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RESEARCH ARTICLE

POSITION AND FUNCTION OF VICE-REGIONAL HEAD IN LOCAL GOVERNMENT: AN IDEAL CONCEPT IN THE FUTURE.

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Abstract

The vice-regional head performs other duties and obligations as given by the regional head and set by the decision of regional head. The vice-regional head shall be responsible to the regional head, and shall perform the duties with the regional head until the end of position period. The type of research is normative-legal research or literature research. The research approach is a statute approach to determine the nature of the position and function of the vice-regional head in the implementation of local government. The results shows that the vice-regional head has an obligation to report at all times activities and work performed on the orders of the regional head. However, we have to recognize that all duties or tasks to be performed by the vice-regional head can be performed by the existing government apparatus. Hence, the legitimacy of the vice-regional head as a state agency executing the executive function of the region together with the regional head obtained the legal legitimacy of the law about local government. The arrangement on the position and function of the vice-regional head should be emphasized, so that the legitimacy is stronger. Thus, the community can assess the results of the implementation of duties from the vice-regional head, so that the position of the vice-regional head can be a reflection for the legislature related to the legitimacy of the position of the vice-regional head in the future.

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Introduction:-

Indonesia as a unitary State applies the principle of local autonomy. Article 18 of the 1945 Constitution of the Republic of Indonesia as a *ground norm* of local government explicitly states that the local government governs its own governmental affairs according to the principle of autonomy and support assignment. Then, the implementation of local government is performed based on the principle of autonomy widely, except for government affairs which by law is determined as a matter of central government.

The dynamics of local government after the amendment of the 1945 Constitution experienced ups and downs that became a trending topic of all elements, ranging from include and exclude the local government laws, the dynamics of local elections, public policy conflicts, to the relationship between the regional head and the vice-regional head. The position and power of local government in its activities does not come out of the framework of the Unitary State of the Republic of Indonesia. As well as, the regional management cannot be separated from a management system,

including subsystems that manage the system that has been determined by the legislation. It will eventually be closely related to the model of recruitment of regional heads in each region.

According to Bagir Manan that in Article 18 of the 1945 Constitution of the Republic of Indonesia is more suitable with regional notions in creating a regional government as a self-governing unit in a democratic region. Furthermore, Bagir Manan states that the principle of de-concentration is a centralization instrument, because it is very wrong if placed in a systematic local government as antithesis of centralization.¹ The presence of democracy is not simply measured by the presence of democratic institutions, such as the presence of representative bodies, general elections are not a guarantee in a democracy. Democracy is not merely an institution. Culturally, democracy will be healthy if supported by democratic behavior such as accept different opinions, readiness to lose, ready to compete honestly and peaceful attitude and others.

Constitutionally, the vice-regional head performs other duties and obligations as given by the regional head and set by the decision of regional head. In performing his duties, the vice-regional head shall be responsible to the regional head, and shall perform the duties with the regional head until the end of position period. Therefore, the position of the regional head and the vice-regional head is likened to an inseparable partner, both as a public official in terms of managing and as the holder of leadership in the region. Both local officials are a symbol of the people who act as a protector of local communities and realize the trust of community.

The composition of the leader of region is filled by the regional head and the vice-regional head as selected in one package in the direct local elections. There is an interesting phenomenon to be observed in the context of the relationship of the regional head and the vice-regional head after the direct local elections, since many cases of honeymoon couples of the regional head and the vice-regional head do not last for long, after it breaks and runs each. Conflict and dis-harmonization of the relationships often occur between the regional head and the vice-regional head appear which becomes issue and public consumption. Such a situation would be a bad precedent in the perspective of democracy and political ethics.

In both practice and protocol, it is evident that the vice-regional head is not included in the *Regional Leadership Meeting* consisting of the regional head, the Head of District Attorney, the Head of Resort Police, the District Military Command and the Chief of the District Court. The vice-regional head is included in the *Regional Leadership Meeting* if the regional head is absent. In its implementation, the lack of regulation of duties and authority of the vice-regional head or unclear authority does not necessarily guarantee the good relationship between the regional head and the vice-regional head.²

Generally, it is known that the regional head becomes very powerful and not only the authority granted by the law, but also the regional head absolutely determines the winning bidder for the procurement of goods and services of the local government. It is common that the regional head receives a project fee approximately 10 percent of the project's value. In this case, the authority of the vice-regional head is non-existent, and eventually resulting in competition.

