



The Termination and Inter-Time Replacement of Regional House of Representatives Leader of Mentawai Island Regency

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Abstract

This study will describe the mechanism of leader termination and the implementation of inter-time leader replacement of the leader of Mentawai Island Regency's Regional House of Representatives (RHoR). The research method used in this study is Sociological Juridical method with descriptive as the research design. In this case, there are two kinds of data which will be analyzed qualitatively, i.e. primary and secondary data. For the data collection, interview and documentation study are conducted. The results of this study are: 1) the mechanism of RHoR leader termination is proposed by political party to the leader of RHoR, 2) the mechanism of proposing the candidate of RHoR leader replacement is proposed by political party to RHoR leader, and then the RHoR leader announces the proposed of RHoR leader candidate replacement in RHoR plenary meeting, 3) the implementation of inter-time replacement is inaugurated by Governor with a Letter of Governor Decree about the inauguration of hiring the candidate of RHoR leader replacement. In this case, the term of office of RHoR leader's inter-time replacement will be started from the date of taking leader's oath led by District Court leader or the vice leader of District Court or senior judge chosen by the leader of District Court. On the other hand, the guide of taking the oath for the RHoR Leader's inter-time replacement is not regulated in the Code of Conduct of Mentawai Island Regency's RHoR; therefore, the guide of taking oath for the RHoR Leader's inter-time replacement can be led by another RHoR leader.

Keywords: Regional House of Representatives (RHoR) Leader; Termination of RHoR; Inter-time Replacement of RHoR leader

Background of Study

As a democratic country, Indonesia puts the sovereignty on its people. According to article 1 paragraph 2 of the Constitution of the Republic of Indonesia of 1945, "sovereignty is on the people and done according to the Constitution". In people sovereignty system, the highest sovereignty of a country is on its people. The power is on the people, managed by people, and for the needs of all people. The jargon is then known as "the power from, by, and for people".¹

¹ Jimly Asshiddiqie, *Indonesian Constitution & Constitutionalism*, Sinar Grafika, Jakarta, 2014, page 117.

The Constitution of the Republic of Indonesia of 1945 becomes the basic and the main reference in running the people sovereignty². It also defines the parts of people sovereignty which implementation is given to the boards or institutions which existence, job, and functions are decided by the Constitution of the Republic of Indonesia of 1945. Moreover, it defines which parts that should be directly done by people, meaning that it should not be given to any other boards or institutions through public election.³

The implementation of democracy in Indonesia is conducted through the system of representative in which, in the government system, the right to make some political decisions is done by some people who are directly chosen by citizens through the public election.⁴ According to article 148 of Regional Government Constitution, RHoR of regency or city is an institution of people's regional representative which is as the element of regency or city administration. Nowadays, the inter-time replacement becomes an effective tool to get rid of the members of representative who oppose the committee of political party's business. As a result, the existence of representative members very depends on the favor of the political party committee, and then it can replace the orientation of representative members' existence to become the distributor of the business of political party's committee. On the other hand, the member of representatives exist because they are chosen by citizens in a direct, free, honest, and fair public election.⁵

Mentawai Island Regency is one of the regencies which holds an inter-time replacement of its RHoR leader. There had been RHoR leader replacement in the period of 2004-2009 because one of the RHoR leaders passed away. Moreover, in the period of 2009-2014, RHoR leader replacement occurred because one of the RHoR leaders was dismissed as the member of RHoR, and then moved to another party. Besides, in 2014-2019, RHoR leader replacement occurred because the RHoR leader of Mentawai Island Regency from Golkar Party named Kortanius Sabaleake, S. Pt resigned as the member of RHoR to nominate himself as the vice regent of Mentawai Island Regency on the election of regional head or vice election. Then, in article 45 paragraph (2) of the Regulation of Regional House of Representatives of Mentawai Island Regency No. 1 of 2014 concerning the Code of Conduct of Regional House of Representatives of Mentawai Island Regency, it is stated that the leader of RHoR can be dismissed from the position because she/ he:

- a. passes away
- b. resigns from the position as the leader of RHoR
- c. retires as the member of RHoR based on the regulations of constitutions; or
- d. is dismissed as the leader of RHoR

In December 16, 2016, the Governor of West Sumatera released a letter of Governor Decree No. 171-1364-2016 about the Termination of the Members of Regional House of Representatives of Mentawai Island Regency. Because of this letter, Kortanius Sabaleake, S. Pt was dismissed from his position as the leader of RHoR of Mentawai Island Regency before the end of his term of office as stated in the regulation of Constitutions.

