

The Limits of Authority of Regional Heads as Protectors of the Indonesian Red Cross (PMI) under the Red Cross Law

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Abstract

Purpose: This study aims to analyze the limits of regional head authority in the PMI management election process so as not to cause conflict or chaos in the region.

Methodology/approach: The research method used is a normative approach with a juridical-qualitative method, based on a literature study of laws and regulations, especially Law Number 1 of 2018 concerning the Red Cross and the PMI Statutes/Bylaws.

Results/findings: The results of the study indicate that although PMI has a close relationship with the regional government, in the process of appointing and dismissing PMI administrators, regional heads do not have the authority to intervene outside the provisions of PMI's Articles of Association/Bylaws. Article 28 of Law Number 1 of 2018 concerning the Red Cross emphasizes that the organizational structure, management, technical implementing units, authorities, and responsibilities of PMI, as well as procedures for the use of PMI symbols are stipulated in the PMI's articles of association and bylaws in accordance with statutory regulations.

Conclusions: Regional heads need to understand that their role is to support, facilitate, and protect the PMI as a humanitarian organization, not to regulate its internal affairs. Regional heads' efforts to maintain synergy with the PMI must be carried out without violating the PMI's independence as part of the International Red Cross and Red Crescent Movement.

Limitations: Research on the legal status of the Indonesian Red Cross is still very limited, so journals that can be used as references are very difficult to find.

Contribution: As a reference in the PMI management election process so as not to cause conflict or chaos in the region.

Keywords: *Authority Of Regional Heads, Indonesian Red Cross, Organizational Independence, PMI Management, Role Of Government.*

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1. Introduction

Article 1 paragraph 4 of Law Number 1 of 2018 concerning the Red Cross states that "The Indonesian Red Cross, hereinafter referred to as PMI, is a national association founded on the principles of humanity and voluntarism, without discrimination based on nationality, class, or political ideology." The formation of the Red Cross began with difficult situations and conditions, such as war and natural disasters. The Red Cross was established in the 19th century. The struggle to establish the Indonesian Red Cross (PMI) began in 1932. This activity was pioneered by Dr. RCL Senduk and Dr. Bahder Djohan with broad support from all circles, especially among Indonesian students. They continued to work hard to bring the plan to the 1940 Nerkai Conference, even though it was rejected. Undeterred by the Japanese occupation, they attempted to form a National Red Cross Agency. but their efforts were also rejected (Usiono, Hutasuhut, Apriani, Dalimunthe, & Ayuni, 2023).

In 2018, PMI became a humanitarian organization with legal entity status, enacted by Law of the Republic of Indonesia Number 1 of 2018 concerning the Red Cross to carry out Red Cross activities with the aim of preventing or avoiding and alleviating the suffering of prisoners of war and disaster victims without distinction of religion, nationality, ethnicity, skin color, class, gender, and political views. PMI also has the task of making its members volunteers. These include Volunteers for Disaster Preparedness and Response, First Aid Training for Volunteers, Community Health and Welfare Services, and others. As the main instrument in a country governed by the rule of law, the law provides certainty, benefits, and justice for the entire community. This is in line with the provisions of Article 1, Paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which explicitly states that Indonesia is a country governed by the rule of law.

To protect the interests of the community, the state has established various legal regulations, including those governing the mechanism for appointing and inaugurating Indonesian Red Cross (PMI) administrators at the regional level. The legal basis for PMI management, as mentioned above, is regulated by several laws and regulations, including Law of the Republic of Indonesia Number 1 of 2018 concerning the Red Cross, which is in accordance with Law of the Republic of Indonesia Number 17 of 2013 concerning Community Organizations, as well as Government Regulation of the Republic of Indonesia Number 7 of 2019 concerning Regulations on the Implementation of the Red Cross. The entire process of appointing PMI administrators must comply with the organization's Articles of Association and Bylaws (AD/ARTs).

In practice, the process of selecting PMI administrators in the regions raises interesting questions regarding the limits of the authority of regional heads as protectors of the organization. As an independent organization based on humanitarian principles, the PMI should be a forum for individuals who are truly oriented towards public interest. However, there are often attempts to place certain figures in strategic positions within the organization, which has the potential to deviate from the basic values of PMI, based on the Principles and Rules for Red Cross and Red Crescent Disaster Relief. In this article, I provide an example of a case that occurred in the Kupang City Government where an inauguration was held based on Decree (SK) of the Kupang City PMI Management Number: 02/SK/ORG/03.03.01/IV/2025 dated April 22, 2025, regarding the ratification of the Kupang City PMI management, signed by the Mayor of Kupang, Dr Christian Widodo.