Lately, the mass media released the survey results of the Ministry of Home Affairs which indicated the disharmony of the regional head and the vice-regional head, approximately ± 90 percent of couples of the regional heads and the vice-regional heads "separated" due to conflict, so the period of "honeymoon" between the regional head and the vice-regional head is lasts only a few years after the investiture. Generally, the disunity of the regional head and the vice-regional is related to the conflict of interest between them. In fact, both decided to become candidate again as regional head in the next period. As a result, both the regional head and the vice-regional head are equally busy in searching for influence and support for the benefit of the local election winning. So that the orientation of the regional leaders is no longer on how to perform development and improve the welfare of the people, but how to spread the influence and support from all parties including bureaucracy. The disunity is also resulted in employees not focusing on improving performance, as it affected supportive support.³

¹ Manan, B. (2001). *Menyongsong Fajar Otonomi Daerah*. Yogyakarta: UII Press, Pages 9-10.

² Suharizal. (2010). *Penguatan Demokrasi Lokal Melalui Penghapusan Jabatan Wakil Kepala Daerah*, The Journal of Constitution Vol. 7 No. 5, the Constitutional Court, Jakarta, Page 104

³ Media Indonesia, 10 October 2012 Page. 7

If we observe, it is very important to assess the position of the vice-regional head from the point of view of its legitimacy, given the number of votes obtained by elected regional heads as large as those collected by the vice-regional head. With such great legitimacy, the vice-regional head should have specific duties set forth in the law. For example, the authority to manage the organization and bureaucracy of local government, while the phenomenon that occurs now, the vice-regional head is only plays a role when asked by the regional head. In other words, the role of the vice-regional head depends heavily on the kindness of the regional head. But politically giving some authority to the vice-regional head will reduce the popularity of the regional head.

As described above, the issue of this research is the lack of the legal position of the vice-regional head in the implementation of local governance so that the tendency of the vice-regional head cannot perform tasks and functions optimally as has been granted by law, resulting in controversy between the relationship of the regional head and the vice-regional head in the implementation of local government.

Method of Research:-

The type of research is normative-legal research or literature research.⁴ The research approach is a statute approach to determine the nature of the position and function of the vice-regional head in the implementation of local government, and also a historical approach is used to trace the urgency of the position of the vice-regional head in the implementation of local government, to answer the problem in this research about the position and function of the vice-regional head in implementing local government.

The research was carried out in the Ministry of Home Affairs of the Republic of Indonesia, precisely in the Directorate General of Public Administration, South Sulawesi Province. The legal material that has been collected by researchers includes primary and secondary law materials, it is processed and arranged systematically and analyzed qualitatively and descriptively. The method of analysis of primary legal materials is inductive-reasoning while secondary law materials using deductive-reasoning, then it is integrated integrally to draw a conclusion.

The Arrangement of the Position of the Vice-Regional Head in the Implementation of Local Government

Democratization hit almost all countries in the world including Indonesia. The fall of the New Order regime by the reform movement marked the beginning of the reform order which was seen as the transition era toward democracy, this era is a starting point or the interval between the authoritarian- and democratic regimes. According to Maruarar Siahaan, that democratization will then be followed by the establishment of political institutions or new political rules within the framework of democracy.⁵ Amendments to the constitution are marked by the constitutional affirmation that Indonesia is a democratic constitutional state.⁶

A most important change in the constitution is the arrangement of local governance. In the 1945 Constitution before the amendment, local governance is only regulated in a single article which is general in nature, after the amendment, the arrangement becomes more detailed.⁷ One of the details of the arrangement is related to the filling of the position of regional head.⁸ The arrangement of mechanism of filling the position of regional head in the post-amendment constitution shows that filling the position of regional head within the scope of local government becomes an important part in democratization in Indonesia.