In the article 43 of Government Regulation No. 16 of 2010, it is stated that the termination of RHoR leader is set on the plenary meeting of RHoR and set by the decree of RHoR. In article 46 of Code of Conduct of Regional House of Representatives of Mentawai Island Regency, it is also regulated that the termination of RHoR leader is set on plenary meeting of RHoR and set on the decree of RHoR. Besides, in article 47 of Code of Conduct of Regional House of Representatives of Mentawai Island Regency, it is stated that the decree of RHoR about the termination of RHoR leader is delivered by the leader of RHoR to the Governor through the Regent for the official termination.

² Sastroamidjojo, Ali, and Robert Delson. "The Status of the Republic of Indonesia in International Law." *Colum. L. Rev.* 49, 1949, page: 344.

³ Ni'matul Huda, *Indonesian Constitutional Law*, Rajawali Pres, Jakarta, 2012, page 97.

⁴ Ramage, Douglas E. *Politics in Indonesia: Democracy, Islam and the ideology of tolerance*. Routledge, 2002.

⁵ Rida Farida, *Op Cit*, page 200

In Mentawai Island Regency, the termination of Kortanius Sabaleake, S. Pt as the leader of RHoR was not stated in the decree of RHoR. Therefore, the retirement of RHoR leader of Mentawai Island Regency was not officially announced by the Governor of West Sumatera.

About the term of office of RHoR leader, it is started from the statement of leader's oath. In article 43 of RHoR of Code of Conduct, it is stated that the statement of RHoR leader's oath is led by the leader of District Court. If the leader of District Court is not able to attend it, taking the RHoR leader's oath can be led by the vice leader of District Court chosen by the leader of District Court. Then, if the vice leader of District Court cannot attend it, it can be led by a Senior Judge on the District Court who is chosen by the leader of District Court. Moreover, in article 7 paragraph (5) of Code of Conduct of RHoR, it is stated that before the inter-time replacement of RHoR members settles their positions, they have to take the oath which is led by the leader of RHoR in the special plenary meeting of RHoR. Meanwhile, the guide of oath taking of RHoR leader replacement is not regulated in the Code of Conduct of RHoR of Mentawai Island Regency.

Juridical Research Method

1. Research Approach and Characteristic

Research method used in this study is sociological juridical that refers to the problem approach of law study by seeing the existed law norm and connecting it with the facts within the society which relates to the existing problems in the research.^{6,7}

This is a descriptive study because this study is aimed at obtaining general, complete, and systematic description on the inter-time replacement of RHoR leader.

2. Types and Source of Data

Data used in this study are:

a. Primary Data

The primary data is the data obtained directly from the field by conducting a study in the RHoR building of Mentawai Island Regency, Government Bureau of West Sumatera Province, the office of National Unity and Politics of West Sumatera Province, Government and General Section of Regional Secretariat of Mentawai Island Regency, political party and the leader of RHoR of Mentawai Island Regency members.

b. Secondary Data

The secondary data is the data obtained through the study of available literature. The data consists of:

1) Primary Law Materials

The primary law materials are the materials having the power of law which is binding for each individual or society which is from the regulation of constitution, such as:

- a) The Constitution of the Republic of Indonesia of 1945
- b) The Constitution No. 2 of 2008 concerning the Political Party

⁶ Interview with Azridawati, Head of the Trial Section at the Mentawai Islands Regency RHoR Secretariat, on 30 May 2018

⁷ Bourdieu, Pierre. "The force of law: Toward a sociology of the juridical field." *Hastings LJ* 38 (1986): 805.