Meanwhile, in 2024, the inauguration of the Chairperson of the Kupang City PMI was carried out in accordance with Decision Letter Number: 01/SK/PMI Prov.NTT/03. 03.00/II/2024, regarding the decision letter on the Kupang City PMI management for the 2024-2029 term of office, issued by the NTT Provincial PMI Management on February 19, 2024, and signed by the Chair of the NTT Provincial PMI. This study is expected to provide clear recommendations regarding the position and role of regional heads in the appointment of PMI administrators. Based on this background, this paper is titled *"The Limits Of The Authority Of Regional Heads As Protectors Of The Pmi Based On The Red Cross Law"* and aims to critically examine the extent of the authority of regional heads in their capacity as protectors of the PMI at the regional level.

2. Literature Review and Hypothesis Development

2.1 Concept of Authority

The use of the term *"authority"* in various English terms *"authority and power"* (Sharon, 2020) and the Dutch term *"bevoegdheid"* (Susanto, 2020b). According to Black's Law Dictionary, *'authority'* is defined as *"Permission. Right to exercise powers, implement and enforce laws, exact obedience, command, and judge. Control over jurisdiction. It is often synonymous with power. The power delegated by a principal to an agent. The lawful delegation of power by one person to another is known as authority. Power of agent to affect legal relations of principal by acts done in accordance with principal's manifestations of consent to agent"* (Widjaja, 2023). According to the Big Indonesian Dictionary (KBBI), the term *"wewenang"* is synonymous with *"kewenangan"* and is defined as the right and power to act, make decisions, command, and delegate responsibility to others. This definition emphasizes that authority always contains the element of authority or power to take actions with legal implications for other parties. In

the study of state administrative law and constitutional law, the concept of authority plays an important role as the basis for the legitimacy of every action taken by government officials and institutions.

H.D. Stout defines authority as follows: “*Authority is a concept from administrative organizational law, which can be described as the set of rules relating to the acquisition and exercise of administrative powers by legal entities under public law in administrative legal transactions*” (Pietersz, 2018), H.D. Stout's statement can be explained as follows: authority is a concept derived from government organization law, which encompasses all rules regarding the acquisition and use of governmental authority by public legal subjects in public legal relations. Thus, authority is not only related to the existence of rights but also to the rules or norms that regulate the manner, limits, and objectives of the use of those rights to avoid abuse of power. Philipus M. Hadjon explains that the term “Bevoegdheid” in Dutch law is used in the concepts of private law and public law, while “wewenang” is always used in the concept of public law, and the term *wewenang* or *kewenangan* in Indonesia is always used in the concept of public law (Susanto, 2020b).

Furthermore, authority can be understood as the right of officials or institutions to carry out legally regulated actions, whether based on laws, government regulations, or organizational regulations, so that these actions are valid and have legal consequences. In this case, it can be interpreted that authority serves to limit government actions so that they do not exceed the scope of power granted by law (*ultra vires*). From the perspective of Indonesian law, the concept of authority can be seen in Article 1 point 5 of Law Number 30 of 2014 concerning Government Administration (Government Administration Law), which states that “Authority is the right possessed by Government Agencies and/or Officials or other state administrators to make decisions and/or take actions in the administration of government.” Thus, it can be concluded that authority does not merely mean power in a general sense but rather formal power granted by law to certain officials or institutions to carry out governmental functions, accompanied by the obligation to use such authority properly and responsibly in accordance with the principles of the rule of law.

2.2 Sources of Authority

H.D. van Wijk/ Willem Konijnenbelt stated that government authority is obtained in three ways, namely: attribution, delegation, and mandate. Attribution is the granting of governmental authority by the legislature to a governmental body; delegation is the transfer of governmental authority from one governmental body to another; and mandate occurs when a governmental body allows its authority to be exercised by another body on its behalf (Sharon, 2020). Asmara, Sukmariningsih, and dkk (2025) argue that governmental authority can be obtained through three main mechanisms: attribution, delegation, and mandate, each of which has different characteristics. First, attribution authority is the granting of entirely new governmental authority through statutory provisions, thereby creating an authority that did not previously exist. Second, delegated authority occurs when a State Administrative Agency or Position (TUN) that has obtained attributive authority transfers part of its authority to another TUN Agency or Position, provided that this transfer is based on valid regulations. Third, the mandate mechanism differs from attribution and delegation because it does not involve the creation or transfer of authority, but only the delegation of representative duties from one official to another within the same framework.