⁴ Soekanto, S., and Mamudji, S. (2010). *Penelitian Hukum Normatif Suatu Tinjauan Singkat*. Jakarta: Raja Grafindo Persada, p. 13

⁵ Siahaan, M. (2005). *Pilkada Dalam Demokrasi Transisional*. The Journal of Constitution Vol. 2 No.1, the Constitutional Court, Jakarta Page 8.

⁶ Mahfud M.D. (2007). *Perdebatan Hukum Tata Negara Indonesia Pasca Amandemen Konstitusi*. LP3ES, Jakarta. p. xii.

⁷ See article 18 the 1945 Constitutional post-amendment and article 18 the 1945 Constitutional post-amendment. Result of second-amendment the 1945 Constitutional result in a new formulation of article 18 the 1945 Constitutional that contains 3 articles and 11 paragraphs under CHAPTER Local Government. Pre-amendment article 18 is only consisting of 1 paragraph and elucidation.

⁸ See in CHAPTER VI the 1945 Constitutional about Local Government Article 18 paragraph (4) states; “Governor, Regent, and Mayor each of them as the head of local governments in province, district and municipal are elected democratically.”

A wave of local autonomy that began to be echoed after the falling of new order power has resulted in some fundamental changes to some of the authorities both in the form of attribution, delegation and mandate to the region, so that the region began to squirm to try to build the region in accordance with the potential of the existing area, one of the objectives is the creation of a socio-political, socioeconomic, social and cultural climate and community orderliness in accordance with local wisdom.

There are 3 (three) major change agendas and continue to be fought in Indonesia today under the theme of comprehensive reform. These three major agendas include the re-arrangement of all public institutions, both at the supra-structure and social infrastructure, renewal and establishment of new sets of laws and regulations at all levels and the need for a reorientation of the mental attitude, way of thinking, and working methods in almost every individual citizen throughout the country.

The first agenda is *institutional reform* that needs to be continued continuously until the establishment of a strong and functional institution with a rational and impersonal degree of institutionalization. The second agenda is *instrumental reform* which involves renewal efforts from the constitution to the rules at the lowest levels such as district/municipal and village regulations. The third agenda is *cultural reform*, which concerns the orientation of thought, behavioral patterns, and traditions that develop in the life of the wider society that needs to be developed in order to support the institutionalization process of the system and the future state of life of the statehood. The three agendas, like or dislike today are going intensively.

The implementation of local government cannot be separated from the discussion of local autonomy, where the implementation and dynamics of its development in Indonesia has brought changes in the Indonesian administration system. Because, the local autonomy is a grand theme that can be studied from various scientific point of view such as government politics, economic, legal (especially administration law and government administration) or other scientific aspect. On the other hand, it is also widely understood that local autonomy is also a central theme in local politics.⁹

As result the authors' search during field research indicating that all tasks to be performed by the vice-regional head can be done by the existing government/ bureaucratic apparatuses such as the Regional Secretary or Municipal Secretary or the existing assistants within the local government (district/municipal), it was also given by several informants at the authors conduct interviews.¹⁰ So, the reason that can be expressed in relation to the urgency of the position of vice-regional head is to anticipate the vacancy of the position of the regional head if not exist. Hence, if want to make as a constitutional basis to eliminate the position of vice-regional head which in itself eliminates the event of filling the position of the vice-regional head, then as a basis or reason that can be stated is;

The first, the constitutional reason, namely Article 18 Paragraph (4) of the 1945 Constitution, mentions that the Governors, Regents, and Mayor respectively as the Head of Government both in the Provincial, District and Municipal are elected democratically. This constitution does not mention the position of the vice-regional head or the position of Vice-Governor, Vice-Regent, and Vice-Mayor. Therefore, the existence of this position is not-imperative according to the constitution. If it is to be eliminated, its arrangement is more dependent on the Act on which it applies. Consequently, in order the effectiveness of the electoral system, the abolition of the position of vice-regional head is constitutional.