- c) The Constitution of Republic of Indonesia No. 17 of 2014 concerning People Consultative Assembly, House of Representatives, Council of Regional Representative, and Regional House of Representatives
- d) The Constitution No. 23 of 2014 concerning the Regional Government
- e) Government Regulation of Republic of Indonesia No. 16 of 2010 concerning Drafting Guidelines of Regional House of Representative Regulation about the Code of Conduct of Regional House of Representatives.
- f) Government Regulation of Republic of Indonesia No. 12 of 2018 concerning the Drafting Guidelines of Code of Conduct of Regional House of Representative of Province, Regional, and City.
- g) Regulation of Regional House of Representative No. 01 of 2014 concerning the Code of Conduct of Regional House of Representative of Mentawai Island Regency.

2) Secondary Law Materials

The materials of secondary law materials are the materials relating closely to the primary materials and the materials can help analyze, understand, and explain the primary law materials, such as literatures, scripts, papers, seminar's results, and journals of law.

3) Tertiary Law Materials

The tertiary law materials are the supplementary law materials of primary and secondary law material, such as dictionary of law and bulletin released by a particular institution.

3. *Source of Data*

- a. Library research is in the form of regulations and books or papers relating to RHoR and inter-time replacement. In this study, the researcher visited the library of Law Faculty of Andalas University.
- b. Field research is the data which can be used for the thesis writing, such as the notes of RHoR.

4. *Instrument of Data Collection*

- a. Interview is a method of data collection conducted by asking some questions orally with the leader of RHoR and the political party proposing inter-time replacement of RHoR members in Mentawai Island Regency. The semi-structured interview was conducted. It means that while designing some questions, the researcher also developed other questions relating to the research problems.
- b. Document study is a study which studies documents relating to the inter-time replacement of RHoR leader.

5. *Data Processing and Data Analysis*

a. *Data processing*

Primary data obtained were then edited to avoid wrong or incomplete data. After editing the data, data coding was conducted to classify data based on the types of data.

b. Data analysis

The data were analyzed qualitatively. Qualitative data means that the data cannot be measured or stated in a form of numerical data.⁸ From the qualitative analysis, general description of the mechanism of inter-time replacement element of RHoR leader can be obtained. Then, all of the results of the study are connected to the regulations of related constitutions, expert opinions, and the theories supporting this study. After all results are formulated in a form of descriptive, a conclusion will be obtained as the answer of the research problems of this study.

Findings

1. The Mechanism of RHoR Leader Termination of Mentawai Island Regency

The leader of RHoR is a political position which its determination is proposed by a party winning the public election. The term of office of RHoR leader is started from the date of oath taking and ended at the time of the end of the term of office of RHoR membership. In this case, the term of office of RHoR leader is regulated in article 45 paragraph (1) of Code Conduct of RHoR. Then, in article 45 paragraph (2) of Code of Conduct of RHoR, it is stated that the leader of RHoR is dismissed from his/ her position before the end of his/ her position because he/ she:

- a. Passes away
- b. Resigns from the position as the leader of RHoR
- c. Retires as the member of RHoR based on the regulations of constitutions; or
- d. Is dismissed as the leader of RHoR

Then, the mechanism of proposing the termination of RHoR leader to the leader of regency or city RHoR can be explained as the following:⁴

a. Passing away

The replacement of RHoR leader should be conducted when there is a leader of RHoR who passes away. In replacing the leader of RHoR, the leader of political party takes a role as the one who should propose the termination of the death RHoR leader to the leader of RHoR. The letter of leader termination proposed by the leader of political party should be done at the time the proposal of termination and replacement of RHoR leader. The letter of death released by authorized officials should be also involved in proposing the termination of the leader.

1) Resigning from the position as the leader of RHoR

The leader of RHoR who wants to retire as the leader of RHoR should propose the resign letter to the leader of RHoR and leader of political party. Then, the letter proposed by the leader of RHoR to political party becomes the foundation for the political party to propose the RHoR leader termination to another RHoR leader. The proposing letter of RHoR leader termination by political party should also attach the letter of retirement of RHoR leader.

