

## Dynamics of Dismissal of Regional Heads in Lampung Province Perspective of Law and Fiqh Siyasah

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### ABSTRACT

*This research aims to determine the impeachment or dismissal of regional heads in Lampung Province from the perspective of Law and Islamic jurisprudence. This problem is interesting to research. Since this province was founded, at least five regional heads have been dishonorably dismissed for committing Corruption, namely the Regent of South Lampung, the Regent of North Lampung, the Regent of Tanggamus, the Regent of Mesuji and the Regent of Central Lampung. This research uses a library study method, is descriptive-analytical, and uses primary and secondary legal data sources, which are then analyzed using the comparative method. This research concluded that the impeachment of regional heads in Lampung Province was carried out because they violated their oath of office, namely committing Corruption as regulated in Law Number 9 of 2015 concerning Regional Government, which is the second amendment to Law Number 23 of 2014 concerning regional government. Corruption in Indonesia is an extraordinary crime because it has a significant and widespread impact. Instead, the budget for regional development and people's welfare is taken for their interests. In Fiqh Siyasah, this issue is included in siyasah qadhaiyah. Every community must obey the laws and regulations. So, if a regional head violates the Law, he can be dishonorably dismissed for acting wickedly and unjustly. The corrupt behavior of regional heads includes sinful acts and forms of cruelty by leaders toward their people.*

**Keywords:** regional head; corruption, laws; Fiqh Siyasah.

**How to Cite:** Zuhraini, Zaelani, A. Q., & Mu'in, F. (2023). Dynamics of Dismissal of Regional Heads in Lampung Province Perspective of Law and Fiqh Siyasah. *Jurnal Ilmiah Al-Syir'ah*, 21(2), 202–210. <https://doi.org/10.30984/jis.v21i2.2443>  
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## **INTRODUCTION**

Corruption, collusion, and nepotism are significant problems in countries worldwide, including Indonesia. Corruption is an act that involves the abuse of power or position to obtain personal gain, whether in the form of money, power, or influence. The impact of Corruption is not only limited to the individuals or groups involved but also spreads to society at large, threatening the basic principles of democracy, justice, and prosperity.

Corruption in Indonesia generally involves state officials, including regional heads. In fact, regional heads who are elected or appointed to lead a particular region should carry out their duties per the Law. Behave well and set an example to the community he leads (Budimansyah, 2020). One of them is by running a clean government (Good Governance) (Santoso et al., 2021). The DPRD also plays a role in overseeing the running of the government (Aminudin, 2015). In democratic countries, power is divided into three powers based on the trias politica political scheme (Rio R, 2021).

In the current era of direct democracy, some regional heads commit deviant actions and have to be dishonorably dismissed in the middle of the road (impeachment) because the regional heads have violated the Law, such as violating the oath of office, Corruption and other violations that are regulated in the Law. Moreover, Law No. 9 of 2015 concerning Regional Government is the second amendment to Law No. 23 of 2014 concerning regional government.

This regulation regulates the dismissal of regional heads, namely in Articles 78 to 89. Any regional head proven to be corrupt can be dismissed because Corruption is an extraordinary crime, very systemic, and undermines the state and regional economy. As a result of these dirty practices, the people are the ones who suffer the most. Apart from Law, the dismissal of regional heads is also known in Fiqh Siyasah. Regional leaders are called caliphs, whose function is to bring goodness to the region they lead without ignoring Islamic teachings.

The dismissal of a leader in Islam is equated with "*al-khalla*". This term means to fire, remove, revoke, and get rid of. However, in Indonesian state administration, it is better known as dismissal (Yahya, 1995). Al-Mawardi in Pulungan (2016) explained that a caliph is a person who leads both a country and a region. However, if the leader cannot enforce the Law, has physical limitations that can hinder performance, and commits crimes and other disgraceful acts, the leader must be removed and no longer allowed to hold office. However, if the leader becomes a prisoner of the enemy, the people can choose a successor with the ability and strength to lead. State or regional leaders who practice Corruption, are dishonest, act wickedly, are unjust because enemies capture them, and have physical and mental weaknesses can be grounds for being dismissed from their position as state or regional leaders (Jafar, 2013).