The second, a practice in the administration of direct election, reflected from the present reality, with the presence of the vice-regional head, often a conflict of interest and politic occur with its regional head. At the same time, the effectiveness of the government by both does not work. Often between the region head and vice-regional head there is a less harmonious relationship and not-conducive for the smooth development in the region. Whereas, the unity of vision the regional head and the vice-regional head is a factor in ensuring the implementation of good governance. Many post-election regions directly, conflict and disharmony occurs between the regional head and the vice-regional head. The weakness of the presence of the vice-regional head can also be attributed to the different political bases

⁹ Wahidin, S. (2008). *Hukum Pemerintahan Daerah, Pendulum Otonomi Daerah Dari Masa ke Masa*, Pustaka Pelajar, Yogyakarta. p 1

¹⁰ Interview with Drs. H. Muh. Yasin, MT. (the vice-regent of Bantaeng, 15 December 2016); Ir. H. Faisal Andi Sapada, SE., MM. (The vice-mayor of Parepare, 5 December 2016); Supriansyah, SH., MH. (The vice-regent of Soppeng, 19 January 2017).

between them, and it will have an effect and can causing large potential for conflict between them which causes the government is ineffective.

The third, related to efficiency and effectiveness of governance in the region. Regulations governing regional administrations give limited authority and the duplications of authority with other organs. In addition to causes political instability, there has been wasting of funds with the presence of the vice-regional head. By vice, so it is necessary to have expensive special facilities that spend unnecessary budgets. If want to be honest, the role and function of the vice-regional head usually handled by regional secretary or assistants that exist within the scope of government if indeed the regional head is not exists. This fact reinforces the argument that there is no need for the position of the vice-regional head that only spend the budget. The task of the vice-regional head is to conduct monitoring and evaluation to the under-control unit. The above three reasons can at least be used as a reason for the legislative and executive boards to consider the existence of the position of the vice-regional head in the future.

From the aspect of legitimacy, every administrator must have legitimacy, namely the authority granted by law. Authority (*gezag*) is a formalized power for certain people or power over a particular field of government derived from both legislative and governmental powers. The law in its original form restricts power and seeks to enable balance in social life. While, competence (*bevoegdheid*) is an ability to perform certain legal action. Marbun,¹¹ states that competence implies an ability to perform a public legal action, or juridically is an ability to act provided by law applicable to conduct legal relationships.

Today, the position of the vice-regional head is often questioned and becomes a debate. Post-set to be elected directly in one package with the election of regional head through Act No. 32 of 2004, the position of the vice-regional head and direct election of regional head of region in one package is often questioned, because by joining direct election of the vice-regional head is not a strict mandate of the constitution. The constitution is only mandates a democratic election for Governors, Regents and Mayors. Moreover, the sociological facts indicate that the election of the vice-regional head in one package with the regional head is suspected to be the cause of the failure of the concept of direct election of regional head.

According to Siti Zuhro, it refers to several sociological reasons: *First*, the emergence of disharmony between the regional head and the vice-regional head, this occurred after the succession of local direct election. History notes that before being elected directly, there was no conflict between the regional head and the vice-regional head. *Second*, relation disharmony between the regional head and the vice-regional head leads to political instability so that local governance is ineffective. It is not in line with the initial goal of local elections that require a collective leadership to maintain political stability in advancing the region and prospering the local people. *Third*, this disharmony leads to the resignation of the vice-regional head.¹²

The data of the Ministry of Domestic Affairs reveal that most of the vice-regional head conflict with the regional head in the era of direct election. Then, the disharmony between the regional head and the vice-regional head will end with a "break up partner" or the resignation of the vice-regional head.¹³ This raises the perception that placing

¹¹ Marbun, S.F. (2011). *Peradilan Administrasi Negara dan Upaya Administratif di Indonesia*. Yogyakarta: UII Press. p 65

¹² Siti Zuhro, Political Expert from LIPI (Indonesian Institute of Sciences) acknowledged the lack of harmonization between the regional head and the vice-regional head could be a barrier to development in the region. Political intrigue between them often dragged bureaucratic apparatus in the region to support the regional head or support the vice-regional head. See in <http://www.seputarindonesia.com/edisicetak/content/view/455184/>, accessed on 10 September 2015.