2) Retiring as the member of RHoR based on the regulations of constitutions

The mechanism of RHoR leader termination who is retired as the member of RHoR based on the regulation of constitutions is proposed by the leader of political party to the leader of RHoR. In proposing

⁸ “The RHoR Regulation of Mentawai Islands Regency number 01 of 2014 concerning the Standing Orders of the Regional House of Representatives of the Mentawai Islands Regency”, *Regional News of the Mentawai Islands Regency* of 2014, number 33, Article 63

the termination of leader, a letter of decree about the termination as the member of RHoR should be entailed. Then, the letter of the member of RHoR termination becomes the basic for the political party to propose the request of termination as the RHoR leader.

3) Being dismissed as the leader of RHoR

The article 45 paragraph (3) of RHoR's Code of Conduct states that the leader of RHoR retires from his/ her position if:

- a) The oath of office and ethical code of RHoR based on the decree of The Honorary Board is broken; or
- b) Someone is proposed by his/ her political party according to the regulation of constitution.

The article 36 paragraph (3) of Government Regulation No. 12 of 2018 states that the leader of RHoR can be dismissed as the leader if:

- a) The oath of office and ethical code of RHoR are obviously broken based on the decision of The Honorary Board; or
- b) The related political party proposes the termination of the leader as the leader of RHoR based on the regulation of constitution.

In this case, the role of The Honorary Board is to impose sanction to the member of RHoR who is proven to break the ethical code and or the regulation of code of conduct of RHoR based on the result of investigation, verification, and clarification of The Honorary Board. The decision of The Honorary Board about the imposition of sanction will be delivered by the leader of RHoR to the related member of RHoR, the leader of section, and the leader of political party.⁵

In article 60 of Government Regulation No. 12 of 2018, it is stated that the sanction stated by the Honorary Board is set with the decree of the Honorary Board and announced in plenary meeting. The sanction can be in the form of dismissal as the leader of RHoR complementary device which is released by RHoR.

In article 61 of Government Regulation No. 12 of 2018, it is stated that:

- (1) When The Honorary Board gives sanction in the form of the dismissal of RHoR leader as the complementary device, the replacement of leader as the complementary device of RHoR starts from no more than 30 days since the announcement in the plenary meeting.
- (2) The schedule of plenary meeting as stated in paragraph (1) will be set by deliberation board with no more than 10 days since the decision is stated by the Honorary Board.

The termination of RHoR leader suggested by the political party is proposed by the political party to the leader of RHoR. If the leader of RHoR dismissed by the leader of political party objects his/ her dismissal as the leader, she/ he can propose his/ her objection to Political Party Court. In this case, the objection will be categorized into the conflict of political party. According to article 32 of Constitution No. 2 of 2011 concerning the Change of Constitution No. 2 of 2008 concerning Political Party, it is stated that:

- (1) The conflict of political party is solved by the internal of political party as it is stated in Article of Association and By-Law.
- (2) The settlement of internal conflict of political party stated in paragraph (1) is conducted by a political party court or another similar term formed by the political party.
- (3) The arrangement of Political Party Court or another similar term as stated in paragraph (2) is delivered by the leader of political party to the ministry.

- (4) The settlement of internal conflict of political party as stated in paragraph (2) should be solved no later than 60 days.
- (5) The decree of Political Party Court or another similar term is final and internally binding in term of the conflict relating to the management.

In case the settlement conflict in Political Party Court cannot be achieved, the settlement of conflict is conducted through the District Court. The decision from the District Court is the first and the final decision, and cassation can be proposed to Supreme Court. In solving this case, the District Court should solve it no later than 60 days since the lawsuit of case is enlisted in the Registrar of District Court and no more than 30 days for the Supreme Court since the memory of cassation is enlisted in the Registrar of Supreme Court.⁹ When the leader of RHoR is dismissed by the political party proposes the lawsuit to Political Party Court, she/ he should propose a letter of delayed proses of termination as the leader of RHoR with the reason that she/ he still propose lawsuit in Political Party Court. The letter of delayed proses of termination as the leader of RHoR leader should be delivered to the leader of RHoR if the process of termination is still in the RHoR. Then, if the process of leader termination has arrived in governor, the request letter of delayed proses of termination of RHoR leader should be delivered to the governor.¹⁰

The mechanism of leader termination who is dismissed as the leader of RHoR is conducted if the Honorary Court Ruling and Party Court Ruling or Court Ruling have been released. Based on the ruling, the leader of party proposes the request of leader termination to the leader of RHoR.