Thus, these three sources of authority form a legal framework that regulates how governmental authority is obtained, transferred, or exercised, while also serving as the basis for ensuring accountability and legality in every act of state administration in the Philippines. The implementation of experts' views on sources of authority is then outlined in Article 11 of the Government Administration Law, which states that “Authority is obtained through Attribution, Delegation, and/or Mandate.” Article 1 point 22 of the Government Administration Law states that “Attribution is the granting of authority to government agencies and/or officials by the 1945 Constitution of the Republic of Indonesia or by law.” Article 1 point 23 of the Administrative Government Law states that “Delegation is the transfer of authority from higher government agencies and/or officials to lower government agencies and/or officials, with full responsibility and liability transferred to the recipient of the delegation.” Article 1 point 24 of the Government Administration Law “Mandate is the transfer of authority from a higher government

agency and/or official to a lower government agency and/or official with the responsibility and liability remaining with the mandator.”

Freedom of expression is a fundamental human right and key pillar of modern democracy. This right guarantees every individual the freedom to express their opinions, ideas, and information without fear of reprisal, discrimination, or oppression by the state or certain groups. In the context of Indonesia, the right to freedom of expression is explicitly guaranteed in the 1945 Constitution of the Republic of Indonesia, specifically Article 28E paragraph (3), which states that “Every person shall have the right to freedom of association, assembly, and expression.” This constitutional provision not only demonstrates the state's commitment to protecting the civil rights of its citizens but also serves as a moral and legal foundation for the development of a democratic and open society (Natamiharja, 2025).

2.3 Limits of Authority

The limits of authority in this context are regulated in Article 15 of the Government Administration Law

- (1) The authority of Government Agencies and/or officials is limited by:
 - a. The term or period of authority.
 - b. The territory or area of authority; and
 - c. The scope of the field or subject matter of the authority.
- (2) Government Agencies and/or Officials whose term or period of authority as referred to in paragraph 1 letter a has expired are not permitted to make Decisions and/or take Actions.

Further provisions are explained in Article 18, paragraph (1) of the Government Administration Law, which states:

Government agencies and/or officials are categorized as exceeding their authority as referred to in Article 17, paragraph (2), letter a, if the decisions and/or actions taken:

- a. Exceed the term of office or time limit of the authority.
- b. Exceed the territorial limits of the authority; and/or
- c. This contradicts the provisions of laws and regulations.

The understanding of Article 15 and Article 18, paragraph (1) of the Government Administration Law can be summarized as the limits of authority covering time, territory, and substance (material/content). Authority limited by time means that time determines the validity of the authority; if the specified time has expired or passed, the government official becomes unauthorized and may not make decisions or take action (Setiaprameswari & Sesung, 2023). Authority limited by territory means that the second limitation on government authority is determined by the territory or area in which the authority applies (Setiaprameswari & Sesung, 2023). Authority limited by substance (material/content) means that the third limitation of governmental authority is determined by the scope of the field or material of the authority (Setiaprameswari & Sesung, 2023). The legal consequence of exceeding authority, as defined in Article 15 of the Government Administration Law, is a defect in authority (Article 66 of the Government Administration Law) (*Ultra Vires*). E. I. Sykes BA divides *Ultra Vires* into three forms: a) Substantive express *Ultra Vires*, which occurs when an action is taken outside the scope of the authority granted; b) Implied Substantive *Ultra Vires*, where the action is still within the authority, but is flawed due to restrictions applied to the instrument based on general principles of interpretation of legislation; c) Procedural *Ultra Vires*, relating to procedural requirements that render the action taken flawed (invalid) (Susanto, 2020a).