The phenomenon of dismissal of regional heads in Indonesia has often occurred. The main factors are Corruption and committing disgraceful acts. Even in Lampung Province, of the 15 districts/cities, five regional heads have been dismissed for Corruption, collusion, and nepotism. Those who sit as regional heads have gained the community's trust to lead and advance the region. Based on the abovementioned problems, this problem is interesting to research with the title Dismissal of Regional Heads in Lampung Province from a legal and jurisprudential perspective.

## **METHODS**

This research includes normative legal research. The data sources use primary legal sources and secondary and tertiary legal materials. This research uses a statutory approach. The Law includes Law Number 9 of 2015 concerning Regional Government, the second amendment to Law Number 23 of 2014 concerning regional government, and the book of Islamic jurisprudence. After the data is collected, it is then analyzed using theoretical instruments to provide answers related to the problems in this research. Meanwhile, the analysis in the research uses qualitative methods, and then the results are explained in descriptive form.

## **RESULTS AND DISCUSSION**

### **Corrupt Practices and Dismissal of Regional Heads in Lampung**

Corruption is a severe problem that has long haunted Indonesia. Although various efforts have been made to reduce the level of Corruption in the country, it remains one of the main challenges in development. Corruption drains resources that should be used for infrastructure development, education, and health services. It hampers economic growth and social welfare.

Corruption also exacerbates economic inequality because misused public funds benefit specific groups while society suffers. Additionally, Corruption undermines investment, hinders economic growth, and hinders efforts to achieve sustainable development goals. Thus, this corrupt practice means that areas in Lampung Province are not as developed as those in areas outside Lampung.

Corrupt practices in Lampung occurred in five regional heads, and the regional heads were dishonorably dismissed. *First*, the Regent of North Lampung for the 2014-2019 period. The Regent was found guilty through Decision No: 6/Pid.Sus-Tpk/2020/PN.Tjk Thursday, 10 July 2020. The Regent was sentenced to seven years in prison and a fine of Rp. 750,000,000, subsidiary to eight months in prison. The Regent was also sentenced to pay compensation amounting to IDR 74,634,866,000, a subsidiary of two years in prison, and deprivation of political rights for four years (Mahkamah Agung, 2020b). In the decision, the Regent was found guilty of accepting bribes (Priyasmoro, 2020). Then, on Thursday, 10 September 2020, through a plenary session, the North Lampung DPRD dismissed

the Regent and proposed a deputy regent as his replacement (Susanto & Guantara, 2020).

*Second*, the Regent of South Lampung for the 2016-2021 period. The Regent was arrested by the Corruption Eradication Commission (KPK) for committing Corruption and was found guilty at the first appeal and cassation levels. Decision Number: 113K/Pid.Sus/2020 The Supreme Court Judge stated that the Regent was proven to have committed Corruption and money laundering. The defendant was sentenced to 12 years and a fine of Five hundred million Rupias subsidiary to 6 months in prison. The panel of judges at the Supreme Court's cassation level also required him to pay a fine of IDR 66,772,092.45 billion. The judge imposed an additional penalty on the Regent, namely revocation of political rights for three years after his sentence (Mahkamah Agung, 2020a).

*Third*, the Regent of Tanggamus for the 2013-2018 period. The Corruption Eradication Committee (KPK) arrested the Regent of Tanggamus for Corruption after giving bribes to members of the local DPRD regarding discussions on the 2016 APBD. The Regent was found guilty in Decision Number 76 PK/PID.SUS/2018 of the Supreme Court stated that the Regent was corrupt and was sentenced to 3 years and fined Rp. 250,000,000, subsidiary five years in prison (Mahkamah Agung, 2018).

*Fourth*, the Regent of Mesuji was found guilty of Corruption and sentenced to 8 years in prison for Corruption in the local PUPR Service project. He must also pay a fine of IDR 300 million and revoke his political rights for four years after completing the legal process (Antara & Purwanto, 2019).