The article 37 of Government Regulation No. 12 of 2018 states that:

- (1) Other RHoR leaders report the suggestion of RHoR leader termination in plenary meeting.
- (2) The termination of RHoR leader is set in plenary meeting.
- (3) The termination of RHoR leader is set by the decision of RHoR.

In term of the resign letter of Kortanius Sabaleake, S. Pt and the letter of Regional Leadership Council of Golkar Party, the leader of RHoR of Mentawai Island Regency processed the termination of Kortanius Sabaleake, S. Pt as the member of RHoR of Mentawai Island Regency. According to the letter of decree of West Sumatera Governor on December 16, 2016 No. 171-1364-2016 about the termination of RHoR member in Mentawai Island Regency, the governor had officially terminated Kortanius Sabaleake, S. Pt in honor as the member of RHoR of Mentawai Island Regency in the period of 2014-2019. Being officially stated by the Governor of West Sumatera about the termination of Kortanius Sabaleake, S. Pt as the member of RHoR, his term of office ended. It is based on the article 45 paragraph (1) of Code of Conduct of RHoR of Mentawai Island Regency stating that:

- (1) term of office of leader of RHoR is started from the date of leader oath taking, and it ends at the time of the end of term of office of the member of RHoR.

Kortanius Sabaleake, S. Pt retired as the leader of RHoR of Mentawai Island Regency before his term of office ended because he retired as the member of RHoR based on the letter of decree of the Governor of West Sumatera No. 171-1364-2016. The article 46 of Code of Conduct of RHoR of Mentawai Island Regency states that:

- (1) The proposal of the termination of RHoR leader as stated in article 45 is reported in RHoR plenary meeting by other RHoR leaders.

⁹ Law number 2 of 2011 concerning Amendments to Law number 2 of 2018 concerning Political Parties, *State Gazette of the Republic of Indonesia* of 2011 number 8, Article 33.

¹⁰ Interview with Azridawati, Head of the Trial Section at the Mentawai Islands Regency RHoR Secretariat, on 30 May 2018.

- (2) The termination of RHoR leader as stated in paragraph (1) is set in RHoR plenary meeting.
- (3) The termination of RHoR leader as stated in paragraph (2) is set by the decree of RHoR.

Article 46 of Code conduct of RHoR of Mentawai Island Regency stated that the termination of Kortanius Sabaleake, S. Pt as the leader of RHoR was set in RHoR plenary meeting and set with the decree of RHoR. However, Golkar Party did not propose the termination of Kortanius Sabaleake, S. Pt to the leader of RHoR of Mentawai Island Regency, and the section of Golkar in the RHoR of Mentawai Island Regency also did not propose the termination of Kortanius Sabaleake, S. Pt as the leader of RHoR. As a result, the leader of RHoR did not schedule the plenary announcement as well as the determination of the termination of Kortanius Sabaleake, S. Pt. as the leader of RHoR even though the letter of decree of the Governor of West Sumatera had officially terminated Kortanius Sabaleake, S. Pt.

Plenary of the determination of the termination of Kortanius Sabaleake, S. Pt which was not conducted in RHoR of Mentawai Island Regency caused the termination of Kortanius Sabaleake, S. Pt as the leader of RHoR of Mentawai Island Regency was not officially announced by the governor of West Sumatera.

In article 47 of Code of Conduct of RHoR of Mentawai Island Regency, it is stated that:

- (1) The decree of RHoR about the termination of RHoR leader is stated by the leader of RHoR to the Governor through the Regent for the inauguration of the termination.
- (2) The decree of RHoR as stated in paragraph (1) with the official report as stated in article 46 paragraph (2).

In this case, the decree of RHoR becomes the requirement to propose inauguration of the termination of RHoR leader to the governor through the regent. Because the decree of RHoR about the determination of termination of Kortanius Sabaleake, S. Pt as the leader was none, his termination was not officially announced by the governor of West Sumatera. Therefore, the termination of RHoR leader in Mentawai Island Regency is only based on the letter of decree of the Governor of West Sumatera about the termination of Kortanius Sabaleake, S. Pt as the member of RHoR of Mentawai Island Regency, but there was no letter of decree about the termination of him as the leader of RHoR. The appointment of Kortanius Sabaleake, S. Pt as the leader of RHoR had been officially stated through the letter of decree of the Governor of West Sumatera No. 171-821-2014.

