23 of 2014.

lawsuits. Before the discussion goes deeper, we will first describe the “tort suit against the administration” and also the citizen lawsuit.

The term administration, in the development of tort law in Indonesia, appeared after the Supreme Court Decision No. 66 of 1955, in this decision it is called the Government and according to the Supreme Court Decree No. 838 in 1970 referred to as the ruler. Meanwhile, according to the provisions of Article 1 number 6 in conjunction with Article 1 point 2 of Law no. 5 of 1986 which was later amended by Law no. 9 of 2004 concerning State Administrative Courts are referred to as agencies or officials who carry out government affairs based on statutory regulations. Thus, the snare of actions against the law of the ruler does not only cover executive institutions under the President but also other agencies / officials who carry out government affairs (including BUMN / BUMD officials and so on), besides that it can also enter the realm of private bodies or positions. who carry out government affairs? Such as hospitals, education and so on.

Initially, the term unlawful act arose when there was a Hoogeraad decision regarding the *Lindenbaum vc Cohen* case. A little review about the case, namely that there are two printing companies, respectively owned by Lindenbaum and Cohen. One day Cohen ordered employees of a printing company owned by Lindenbaum to distribute data about its customers. Knowing about this, Lindenbaum sued Cohen and the final verdict was that Cohen was found guilty where the verdict of Hoge Raad (the Supreme Court of the Netherlands) sentenced Cohen to an unlawful act. The emergence of this case was due to the influence of doctrine on the court's decision that handled the case. With this, it can be understood that doctrine exerts great influence and pressure on the acceptance of a broad

understanding by the court of the meaning of an act of breaking the law (*onrechtmatige daad*).<sup>34</sup>

Rosa Agustina stated that something can be said to be a tort claim if it meets 4 criteria:<sup>35</sup> the first is against the subjective rights of others. These subjective rights are divided into two types, namely individual subjective rights consisting of interests that have the highest value to the person concerned, direct recognition of the authority concerned by legislation, and a strong position of evidence in a case that may arise. Meanwhile, subjective rights in society consist of absolute material rights such as property rights, personal rights such as the right to have integrity towards life and life, personal freedom, honor and good name, and special rights, such as the right to occupy a house by tenants. Second, it is contrary to the legal obligations of the perpetrator as regulated in statutory regulations issued legally by an authorized institution and having an external binding capacity. Third, contrary to decency. Namely social norms in society as long as these norms are accepted by society in an unwritten form. Fourth, contrary to propriety, thoroughness and prudence. Actions that fall into this category include actions that harm others without proper interest, and useless actions that cause harm to others based on normal thinking need attention.

After knowing about the act against the law, the next question is when the administration can be sued in civil terms because it has caused harm to a private person? There are 3 reasons that can be used as a basis for consideration for bringing a tort suit against the administration, namely:<sup>36</sup>

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<sup>34</sup> Agus Budi Susilo, *Reformulasi Perbuatan Melanggar Hukum oleh Penguasa Badan atau Pejabat Pemerintahan dalam Konteks Kompetensi Absolut Peradilan Tata Usaha Negara*, 2 JURNAL HUKUM DAN PERADILAN 294 (2013).

<sup>35</sup> Syukron Salam, *Perkembangan Doktrin Perbuatan Melawan Hukum Penguasa*, 1 JURNAL NURANI HUKUM 36 (2018).

<sup>36</sup> *Id.*, at. 37.

1. The administration has violated a right
2. The administration's actions are contrary to their legal obligations
3. The administration is not careful in doing things, measured from the appropriateness and appropriateness of social interactions.

Then after understanding the elements of *Onrechtmatige Overheidsdaad* (tort suit against the administration), the discussion was continued with a lawsuit using the Citizen Lawsuit. It should be noted first that basically the Citizen Lawsuit or in Indonesia is known as the Citizen Lawsuit against state officials, this does not come from the civil law tradition but is usually applied by common law countries, namely the United States, India, and Australia.

According to Abdul Fatah,<sup>37</sup> the characteristics of the citizen lawsuit are, as follows:

1. Defendants in the Citizen Lawsuit are state administrators, starting from the president and vice president as top leaders, ministers and continuing to state officials in fields deemed to have neglected to fulfill the rights of their citizens.
2. The act against the law argued in the lawsuit is the negligence of state administrators in fulfilling the rights of citizens. In this case, it must be explained what forms of negligence have been committed by the state and what rights of citizens have been failed to fulfill by the state.
3. The plaintiff is a citizen, acting on behalf of the citizen. the plaintiff in this case is sufficient to prove that he is an Indonesian citizen.
4. Citizen Lawsuit does not require an Option Out notification after the lawsuit is registered as regulated in PERMA regarding Class Action. In practice in Indonesia, which is based on regulations in several Common Law countries, it is enough for Citizen Lawsuits to provide notifications in the form of summons to state officials.

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<sup>37</sup> Abdul Fatah, *Gugatan Warga Negara Sebagai Mekanisme Pemenuhan Hak Asasi Manusia dan Hak Konstitusional Warga Negara*, 28 JURNAL YURIDIKA 297 (2013).