¹³ The data of the Ministry of Domestic Affairs show that from 244 the local election in 2010 and 67 in 2011, only 6.15% of the couple of regional heads continued to be one package again. While, 93.85% of the regional and the vice-regional heads broke up and formed their own team in the local election for the next period. See in <http://www.seputarindonesia.com/edisicetak/content/view/455184/>, accessed on September 10, 2015. See also: Data obtained from the Facilitation Section of the Regional Head and the Regional Legislative of the Directorate General of Local Autonomy at the Ministry of Domestic Affairs in Jakarta on 4 October 2016 shows; from 244 local elections in 2012 and 67 in 2013, the competition of regional head that continued from the previous period only 6.15%. That is, 94% of regional head changed partners in the next election)

the vice-regional head in a package with the regional head is part of the problem of filling the position of the regional head directly.

Also, as conveyed by Soemarsono¹⁴ that “actually we are in the Ministry of Domestic Affairs particularly at the Directorate General of Local Autonomy know very well about the circumstances and events that occurred in the regions in Indonesia between the regional head and the vice-regional head, but nothing can be done. Despite the fact that there has been dis-harmonization of the relationship between the regional head and the vice-regional head, there is little that can be done by the Ministry of Domestic Affairs particularly at the directorate general of local autonomy because the regional head and the vice-regional head are not subordinate.

So, recently if there is dis-harmonization of the relationship between the regional head and the vice-regional head, the Directorate General of Local Autonomy through the Director of the Facilities of the Regional Head and the Legislative Board is often become facilitator who gives directions if there is dis-harmonization of the relationship between the regional head and the vice-regional head. However, according to Akmal Malik, the settlement is only up to the providing insights and understanding of government tasks.¹⁵

In a constitutional state, the position of the vice-regional head in the practice of local governance resulted in the assumption that the vice-regional head is not expressly regulated in the constitution and there is no confirmation in the constitution to directly elect in a package with the governors, regents and mayors. That is the trending topic in various discourses, so that there are proposes about the review of the position of the vice-regional head.¹⁶ Consequently, if viewed from the concept of a democratic-constitutional state as adopted by Indonesia, the emergence of the position of the vice-regional head has no strong legal basis. In other words, placing the vice-regional head in a regional head election in a package with the regional head is a legal design that violates the constitution.

Although it is not expressly regulated in the constitution, the vice-regional head has a constitutional basis implicit in Article 18 Paragraph (1) of the 1945 Constitution. The absence of an explicit legal basis concerning the position of the vice-regional head is similar when the enactment of the Constitution prior to the amendment. Where at that time gave freedom to lawmakers to regulate local government including determines how the mechanism of filling the position of regional head and the vice-regional head.¹⁷ It can be interpreted through the arrangement of Article 18 of the 1945 Constitution before the amendment and the elucidation of the article stipulating that:

“The division of Indonesian territory over large and small territories, with the form of its government arrangement established in law, by behind and remember the foundation of deliberation in the system of State governance and the rights of origin in a special region.”

If refers to the constitution - the 1945 Constitution post-amendment actually there is no explicit regulation of the vice-regional head. In Article 18 Paragraph (4) of the 1945 Constitution only regulates the election of regional heads as stated that: “Governors, regents and mayors respectively as heads of provincial, district and municipal governments are elected democratically.” Thus, the arrangement does not pertain to the position of the vice-regional head and how the mechanism of filling the position of the regional head.

Furthermore, if systematically interpret Article 18 paragraph (4) in a unity of article 18, then in Article 18 paragraph (1) of the 1945 Constitution stipulate: *“The Unitary State of the Republic of Indonesia is divided into provincial areas, and the province is divided into districts and municipalities, each of provinces, districts and municipalities have local governments that are governed by law.”*

¹⁴ Interview with Dr. Sumarsono, MDM (Directorate General of Local Autonomy in the Ministry of Domestic Affairs) 3 October 2016

¹⁵ Interview with Drs. Akmal Malik, M.Si. (Director of the Facilitation of the Regional Head and the Legislative of Directorate General of Local Autonomy the Ministry of Domestic Affairs) 4 October 2016.