2. The Implementation of Inter-Time Replacement of RHoR Leader in Mentawai Island Regency

The inter-time replacement is the process of member withdrawal in the institution of the house of representative to be replaced by other members before the inaugurated members' term of office end. The steps of the replacement of RHoR leader of Mentawai Island Regency is started when the leader of RHoR sets the candidates of replacement of RHoR leader in RHoR plenary meeting. In article 48 paragraph (3) of Code of Conduct of RHoR, it is stated that "the leader of Regional House of Representatives proposes the inauguration of the appointment of candidates of Regional House of Representatives leader's replacement of to the governor through the regent".

Regarding to the Code of Conduct of RHoR, the leader of RHoR sends a letter to the Regent of Mentawai Island to propose the inauguration of the appointment of candidates of RHoR leader's replacement of from Golkar Party. On May 2, 2017, the RHoR leader of Mentawai Island Regency proposed the inauguration of the appointment of candidate of RHoR's vice leader replacement in the remaining position in the period of 2014-2019 from Golkar Party to the Governor of West Sumatera

through the Regent of Mentawai Island Regency. With the letter from the RHoR leader to the Regent of Mentawai Island Regency, some documents about the inauguration of the appointment of candidate of RHoR vice leader replacement should be attached for the administration requirements. The attached documents are:

- a. The proposal of candidates of RHoR vice leader replacement of Mentawai Island Regency in remaining position in the period of 2014-2019 from Golkar Party.
- b. The decree of RHoR of Mentawai Island Regency about the determination of candidates of vice leader of RHoR leader replacement of Mentawai Island Regency in remaining position in the period of 2014-2019 from Golkar Party.
- c. The official report of plenary of RHoR of Mentawai Island Regency.
- d. The notes of plenary meeting of RHoR of Mentawai Island Regency.

On May 5, 2017, the Regent of Mentawai Island Regency sent a letter to the Governor of West Sumatera to officially announce the appointment of the RHoR leader of Mentawai Island Regency even though it is stated in Government Regulation No. 16 of 2010 that the regent has no more than 7 days since receiving the name of candidates of RHoR leader replacement. However, in fact, the Regent of Mentawai Island Regency sent a letter to the Governor of West Sumatera within less than 7 days. As a result, the process of RHoR leader replacement could be officially announced in a short time because the incompleteness of the element of the leader influenced the performance of RHoR leader causing the lack of optimality of RHoR leader in conducting the work. With the letter of Regent of Mentawai Island Regency to the Governor of West Sumatera, some documents about the proposal of inauguration of the appointment candidate of vice leader of RHoR replacement as the administration requirements should be attached. The documents are:¹¹

- a. The letter from RHoR about the proposal of inauguration of the candidate appointment of RHoR vice leader replacement in remaining position in the period of 2014-2019 from Golkar Party.
- b. The letter from Central Leadership Council of Golkar Party about the inter-time replacement of RHoR leader.
- c. The letter of Regional Leadership Council of Golkar Party from West Sumatera Province about the process of inter-time replacement in Mentawai Island Regency.
- d. The letter of Regional Leadership Council from West Sumatera Province Golkar Party about the process of inter-time replacement in Mentawai Island Regency.
- e. The letter of Regional Leadership Council from West Sumatera Province Golkar Party about the process of inter-time replacement of RHoR leader of Mentawai Island Regency.
- f. The decree of RHoR of Mentawai Island Regency about the determination of candidates of RHoR vice leader replacement of Mentawai Island Regency.
- g. Official report of plenary meeting of RHoR of Mentawai Island Regency.
- h. Notes of plenary meeting of RHoR of Mentawai Island Regency.

¹¹ Interview with Hiram, Head of Government and Public Section at the Regional Secretariat of Mentawai Islands Regency, on 23 May 2018.