*Fifth*, Central Lampung Regent for the 2016-2018 period. The Regent was arrested by the Corruption Eradication Committee for Corruption and was found guilty based on the decision of the Tanjung Karang Corruption Crime Court Number: 01/Pid.Sus-TPK/2021/PN.Tjk dated 05 July 2021, sentencing him to 4 years in prison and paying a fine of Three hundred million Rupias for three months, obliged to pay compensation, and deprived of political rights for two years (Mahkamah Agung, 2021). Legal sanctions are given to realize justice and prosperity for all (Widodo, 2017).

### **Mechanism for Dismissal of Regional Heads**

The government administration in Indonesia always experiences dynamics and legal changes, including the administration of regional government, which is carried out autonomously (Al Arif & Paramadina, 2021). Management must also be practical, and there should be no irregularities (Rustandi, 2019). Strong regulations are formulated so that regional heads carry out their work professionally and are given heavy sanctions for those who violate them.

Regarding the dismissal of regional heads, it is regulated in Law No. 9 of 2015 concerning Regional Government. This Law results from a revision of Law

No. 32 of 2004 concerning Regional Government, which is no longer relevant to current developments and demands for regional government administration, so a new law was formed. This new regional government law regulates regional government and regulates election mechanisms. This Law also regulates the dismissal of regional heads. It is regulated in paragraph 5 of Articles 78-79.

Regional heads are dismissed for several reasons: death, resignation, and dismissal. Meanwhile, regional heads can be dismissed. Their term of office has ended because they cannot carry out their duties or are permanently absent, have violated their oath of office, and have not carried out their obligations properly.

In this regulation, regional heads can also be dismissed for committing fraud and irregularities, such as accepting bribes in the form of money, in the form of goods, or in the form of services from individuals or institutions that can influence decisions or policies as well as for committing criminal acts of Corruption, collusion, and nepotism (KKN). Regional heads can also be dismissed for carrying out disgraceful activities, such as gambling, drinking, being involved in drugs, and adultery (Hufron, 2016). Furthermore, Article 79 regulates the mechanism for dismissal of regional heads as intended in Article 78, paragraphs (1) letters a and b and (2) letters a and b. The leadership of the DPRD announces the dismissal to the president for governors and through the minister for regents and mayor to obtain a dismissal order.

Fiqh Siyasah also regulates the mechanism for dismissing regional heads. However, these regulations are not as detailed as the Law. In several Islamic jurisprudence books, we find mechanisms for dismissing regional heads, which can be equated with impeaching a leader. There are three ways of impeachment in siyasa jurisprudence. *First*, the priest resigned. *Second*, through war or armed revolution (Ridwan, 2007). Mu'tazilah believes leaders or regional heads can be replaced if they commit wicked acts (Sapitri, 2018). Abu Bakar al-Asam had a more robust opinion that dismissing disobedient regional heads and replacing them with just regional heads was obligatory (Herawati, 2016).

From the Sunni group, Abdul Maali Al-Juwaini stated that the end of a person's position, apart from death, could be due to a shift (*khal'u*) or because he was shifted automatically (*inkhila'*) and through a resignation (Herawati, 2016). *Third*, dismissal in a peaceful manner. The peaceful way is by peaceful demonstration. When the people find out that their leader has acted wickedly, is unjust, is a liar, and is no longer worthy of being a leader, they must convey advice to the priest.

According to Aldin Alnabhani in Dar (2022), the dismissal of a regional head depends on the decision of the head of state or president. If the head of state agrees with the dismissal, the regional head must be dismissed. Apart from that, the regional head must also be dismissed if the people are no longer happy with their leader. Rasulullah Saw. once fired the emir in Bahrain, namely Ila Alhadhrami, because Rasulullah received a complaint.

For specific reasons, Umar bin Khattab also removed regional leaders, including Ziyad bin Abi Sufyan. Saad bin Abi Waqash was once dismissed due to complaints from several people. Umar bin Khattab said: "I dismissed him not because he was weak, nor because he was a traitor." This short fragment illustrates that the head of state can remove regional heads. The Head of State can remove regional heads if there are complaints from the people (An-Nabhani, 1996).