¹⁶ Interview with Dr. Sumarsono, MDM (Director General of Local Autonomy of the Ministry of Domestic Affairs) Loc. Cit.

¹⁷ See in the 1945 Constitution, the Constitution of RIS, UUDS 1950, Post-Amendment Constitution (UUD NRI 1945)

The phrase “*have local government that are governed by law*” that interpreted systematically meaning further arrangement in relation to local government can then be regulated in law. Meanwhile, the local government according to Handoyo interpreted as an official environment is the tools of State in the region.¹⁸ Thus, in this context the vice-regional head serves as a companion who will replace the position of the regional head if it is unable either temporary or permanent.¹⁹

Furthermore, Act No. 22 of 2007 concerns the Implementation of General Election also provides a legal basis on the position of the vice-regional head, especially in the general election. The arrangement is contained in Article 1 paragraph (4) of Act No. 22 of 2007 concerns the Implementation of General Elections which provides that; “*General Election of the Regional Head and the vice-regional head is the general election to elect the regional head and the vice-regional head directly in the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution.*”

Similarly, if refers to the constitutional convention,²⁰ the position of the vice-regional head is a habit. The position of the vice-regional head has existed since the first time the regional government is governed through Act No. 1 of 1945 on the Regional-Indonesia National Committee until now. The purpose of regulating the position of the vice-regional head is to ensure that the regional head will be replaced if absent.

Although it is not explicitly regulated by the constitution, the regulation on the position of the vice-regional head is also an elaboration of the constitution which provides for the further regulation of the basic rules in the body of the 1945 Constitution. Thus, when referring to the legal basis of the establishment or arrangement of state institutions, then the current arrangement of the vice-regional head as part of the element of local government is regulated in law. Thus, the legitimacy of the vice-regional head as a state agency executing the executive function of the region together with the regional head obtained the legal legitimacy of the law on local government.

An Ideal Concept of the Position and Function of the Vice-Regional Head in the Future

The presence of the position of the vice-regional head and how to recruit can be studied empirically and theoretically. Empirically, the answer to this issue can be observed through a search of the history of local government regulations in Indonesia. In the history of local government in Indonesia has always known the presence of the vice-regional head. The main task of the vice-regional head is to assist the regional head in the governance. However, in every law that regulates it there are variations in how the recruitment of the vice-regional head.

In performing the duties of the vice-regional head, it shall be responsible to the regional head. The vice-regional head shall replace the regional head until the end of period if the regional head dies, terminates, discharges or cannot perform its responsibilities for 6 (six) months continuously in its period. A problem arising in the implementation of local government concerns the type of authority borne by the vice-regional head as a person who helps the task of the regional head. According to the theory of authority,²¹ the vice/representative is a subordinate, the authority of the vice-regional head is a mandate. Authority like mandate does not need the provisions of the legislation underlying it because the mandate is a routine matter in the internal relations of government organizations. In addition, the responsibilities resulting from legal acts committed by the implementer of the mandate are entirely on the mandatory. This is contrary to what is stipulated by Act No. 32 of 2004 and Government Regulation No. 6 of 2005 that the authority of the vice-regional head is contained in a regulation and attached to the position. Consequently, in juridical the vice-regional head has the authority of attribution to the implementation of local government.

In order for official duties and authorities can be implemented in a concrete and accountable (political, legal or social), the official is provided with certain rights and obligations (*recht and plicht*). Between the duties of authority

¹⁸ Handoyo, *Op. Cit.*, Page 85

¹⁹ See the function of the vice-regional head as regulated in Act No. 32 of 2004 *Jo* of Act No. 12 of 2008.

²⁰ According to A.V. Dicey, a constitutional convention must meet the following characteristics: (1) related to the constitutional field; (2) the convention develops and applies, it is followed and respected in the practice of state administration; (3) convention as part of the constitution, in the event of any violation against it cannot be prosecuted by the judiciary. See also; Dahlan Thaib et al., 2008, *Teori dan Hukum Konstitusi*, PT. Raja Grafindo Persada, Jakarta. page 130.