The administration documents of the inauguration of the candidate appointment of RHoR vice leader replacement of Mentawai Island Regency were then checked by government section of West Sumatera Province. In Government Bureau, the authenticity of the documents is also checked.¹² Therefore, the documents of RHoR leader replacement were checked whether the documents attached by the Regent of Mentawai Island Regency had been suitable with the Indonesian Government Regulation No. 16 of 2010 about the Drafting Guideline Regulation of Regional House of Representatives about the Code of Conduct of Regional House of Representatives. Besides, in the Government Bureau, the candidates of vice leader replacement were also checked whether they came from the same political party as the retired leader.

As it is mentioned previously, the completeness of documents of RHoR leader replacement was only checked by Government Bureau as the representative of the governor of West Sumatera. They only checked whether the candidates of replacement came from the same political party and whether the inauguration of announcement of candidates of RHoR leader replacement had been announced in the plenary meeting of RHoR. It is obviously stated in article 43 of Government Regulation No. 16 of 2010 that:

- (1) The proposal for the termination of RHoR leader as stated in article 42 is reported in plenary meeting of RHoR by other RHoR leaders.
- (2) RHoR leader termination as stated in paragraph (1) is set in plenary meeting of RHoR.
- (3) RHoR leader termination as stated in paragraph (2) is set with the decree of RHoR.

Article 43 of Government Regulation No. 16 of 2010 and the Code of Conduct of RHoR of Mentawai Island Regency state that RHoR leader has to be set in the decree of RHoR in plenary meeting. However, Government Bureau of West Sumatera did not mind the letter of decree of RHoR about the termination of RHoR of Mentawai Island Regency. Then, it proved that article 43 of Government Regulation No. 16 of 2010 and article 46 of Code of Conduct of RHoR of Mentawai Island Regency were not implemented. The Government Bureau of West Sumatera should have made the letter of decree of RHoR about Leader Termination as one of the administration requirements in proposing the replacement of RHoR leader. It is important because RHoR leader is the complementary device of RHoR who is set by the letter of decree of West Sumatera Governor. Then, when a leader replacement occurs, the governor of West Sumatera should dismiss the previous leader with the letter of decree of West Sumatera Governor, and then set the determination of the inauguration of the appointment of RHoR leader replacement.

On May 17, 2017, the letter of decree of West Sumatera Governor No. 171-544-2017 about the Inauguration of the appointment of Regional House of Representatives Leader of Mentawai Island Regency was released in the remaining term of office 2014-2019. The letter was then officially assigned the appointment of Jakop Saguruk, S. E as the RHoR vice leader of Mentawai Island Regency in the period of 2014-2019.

In article 45 paragraph (1) of Code of Conduct of RHoR of Mentawai Island Regency states that “term of office of RHoR leader starts from the date of leader oath taking and ends at the end of term of office of RhoR member”. In other words, article 45 paragraph (1) of Code of Conduct of RHoR of Mentawai Island Regency obliges the replacement of RHoR leader to take the oath of leader. The oath taking of RHoR leader should be done in the special plenary meeting of RHoR as stated in article 43 of Code of Conduct of RHoR of Mentawai Island Regency:

¹² Interview with Ita, employee of the Provincial Government Bureau of West Sumatra, on 28 May 2018.

- (1) RHoR leader as stated in article 40 paragraph (1), before settling down his/ her position, has to take the oath in RHoR building which is led by the leader of District Court;
- (2) Taking the oath in RHoR local building as stated in paragraph (1), in case it cannot be held because of some reasons, can be held in another place;
- (3) If the leader of District Court as stated in paragraph (1) cannot come to lead the oath taking of RHoR leader, the oath taking of RHoR leader will be led by the senior judge of the District Court who is chosen by the leader of District Court;
- (4) If the vice leader of District Court as stated in paragraph (3) cannot come to lead the oath taking of RHoR leader, the oath taking of RHoR leader will be led by the senior judge of the District Court who is chosen by the leader of District Court.

Then, it can be concluded that the article 45 of Code of Conduct of RHoR states that before settling the position, RHoR leader has to take the oath led by the leader of District Court. If the leader of District Court cannot come to lead the oath taking of RHoR leader, it will be led by the vice leader of District Court or the senior judge of the District Court who is chosen by the leader of District Court. Besides, article 7 paragraph (5) of Code of Conduct of RHoR of Mentawai Island Regency also mentions about the oath taking of RHoR leader and states that:

- (1) The inter-time replacement of RHoR member, before settling his/ her position, has to take the oath led by RHoR leader in special plenary meeting of RHoR.