3. Research Methodology

This study uses a normative legal research method. In normative legal research, the approach used allows researchers to utilize the findings of empirical legal science and other sciences for legal analysis and explanation without changing the character of normative legal science (Suhaimi, 2018). The normative legal research method is also known as literature research because the entire study process is based on the study of secondary data in the form of primary and secondary legal materials. This study focuses on the legal norms contained in legislation relating to the Indonesian Red Cross, particularly

the provisions governing the authority of regional heads as protectors of the PMI organization, the appointment of PMI administrators in the regions, and the relationship between local governments and the PMI as an independent humanitarian organization.

The method used is legal-normative with a qualitative approach. The legal-normative approach is carried out by examining and interpreting various relevant laws and regulations, such as Law Number 1 of 2018 concerning the Indonesian Red Cross, Law Number 23 of 2014 concerning Regional Government, Minister of Home Affairs Regulation Number 36 of 2010 concerning Guidelines for the Development of Community Organizations in the Regions, and the PMI Articles of Association and Bylaws. In addition, a qualitative approach was used to describe and analyze the data in depth and comprehensively in accordance with normative legal theories and concepts, so that the results of this study are descriptive-analytical in nature, providing a comprehensive understanding of the limits of regional heads' authority in appointing PMI administrators in the regions. Data were obtained through the study of relevant legal documents and literature, both from primary legal materials in the form of laws and regulations, as well as secondary legal materials such as textbooks, journal articles, and scientific publications. Tertiary legal materials, such as legal dictionaries and encyclopedias, were used to strengthen understanding and explain the concepts used.

4. Result and Discussions

In Indonesia's regional government system, regional heads have the authority to administer government affairs in their regions based on the principles of regional autonomy and assistance to the central government. The principle of regional autonomy is broadly explained in Law of the Republic of Indonesia Number 23 of 2014 concerning Regional Government (Regional Government Law), which states that the law broadly explains the authority of regional governments to manage their own affairs. This is also explained by Muhammad Fauzan, who states that regional autonomy means the power to govern oneself (selfregelen) and manage oneself (selfbesturen) (Said, 2015).

Riski Febria Nurita explains that Indonesia's vast territory is divided into several provinces, regencies, and cities. Local governments essentially exist to facilitate the work of the central government. In terms of the division of power over the regions, a principle known as the principle of autonomy is used, as stipulated in Article 18 (2) of the 1945 Constitution of the Republic of Indonesia. (Abdullah, 2016) The doctrine of Trias Politica emphasizes the importance of the division or separation of powers in the administration of government. The aim is to prevent the concentration of absolute power in one person or a single institution. During its development, the fundamental thinking of Trias Politica evolved into the principle of checks and balances. This principle is the fundamental basis for realizing good and clean governance, or what is known as good governance (Vergilius 2025).

Government administration must be carried out based on applicable legal norms, as these norms form the basis for the legitimacy of every government action and authority. Formal legality in a state governed by law requires that all government authorities must be derived from the law. This ensures that government actions are not arbitrary but rather based on the principle of legal certainty. (Amzar & Nazaruddin, 2024). The administration of central and regional governments, especially regional governments in implementing regional autonomy, will generally not be separated from the legality principle. The principle of legality in relation to the government means that all government actions are regulated by law. The principle of legality was first expressed by von Feurbach in the early 19th century in his book *Lehrbuch des Peinlichen Rechts* (1801), which explains the adage *nullum delictum nulla poena sine praevia lege poenali*, or that an act cannot be punished unless it is based on the power of criminal law in existing legislation before the act is committed (Wirabakti & Rochaeti, 2022; Yanto & Hikmah, 2023). Azhar conceptualizes the principle of legality or the principle of legal certainty as a principle in a state based on the rule of law that prioritizes the foundation of laws and regulations, propriety, consistency, and justice in every government policy (Rahim, Aulia, Susanti, Arifin, & Riyadi, 2023). The implementation of the principle of legality in Indonesian legislation can be seen in Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD 1945). Thus, the principle of legality serves as the foundation for government administration.