²¹ See: Hadjon, P.M., et al. (2005). Introduction to the Indonesia Administration Law. 10th edition. Gadjah Mada University Press, Yogyakarta. p 7

on the one hand and the obligations on the other have a functional relationship each other. The determination of duties and authorities shall be a measure of whether their rights and duties have been properly exercised or there has been an action beyond the authority (*detournement de pouvoir*) or the obligation of enabling officials to take certain concrete legal actions (*rechten en feitelijke handelingen*). Without rights and obligations, all duties and authorities cannot be realized concretely (in the form of actions). Anything that is not manifested in a concrete form of action will not be accountable (political, legal, social, etc.). In order to enable inherent functions to positions to be performed, there must be a stakeholder or official performing those functions. This brings consequences in addition to the stakeholder and also the filling of position.²²

The development of latest arrangement about the role of the vice-regional head according to Akmal Malik²³ in addition to assisting the implementation of the task of the regional head, as well as political dimension that is broadening the base of political support, the vice-regional head politically also has the same position with the regional head. Concerning the authority of the vice-regional head, if we look before the reform era, then the authority and responsibility of the vice chairman is outlined by the chairman. That is due to the position of the vice-regional head as a helper of the regional head, and of course before it is proposed and appointed has been qualified and able to cooperate with elected leaders.

In a pattern of package leadership in the reform era, the task of the vice-regional head as outlined in the law is to assist the regional head, to give advice and consideration to the regional head and to performs the duties and authorities of the regional head if absent. Detailed division of duties is made on the agreement of both parties as formulated and decided in its own terms.

The very common line of duty in the law and the detailed division of labor submitted to the agreement of both parties can lead to a bargaining position between the two parties, whose results may be satisfactory or unsatisfactory to either party, equally dissatisfied because some of its authority is taken by other parties. Unclear division of duties and authority between them can trigger the heartache which then led to the emergence of political conflicts and interests. It is understandable that the vice-regional head generally hopes that one day he/she will become the regional head, either with the path as a substitute, when the leader (regional head) is unable to remain as regulated by the law, or through open battle in the next period election.

The break-up partner caused by disharmony of relations between the head of the region and the vice-regional head arise political instability that would result in ineffective local government. This is not in line with the initial goal of elections that require a collective leadership to maintain political stability in advancing a region that will prosper the people of the region.

In addition to causing political instability, the presence of the position of the vice-regional head also led to budget wastage. With the presence of the position of the vice-regional head, it is necessary to have special allowances and facilities for the vice-regional head that is not impossible it is not quite cheap so spend an unnecessary budget. So, in fact the role and function of the vice-regional head can be handled by the regional secretary if it turns out that the regional head is absent, even often the task of the regional head replaced by the assistant in charge of certain things related to the task.

The strict duty of the vice-regional head is only to conduct supervision and evaluation to the government units under it. Beyond that, the vice-regional head is positioned as a substitute for the regional head if absent, either temporarily or permanently. Under the regulation, the issue of disharmony of the regional head and the vice-regional head appears sourced from the issue of the unfair distribution of tasks and authorities that exist in both. Unclear division of tasks is what then gave the heartache and political conflict and interests.

The clarity of the task of the vice-regional head as assistant of the regional head is increasingly visible when it is associated with the political process in the region. In making the local regulation, the regional head is the most advanced forward, starting from the submission of the draft law to the legislation. Exclusively, the regional head also has authority in the drafting of regulations and/or decisions of the regional head. More strategically, in the development of regional development platforms, only mentioned the vision, mission, and program of regional head

²² Manan, B. (2000). *Teori dan Politik Konstitusi*, Dirjen Dikti Depdiknas, Jakarta. Page 41.

²³ Interview with Drs. Akmal Malik, M.Si. *Op. Cit.* 3 October 2016.

as material for making medium-term development plan. Hence, firmly enough that the vital functions of local governance are almost entirely done by the regional head.