As stated in article 45 of Code of Conduct of RHoR that the oath taking of RHoR leader is led by the leader of District Court, or vice leader of District Court, or senior judge chosen by the leader of District Court. Besides, article 7 paragraph (5) states that the inter-time replacement member of RHoR has to take the oath led by RHoR leader before settling his/ her position. However, different from the regulation of oath taking of RHoR leader and the inter-time replacement of RHoR member, the guide of oath taking of inter-time leader replacement is not regulated clearly. In Jakop Saguruk, S. E case, the oath taking as RHoR leader was led by the leader of RHoR of Mentawai Island Regency, not by the lead of District Court because the guide of the oath taking of inter-time leader replacement was not regulated in the Code of Conduct of RHoR. On the other hand, article 7 paragraph (5) states that the inter-time replacement of RHoR member, before settling his position, has to take the oath led by RHoR leader. Then, it can be concluded that Jakop Saguruk, S. E as the member of RHoR has to take the oath led by RHoR leader before settling his position. In this case, the oath taking of inter-time leader replacement will be guided by a priest. Therefore, the oath taking of inter-time leader replacement was conducted in Catholic.

Conclusions And Suggestions

1. Conclusion

The leader of RHoR will be dismissed from his/ her position before his/ her term of office because she/ he:

- a. passes away
- b. resigns as the leader of RHoR
- c. retires as the member of RHoR based on the Regulation of Constitutions

- d. is dismissed as the leader of RHoR.

The proposal of RHoR leader termination is reported in the RHoR plenary meeting by other RHoR leaders. The termination of RHoR leader is also set in the RHoR plenary meeting by other RHoR leaders. The termination should be set with the decree of RHoR.

The leader of RHoR of Mentawai Island Regency was retired from the position before the end of his term of office because he retired as the member of RHoR with the decision of West Sumatera Governor No. 171-1364-206. The termination was not announced in RHoR plenary session and not set in the decree of RHoR. Thereby, the termination of Kortanius Sabaleake, S. Pt as the leader of RHoR did not officially assigned by the Governor of West Sumatera in the letter of Decree of the termination of RHoR leader of Mentawai Island Regency. When the RHoR leader was vacant because of death or resigning as the leader of RHoR, retiring as the member of RHoR or being dismissed as the leader of political party, the replacement of RHoR leader who had retired should be from the same political party with the previous leader. The candidate of inter-time replacement of RHoR leader who is proposed by the political party should be announced in the RHoR plenary meeting and set in the decree of RHoR.

The inter-time replacement of RHoR leader should be conducted after the determination of candidate for the inter-time leader replacement by the leader of RHoR of Mentawai Island Regency in the plenary meeting. The leader of RHoR of Mentawai Island Regency proposes the inauguration of the appointment of candidates of leader replacement to the Governor of West Sumatera. The letter of decree of Governor of West Sumatera No. 171-544-2017 about the inauguration of the appointment Jakop Saguruk, S.E as the vice leader of RHoR of Mentawai Island Regency was then released.

Then, the term of office of RHoR leader begins from the date of the leader oath taking. The oath taking of RHoR leader of inter-time replacement is led by the leader of RHoR because article 7 paragraph (5) states that the member of RHoR inter-time replacement before settling the position has to take the oath led by the leader of RHoR in special plenary meeting of RHoR.

2. *Suggestions*

- a. It is better for the team of document supervisor of candidates of inter-time replacement of RHoR leader to make the decision of RHoR about RHoR leader termination becomes one of the requirements of inter-time replacement administration if the member of RHoR who is retired is the RHoR leader.
- b. The proposal of candidate replacement of RHoR leader is the right of the political party. However, it is better for the political party to be transparent and democratic in selecting the candidates of RHoR leader replacement. Besides, it is better for them to arrange the requirements of becoming the candidates of RHoR leader in their By-Law.

The arrangement of Code of Conduct of RHoR in the future should be able to regulate the guide of oath taking of inter-time replacement of RHoR leader.

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