Government administration, both at the central and regional levels, must be based on the principle of **legality** as a fundamental principle in a state governed by the rule of law. Specifically, in regional autonomy, this principle emphasizes that every policy, action, or authority exercised by the regional government must have a clear legal basis, whether in the constitution, laws, or derivative regulations. This concept is in line with **von Feurbach's** thinking, which emphasizes that without prior legal protection (*nullum delictum sine praevia lege*), the government cannot act capriciously. In the context of regional autonomy, the principle of legality serves as a control to prevent the abuse of authority while ensuring legal certainty for the community. However, the challenge lies in the consistent implementation and harmonization of regional regulations (*perda*) with national laws so that autonomy does not create sectoral egoism or overlapping regulations. Therefore, in addition to formally complying with the principle of legality, local governments must strengthen the principles of propriety and justice so that autonomy truly has an impact on improving community welfare.

The duties and authorities of the PMI and its relationship with local governments, when using a legal approach, refer to Law of the Republic of Indonesia Number 1 of 2018 concerning the Red Cross (Red Cross Law). However, prior to the Red Cross Law, the Principles and Rules for Red Cross and Red Crescent Disaster Relief and the Principles of the Red Cross and Red Crescent Movement explained that the Red Cross had an obligation to be present to prevent and reduce suffering. This involves providing assistance to victims of natural disasters and helping those vulnerable to future disasters (other calamities). The PMI is a humanitarian organization and legal entity in accordance with the Red Cross Law. Its task is to carry out Red Cross activities in accordance with the Geneva Convention, as stipulated in the Principles and Rules for Red Cross and Red Crescent Disaster Relief, based on the International Committee of the Red Cross (ICRC) and the Principles of the Red Cross and Red Crescent Movement in the International Federation of Red Cross and Red Crescent Societies (IFRC). This study examines two aspects of the authority of local governments in relation to the Indonesian Red Cross: The limits of regional heads' authority according to the Regional Head Law; and The limits of regional heads' authority according to the Articles of Association and Bylaws (AD/ART) of the Indonesian Red Cross.

4.1 Limits of Regional Head Authority According to Law Number 1 of 2018 on Regional Heads

In a constitutional state, the government is an organ or instrument of the state that carries out governmental functions based on the legal authority that forms the basis for its actions. The principles of *geen bevoegdheid zonder recht* (no authority without law) and *geen recht zonder bevoegdheid* (no action without authority) emphasize that every government policy or measure must be based on valid law. Meanwhile, governance in the context of a constitutional state is defined as the implementation of state duties to achieve the objectives of the state, which must also be based on the legal provisions. Thus, both the government as an institution and governance as a process must operate within the framework of applicable laws to ensure certainty, justice, and protection of citizens' rights.

As explained above, Indonesia adheres to the principle of legality in governance, which is explicitly stated in Article 1, Paragraph (3) of the 1945 Constitution. A broad understanding of Article 1, paragraph (3) of the 1945 Constitution reinforces that Indonesia adheres to the principle of the rule of law. The administration of government in a state based on the rule of law must be based on the principle of legality, which requires that every government action has a clear legal basis and originates from the applicable laws and regulations. This principle ensures that state power is not used arbitrarily but must always refer to positive law as the source of the authority's legitimacy. In this case, legislation serves as the legal foundation that authorizes the government to act so that no authority can be exercised without a valid legal basis. In essence, the substance of the principle of legality itself is authority (*bevoegdheid*), because the law not only limits the power of the government but also grants authority to carry out governmental functions to achieve the objectives of the state. Thus, the principle of legality is a central principle that guarantees legal certainty, protection of citizens' rights, and government accountability in a constitutional state system (Qamar & Rezah, 2023).

Speaking of the limits of local government authority in relation to the implementation of duties in accordance with the Red Cross Law, based on the ICRC and IFRC which form the basis for the

formation of the Red Cross Law in Indonesia, the duties of the Indonesian Red Cross (PMI) are outlined in Article 22 of the Red Cross Law, namely: "The PMI has the following duties: a. to provide assistance in the event of armed conflict, riots, and other situations; b. providing blood services in accordance with the provisions of laws and regulations; c. developing volunteers; d. to carry out education and training related to the Red Cross; e. to disseminate information related to Red Cross activities; f. to assist in handling accidents and/or disasters at home and abroad; g. to assist in providing health and social services; and h. to carry out other humanitarian tasks assigned by the government. Therefore, it can be concluded that the PMI's main task is to assist the Indonesian government with humanitarian and social issues. Specifically, Red Cross tasks include Disaster Preparedness and Response, First Aid Training for Volunteers, Community Health and Welfare Services, and Blood Transfusion Services (Usiono et al., 2023). The relationship with local governments is regulated in Article 33 of the Manpower Act, which states: "The Central Government, Provincial Governments, and Regency/City Governments, in accordance with their respective authorities, shall provide guidance and supervision of Red Cross activities." Regarding the implementation of PMI's duties, they shall cooperate and coordinate so that PMI's duties can run smoothly (Article 29 of the Red Cross Law), and the central and local governments shall provide support in the form of funding (Article 30 of the Red Cross Law).