5. The Petition in the lawsuit may not ask for material compensation, because the group of citizens who are suing is not a group that has been harmed materially and has the same losses and the same legal facts as the Class Action lawsuit.
6. The Petition Citizen Lawsuit must contain a request that the state issues a general regulatory policy (*Regeling*) so that acts against the law in the form of negligence in fulfilling the rights of these citizens in the future do not occur again

Even so in Indonesia there have been incidents against citizen lawsuit and some of these lawsuit were granted by the Supreme Court, as happened in case Number 118/pdt.G/LH/2016/PNPik between the Anti-Smoke Movement against the Republic of Indonesia *vs* the President of the Republic Indonesia, Minister of Environment and Forestry of the Republic of Indonesia, Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency, Minister of Health, Governor of Central Kalimantan and the Regional People's Representative Council of Central Kalimantan Province. With the citizen lawsuit that was granted by the Supreme Court, it is a sign that the citizen lawsuit can also be applied in Indonesia. Nevertheless, the Supreme Court provided special conditions related to this lawsuit, namely the contents of the Petition that could be submitted in a citizen lawsuit, among others were:<sup>38</sup>

1. The Petition in the lawsuit may not ask for material compensation, because the people who sued are not groups that have suffered material losses and have the same losses and the same legal facts as the class action.

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<sup>38</sup> Yustina Niken Sharaningtyas, *Gugatan Warga Negara (Citizen Lawsuit) dan Justiciability Pemenuhan Hak Atas Lingkungan Hidup Yang Baik dan Sehat*, 38 JURNAL ILMIAH FAKULTAS HUKUM UNIVERSITAS UDAYANA, KERTHA PATRIKA 33, 31-48 (2016).

2. The Petition citizen lawsuit must contain a request that the state issues a general regulatory policy so that acts against the law in the form of negligence in fulfilling the rights of these citizens in the future do not occur again.
3. Petition citizen lawsuits may not be in the form of cancellation of decisions by state administrators (State Administration Decisions) which are concrete, individual and final because this is the authority of the State Administrative Court (PTUN).
4. Petition citizen lawsuits also cannot be in the form of cancellation of a law (UU) because it is the authority of the Constitutional Court. Apart from that, citizen lawsuits also may not ask for the cancellation of statutory regulations under the Act because this is the authority of the Supreme Court based on a judicial review.

The two lawsuits (*onrechtmatige overhiedsdaad* and citizen lawsuit) can enter the world of election through the vision and mission that the candidate pair has presented. This is because the content of the vision and mission is an order from the KPU Regulation (PKPU) where in the vision and mission the candidate pair must include the programs listed in the RPJPD. Meanwhile PKPU and RPJPD are legal products promulgated by the state. So that it is binding for the pair of candidates who are elected and have been appointed as regional head officials. While other officials such as DPRD / DPD can also be included in this lawsuit, it is because of this. DPRD is an element of regional government administrators who jointly manage regional government together with regional heads. Meanwhile, the DPD can be sued through *onrechtmatige overheids daad* if in carrying out its duties it is not in accordance with established procedures and can also be sued through citizen lawsuit as long as it is related to its authority as regulated in law. Below will be a table regarding the differences between citizen lawsuits and *onrechtmatige overhiedsdaad* and citizen lawsuits (see Table 7).

**Table 7. Comparison of Onrechtmatige Overhieds Daad and Citizen Lawsuit**

<b>Onrechtmatige Overhieds Daad</b>	<b>Citizen Lawsuit</b>
Lawsuit is submitted at the State Administrative Court	Lawsuit is submitted at the District Court
Acts as annulment	Acts as an order to create a new policy
May include immaterial damage compensation in the suit	Does not allow immaterial damage compensation

When observing the two claims, the defendant/respondent must have become a state official. And doing what the plaintiff/applicant thinks is not in accordance with the mandate of the rules that have been set. Thus, the action that can be sued is the one-sided action of state administrative officials, namely carried out unilaterally. So that the category is not included in the category of civil relations, so this will keep the opinion of political promises drawn into the realm of civil relations.<sup>39</sup>

If the act against the law of the ruler has several clear rules in its application in Indonesia, it is different from the citizen lawsuit. This is where the weakness of citizen lawsuit, even though talking about citizen lawsuit means talking about the responsibility of state administrators for negligence in fulfilling the rights of citizens. Whereas citizen lawsuit is the closest solution in terms of direct involvement of constituents with officials they choose through elections, this is because citizen lawsuit is the access of individual citizens to all citizens or the public interest (including environmental interests) in filing a lawsuit at court for use. demand the government / state to enforce the law that is required of it or to recover public losses that have occurred<sup>40</sup>.

<sup>39</sup> MUHTAR SAID, *supra note* 19.

<sup>40</sup> DHABI K. GUMAYRA, *PANDUAN BANTUAN HUKUM DI INDONESIA* 382 (Jakarta: Aussaid, YLBHI, PSHK & IALDF, 2006).

In fact, the application of citizen lawsuit is effective if it is applied in Indonesia with the aim of policing election results officials so that it is not easy to make promises. So that in making the vision and mission also based on rational basics and can be implemented when elected and officially become the official election results

## CONCLUSION

This research concluded and highlighted that the relationship between the responsibilities of officials from the election results starting with political promises (vision and mission). The problem in direct elections is that it seems that voters cannot recall the candidate they have chosen because when they become an official their accountability tends to be vertical. It is as if voters were not given room to recall. However, this study found room for voters to be able to recall officials from the election results, namely through a tort suit against the administration (*onrechtmatige overheidsdaad*) and citizen lawsuit. However, it is also debatable whether the guilty verdict of the two claims can be a condition for the impeachment of elected officials.

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"Politics is the art of looking for trouble, finding it whether it exists or not, diagnosing it incorrectly, and applying the wrong remedy."

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