Regional heads may also be dismissed if they disobey, neglect their obligations to Allah Swt., invite other people to do bad things, experience physical or bodily deficiencies, commit moral or ungodly deviations, are unjust, and neglect Islamic Law. These things could be a reason to dismiss the regional head (Rifaâ, 2015). According to Al-Baghdadi in Pulungan (2016), if a regional leader has behavior that does not conflict with the Shari'a and is not physically disabled, then the people are obliged to obey and support him. However, if he approaches the prohibitions and moves away from Allah's commands, then the people will only be given two choices for him. The choice is to return him from evil deeds to good deeds or dismiss his position and replace him with another.

Al-Juwaini in Pulungan (2016) believes that dismissing a leader in a region elected through an election is not permissible unless there are events or changes within him that allow it. If a regional head sins, is unjust, or acts wickedly, he can be dismissed. The reason is that if regional leaders deviate from good morals and are immoral, they can be removed from office. Based on this description, a regional leader can be removed if the regional head deviates from Islamic Law, is unfair in policy-making, acts unjustly, has a physical disability, and no longer meets the requirements to be a regional head.

### **Analysis of the Dismissal of Regional Heads in Lampung Province from the Perspective of Law and Fiqh Siyasah**

The dismissal of five regional heads in Lampung Province is because the regional heads committed Corruption (Maya et al., 2021). The legal basis for dismissal is Articles 78 and 79 of Law Number 9 of 2015 concerning the Second Amendment to Law No. 23 of 2014 concerning Regional Government (Kilpatrick, 2015). Meanwhile, the mechanism uses articles 80, 81 and 83. Dismissal of regional heads who commit Corruption is appropriate. Corruption is an extraordinary crime because it has a vast impact. It is because the leaders corrupted the budget that was supposed to be for regional development and people's welfare. As a result, the region does not progress, and the people are less prosperous.

The dismissal of a regional head in Fiqh Siyasah is known as *al-khalla'*, which means to remove, revoke, dismiss, strip, and get rid of. The reason that can cause a leader to be impeached, according to several Ulama, is apostasy, calling to leave Islam. Decide on cases that are not following the Shari'a. Acting wickedly, unjustly, incompetently, and losing our freedom because the enemy took us prisoner. Apart from that, impeachment can occur because of a crisis of trust or because the people no longer trust their leaders. Even though Islam does not

regulate the impeachment mechanism in detail like positive Law, there are still appropriate reasons for a leader to be impeached, namely when the people no longer have trust because the leader has committed disgraceful acts that tarnish the good name of leadership or committed Corruption, collusion, and nepotism, then the leader must be impeached.

The comparison between the two lies in why regional heads are dismissed in Indonesian Law or the Law; it is expressly stated that regional heads are dismissed without a proposal from the DPRD if they are proven to have committed a criminal act based on a court decision with permanent legal force. *Siyasa* jurisprudence states that a regional head can be dismissed if he cannot act reasonably and violates Islamic Law or the constitution. The criteria for a leader being said to be unable to do justice is if he violates the various prohibitions referred to by the theory of *Fiqh Siyasah*, the prohibitions regulated by Islam, and the prohibitions that the competent authority has determined.

## CONCLUSION

This research concluded that the dismissal of regional heads in Lampung Province was carried out because they had violated the Law or their oath of office, committed Corruption, collusion, nepotism, committed disgraceful acts, and were proven to no longer meet the requirements as leaders. Meanwhile, the five regional heads in Lampung Province were dismissed for Corruption, collusion, and nepotism. In *siyasah qadhaiyyah*, the reasons why a leader is dismissed include apostasy, injustice, wickedness, and physical limitations. The dismissal of five regional heads in Lampung Province due to Corruption is in line with the law and *Fiqh Siyasah* because these regional heads have committed ungodly and unjust acts towards the people they lead.

## ACKNOWLEDGMENTS

The researcher would like to thank the parties who completed this research, including the Constitutional Law Study Program (*Siyasah Syar'iyah*) Faculty of Sharia and Postgraduate Studies at Raden Intan Lampung State Islamic University.

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