Returning to the main issue regarding the role of local government in relation to the management of the Indonesian Red Cross (PMI), Article 28 of the Red Cross Law explains that "Provisions regarding the organizational structure, management, technical implementation units, authority, responsibilities of the PMI, and procedures for the use of the PMI emblem are stipulated in the PMI's articles of association and bylaws in accordance with the provisions of laws and regulations." Referring to the provisions of Article 28 of the Red Cross Law, PMI is an independent humanitarian organization without intervention. This article grants internal authority to the Indonesian Red Cross (PMI) to regulate the structure and working mechanisms of the organization more independently through the Articles of Association (AD) and Bylaws (ART). This is in line with the principle of non-governmental organizations that are independent but still supervised by laws and regulations. Although PMI are given the freedom to self-regulate, this article emphasizes that such regulations must remain in accordance with the provisions of laws and regulations. This is important to ensure that PMI's activities and attributes, including the use of its emblem (Indonesia), are not misused and remain within the corridors of national and international law (such as the 1949 Geneva Convention).

Understanding Articles 22, 29, and 33 of the Red Cross Law, according to the author's analysis based on these articles, the government has an important role in providing guidance and supervision to the Indonesian Red Cross (PMI). Guidance is provided to ensure that the PMI performs its duties in accordance with the fundamental principles of the International Red Cross and Red Crescent Movement, namely, humanity, voluntarism, neutrality, unity, independence, equality, and universality. The government provides policy support, facilitation, and technical guidance to ensure that PMI can effectively carry out activities such as disaster management, health services, and blood donation. Government oversight aims to ensure PMI accountability and transparency in resource management and program implementation. Thus, the synergy between the government and PMI can strengthen the humanitarian role in Indonesia, in accordance with the mandate of the law.

4.2 The limits of authority of regional heads according to the Articles of Association and Bylaws (AD/ART) of the Indonesian Red Cross

The position of the regional head is in accordance with the mandate of Article 20 of the Articles of Association and Bylaws (AD/ART) The Indonesian Red Cross is a protector, in accordance with Articles 22, 29, and 33 of the Red Cross Law, which states that as a protector, it has the duty to coordinate and protect the implementation of the Red Cross by the Indonesian Red Cross. This means that the regional head, as the protector, is not directly involved in the operations of the Indonesian Red Cross, but plays a strategic role in supporting and securing the activities of the Indonesian Red Cross. The coordination referred to may include regional policy support, logistics and infrastructure facilitation, and joint disaster management. The protection referred to may include providing security guarantees for PMI operations and helping to resolve obstacles or barriers faced by the PMI in their region (Supriyono, 2020). Good governance is the fundamental basis for the formulation and

implementation of democratic state policies in the era of globalization. In this context, democracy is characterized by the strengthening of public control and participation in the governance process. These two phenomena create an environment that demands transparency, accountability, and effectiveness from the government to respond to challenges and take advantage of emerging opportunities (Made & Cokorde, 2022). Philipus M. Hadjon states that every government action must be based on legitimate authority (Susanto, 2020b). This authority is obtained through three sources: attribution, delegation, and mandate. Therefore, this study argues that this division is important for understanding the legitimacy of state administrative actions and their legal accountability.

1. Attributive Authority: The Constitutional Basis of Power

Attribution is the most fundamental source of authority, as it is granted directly by the Constitution or organic laws as part of the division of state powers. An example is the authority of the President as the head of government, as stipulated in the 1945 Constitution. This authority is original in nature because it does not originate from delegation but is directly established by the highest law. In this context, Hadjon emphasizes that attribution is the foundation of the legality of government, whereby, without this authority, state actions can be considered *ultra vires* (exceeding authority).