The position of the vice-regional head is really a subordinate, the vice-regional head has little role in the decision-making process. Although the vice-regional head has strong legitimacy because they are both directly elected by the people, the political position of the regional head and the vice-regional head remains different. The position of the vice-regional head is very limited and depends on the goodness of the regional head. The tasks assigned place them not only as a complement, but to assist the task of the regional head. As for how the procedure to assist them, there are no rules in the law or any other rules that set in detail about the task.

Basically, the implementation of local government in the authority can be attributively derived and derivatives. The authority derived attributively is obtained by the vice-regional head from the Constitution or from the laws and regulations, while the derivative authority is obtained through the delegation of authority. The regional head and the vice-regional head are officials in government institutions in region that called as local governments, so that the meaning of local government is always associated with the two officials, although in essence the regional head as a regional government is a single position rather than a plural.

Thus, according to the authors that the two positions are no fundamental differences in both the qualifications, which elect, the term of period, and the oath of office. This is reaffirmed in Article 63 paragraph (1) of Act No. 9 of 2015.²⁴ Thus, the legal position between the regional head and the vice-regional head is similar. Therefore, it should be given to the vice-regional head to be given the duty and authority firmly, to subsequently be able to submit accountability report on the implementation of duties and authority in assisting the regional head in carrying out the local government either to the government or through the regional legislative board. Forms of authority that can be given to the vice-regional head as described by the author as in following table.

Table 1:- The ideal concept of authority arrangement of the vice-regional head in the future

No.	Tasks	Authorities
1	Chairman of the Regional Consultative Agency	<ul style="list-style-type: none"> - Settling disputes that occur between regional apparatus - Provide consideration for the appointment and dismissal of local officials
2	Chairman of the Regional Strategic Policy Advisory Board	<ul style="list-style-type: none"> - Provide consideration and drafting international cooperation agreements, between regions, and third parties - Provide consideration and drafting regional economic policy and strategic plan of local government administration - Coordinate the drafting of local regulations and supervise the implementation of regional development

Source: Primary data, (edited), 2017.

Duties and authority of the vice-regional head as mentioned above, which may be the further reference material so that the task and authority of the vice-regional head is more concrete again, and the effort to open the opportunity for the vice-regional head to provide independent accountability increasingly clear limits. Thus, the legal status of the vice-regional head is increasingly explicit with the obligation to give accountability for the implementation of local government.

In relation to the task and authority of the vice-regional head, the accountability of the vice-regional head is no longer summarized in the accountability of the regional head or in other words the accountability of the vice-regional head becomes a separate part of the implementation report on tasks of regional officials. Thus, the community can assess the results of the implementation of tasks from the vice-regional head, so that the position of the vice-regional head can be a reflection for the legislature related to the legitimacy of the position of the vice-regional head in the future.

²⁴ See; R.I., *Undang-undang No. 9 Tahun 2015*, about “the second amendment of Act No. 23 of 2014 concern Local Government”. Article 63 *Paragraph* (1) the Regional Head as referred into Article 59 paragraph (1) is assisted by the vice-regional head.

Conclusion:-

The position and authority of the vice-regional head as in Act No. 9 of 2015 concerns local government is not explicitly regulated, so that in its implementation cause conflict between the regional head and the vice-regional head. The Local Government Law is only regulated on the duties of the vice-regional head, in contrast to the regional head whose duties and authorities are regulated in law. As well as the authority is depending on the order of regional head. So that the vice-regional head has an obligation to report at all times activities and work performed on the orders of the regional head.

All duties or tasks to be performed by the vice-regional head can be performed by the existing government apparatus. As well as the task to be performed by the vice-regional head, not found data that can indicate the urgency of the position of the vice-regional head. Thus, when referring to the legal basis of the establishment or arrangement of state institutions, the current arrangement of the vice-regional head as part of the element of local government is regulated in law. Hence, the legitimacy of the vice-regional head as a state agency executing the executive function of the region together with the regional head obtained the legal legitimacy of the law about local government.

The arrangement on the position and function of the vice-regional head should be emphasized, so that the legitimacy is stronger. Thus, the community can assess the results of the implementation of duties from the vice-regional head, so that the position of the vice-regional head can be a reflection for the legislature related to the legitimacy of the position of the vice-regional head in the future.

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