2. Delegation Authority: Transfer with Transfer of Responsibility

The difference between a delegation and a mandate lies in the transfer of responsibility and liability to the delegatee (delegate). For example, when a law delegates authority from a minister to a director-general, the director-general is fully responsible for the use of that authority. A characteristic of delegation is that it severs the legal relationship between the delegator and the delegatee unless revoked through the *contrarius actus* mechanism (which must be of equal or higher level). It cannot be revoked at any time because the transfer is permanent until a formal revocation occurs. This shows that delegation is decentralized and functional, where authority is transferred to another body.

3. Mandate Authority: Delegation in Hierarchical Relationships

Unlike delegation, a mandate occurs in the context of a superior-subordinate relationship and is temporary and routine. An example is the delegation of tasks from a minister to a secretary-general. Here, two main principles of a mandate are emphasized: responsibility remains with the mandator, so that the subordinate only acts on behalf of the superior. It can be revoked at any time because there is no permanent transfer of authority. The role of the government is essentially a series of actions taken to fulfill the mandate received from the public. This mandate relates to the position and function of the government within a state's organizational structure. This position underpins the government's authority and obligation to act. Therefore, every action taken must be accountable to the public as a form of legitimacy of the role it plays (Enny, 2023). The mandate reflects administrative centralization, where delegation is operational in nature without changing the locus of authority. This means that regional heads, as government officials, cannot appoint Indonesian Red Cross administrators but must comply with and be guided by the Indonesian Red Cross Articles of Association and Bylaws (AD/ART) Chapter X Article 42 Procedures for Electing Administrators, namely: (Indonesia, 2019).

Article 42

- (1) The determination of candidates for the Chairperson/Chair shall be carried out in the following stages:
 - a. Screening of Prospective Candidates
 - b. Determination of Prospective Candidates
 - c. Selection of Candidates; and
 - d. Determination of Candidates.
- (2) The election of the Chairperson shall be conducted as follows:
 - a. Consensus Meeting; or
 - b. Direct Election.
- (3) The election and formation of the Executive Board shall be carried out by the elected Chairperson with the assistance of the Formateur.

Article 43

The elected Chairperson shall be determined by a decree of the Chair of the Plenary/Extraordinary Meeting as a sign of ratification.

Article 44

Provisions regarding the Procedures for the Election and Determination of the Chairperson shall be further regulated in the Bylaws and/or Rules of Procedure of the Meeting/Extraordinary Meeting.

This is based on the explanation in point a. The limits of regional heads' authority according to the Indonesian Red Cross Law and (b) the limits of regional heads' authority according to the Indonesian Red Cross Articles of Association and Bylaws (AD/ART) can be concluded as follows: **first**, bound authority is authority whose implementation must strictly adhere to the parameters set by laws and regulations, both in terms of substance, time, and area of application. In this case, the government has no discretion because the law has determined, in a limited manner, what may and may not be done. This authority is based on the principle of legality, whereby every act of state administration must have a clear and detailed legal basis for its existence.

Second, discretionary authority occupies a position between bound and free authority. Although essentially included in the category of free authority, this authority gives government officials the choice to use or not use it in certain situations. This means that there is freedom to decide whether an action needs to be taken, but that choice can only be exercised within the corridor established by basic regulations. Third, discretionary authority gives government officials complete freedom to determine the content and form of decisions. Basic regulations only provide a general framework, allowing authorized officials to exercise broader policy discretion (*beleidsvrije ruimte*). However, this freedom is not absolute, as it must remain in line with the general principles of good governance and not exceed the limits of the authority granted.

This division of authority demonstrates the complexity of the relationship between the government's power and legal certainty. On the one hand, binding authority guarantees legal protection for citizens from arbitrariness, while discretionary and facultative authority provides the flexibility needed to deal with the dynamics of the government. Understanding these three types of authority is essential for creating a balance between bureaucratic effectiveness and the protection of people's rights. Based on the author's analysis, as the protector of the PMI, the Regional Head has a role that is regulated in Articles 22, 29, and 33 of the Red Cross Law, and is also regulated in Articles 20 and 23 of the Indonesian Red Cross AD/ART, namely, to coordinate and protect Red Cross activities. However, this role is non-operational in nature, meaning that the Regional Head does not have the authority to interfere with the selection process of PMI administrators in the region. Their authority is limited to policy support, logistical facilitation, operational security, and resolving administrative obstacles faced by the PMI.

Every government action must have a valid basis for authority, whether through attribution, delegation, or mandate. In the context of PMI, there is no delegation or mandate of authority from the government to regional heads to regulate or appoint PMI administrators. The process of selecting PMI administrators fully complies with Articles 42-44 of the PMI's Articles of Association, which include the stages of selecting candidates, election through consensus or voting, and appointment by the Plenary Meeting. Regional Heads cannot interfere in this mechanism but only function as facilitators and protectors so that the process runs smoothly in accordance with the principle of PMI organizational autonomy. Thus, the limitations of the Regional Head's authority in the selection of PMI officials clearly play a role as an external supporter, not as an internal decision-maker. Any attempt at intervention is contrary to the principle of PMI independence and may result in legal liability if it violates the provisions of the Red Cross Law and the Articles of Association of the Indonesian Red Cross.

5 Conclusion and Suggestions

5.1 Conclusions

Based on the explanation of the limits of regional heads' authority according to the Indonesian Red Cross Law and the Indonesian Red Cross Statutes, it can be concluded that:

1. **Bound Authority:** This authority's implementation must strictly adhere to the parameters set by legislation. In this case, the government has no discretion because the law has determined what can and cannot be done in a limited way.
2. **Discretionary Authority:** This occupies a position between bound and free authority. This authority gives government officials the choice to use or not use their authority in certain situations.
3. **Free Authority:** This gives government officials full discretion to determine the content and form of decisions to be issued, but is still in line with the general principles of good governance.

This division of authority demonstrates the complexity of the relationship between the government's power and legal certainty. On the one hand, binding authority guarantees legal protection for citizens from arbitrariness, whereas discretionary and optional authority provides the flexibility needed to deal with the dynamics of government. Therefore, collaboration between regional heads and the PMI in the regions must be built on the principles of equal partnership, transparency, and public service orientation for the benefit of the wider community, while upholding the PMI's mandate as a neutral humanitarian organization that is free from political, ethnic, racial, and religious interests and does not take sides with any group of people. Thus, the limitations of the Regional Head's authority in selecting PMI administrators are very clear, namely, to act as an external supporter, not as an internal decision maker. Any attempt at intervention is contrary to the principle of PMI independence and may result in legal liability if it violates the provisions of the Red Cross Law and the Articles of Association of the Indonesian Red Cross.

5.2 Suggestions

Regional heads, as patrons of the Indonesian Red Cross (PMI) at the regional level, need to have a deep understanding of their role, position, and limits of authority in relation to the PMI. Regional heads do not have the authority to determine the PMI's work programs or priorities because these are entirely developed by the PMI itself based on its universal humanitarian mandate and not on the direction or instruction of regional heads. Within the PMI organizational structure, regional heads generally serve as ceremonial patrons or advisors, meaning that their position does not carry executive power or authority to interfere in the PMI's decision-making process.

The patronage function carried out by regional heads is more symbolic and representative, serving as a form of recognition and support from the regional government for PMI's existence as an independent humanitarian organization. Even in emergencies such as natural disasters, disease outbreaks, and other emergencies, the role of the regional head is limited to coordination and facilitation with the PMI for disaster management, while the implementation of humanitarian tasks in the field is entirely under the responsibility and authority of the PMI in accordance with the basic principles of the International Red Cross and Red Crescent Movement. Therefore, regional heads must respect the PMI's independence in carrying out its humanitarian mandate.

Theoretically, restrictions on the authority of regional heads in their role as protectors of the Indonesian Red Cross (PMI) based on Law Number 1 of 2018 concerning the Red Cross affirm the principles of neutrality and independence of humanitarian organizations. The International Humanitarian Law (1949 Geneva Conventions) and the fundamental principles of the Red Cross Movement require the PMI to operate without political intervention or the interests of local governments. This implies that regional heads should not interfere in PMI operations, including technical decision-making, such as aid distribution or determining disaster response priorities, to avoid conflicts of interest or the politicization of humanitarian institutions. However, in practical terms, these restrictions require local government heads to focus on administrative and facilitative support, such as simplifying the licensing process for PMI activities or allocating budgets. Collaboration must be built through clear coordination forums so

that local government support does not violate the PMI mandate. Without clear boundaries, the risk of overlapping authority or PMI dependence on local governments could weaken the PMI's autonomous capacity to respond quickly and impartially to disasters.

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