



UNDERLYING INTERESTS OF ENACTMENT REGIONAL AUTONOMY

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Abstract

The process of implementing regional autonomy involves various institutions such as the Regional Government, the Central Government, the House of Representatives of the Republic of Indonesia, the Regional Representative Council of the Republic of Indonesia, and the Regional Autonomy Advisory Council. If in the process of implementing regional autonomy, it is known that the Region or several Regions are unable to organize Regional Autonomy, then a Regional Merger is carried out based on the agreement of the region concerned or the results of an evaluation from the Central Government.

Keywords: *Constitutional Law, Regional Autonomy, Regional Regulations.*

1. INTRODUCTION

Based on Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014 concerning Regional Government, it is stated in the law that the Central Government is the President of the Republic of Indonesia who holds the power of the state government of the Republic of Indonesia assisted by the Vice President and ministers as referred to in the 1945 Constitution of the Republic of Indonesia.¹

Regional Government is the implementation of government affairs by local governments and regional people's representative councils according to the principle of autonomy and assistance duties with the principle of the widest autonomy in the system and principles of the Unitary State of the Republic of Indonesia as referred to in the 1945 Constitution of the Republic of Indonesia.²

Based on the description above, it is known that one of the main elements of local government is the implementation of government affairs by local governments and regional people's representative councils according to the principle of autonomy and assistance duties with the principle of the widest autonomy. In this scope, it is known that local governments and regional people's representative councils are the most important actors in the implementation of local government affairs.

Local Government is the regional head as the organizing element of regional government that leads the implementation of government affairs which is the authority of the autonomous region. Meanwhile, what is meant by the Regional People's Representative Council, hereinafter abbreviated

¹ Pasal 1 angka 1 Undang-Undang Nomor 9 Tahun 2015 tentang Perubahan Kedua atas Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah.

¹ Pasal 1 angka 2 Undang-Undang Nomor 9 Tahun 2015 tentang Perubahan Kedua atas Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah.

as DPRD, is a regional people's representative institution that is domiciled as an element of regional government administration.³⁴

Furthermore, what is meant by Regional Autonomy is the right, authority, and obligation of the autonomous region to regulate and take care of its own Government Affairs and the interests of local communities in the system of the Unitary State of the Republic of Indonesia. Meanwhile, what is meant by the Principle of Autonomy is the basic principle of organizing Regional Government based on Regional Autonomy. Decentralization is the handover of Government Affairs by the Central Government to autonomous regions based on the Principle of Autonomy.⁵⁶⁷

Based on Chapter IV of Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014 concerning Regional Government, it is emphasized that the classification of government affairs consists of absolute government affairs, concurrent government affairs, and general government affairs.⁸

Concurrent government affairs are Government Affairs that are divided between the Central Government and provincial and regional districts/cities. Concurrent government affairs handed over to the Regions became the basis for the implementation of Regional Autonomy.⁹

Based on Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014 concerning Regional Government, it is emphasized that in the event that a Region or several Regions are unable to organize Regional Autonomy, a Regional Merger is carried out. An assessment of the ability to organize Regional Autonomy is carried out by the Central Government. The merger of the Regions is carried out on the basis of a. the agreement of the Region in question; or b. the results of the evaluation of the Central Government.¹⁰¹¹²

³ Pasal 1 angka 3 Undang-Undang Nomor 9 Tahun 2015 tentang Perubahan Kedua atas Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah.

⁴ Pasal 1 angka 4 Undang-Undang Nomor 9 Tahun 2015 tentang Perubahan Kedua atas Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah.

⁵ Pasal 1 angka 6 Undang-Undang Nomor 9 Tahun 2015 tentang Perubahan Kedua atas Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah.

⁶ Pasal 1 angka 7 Undang-Undang Nomor 9 Tahun 2015 tentang Perubahan Kedua atas Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah.

⁷ Pasal 1 angka 8 Undang-Undang Nomor 9 Tahun 2015 tentang Perubahan Kedua atas Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah.

⁸ Pasal 9 ayat (1) Undang-Undang Nomor 9 Tahun 2015 tentang Perubahan Kedua atas Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah.

⁹ Pasal 9 ayat (3) dan Pasal 9 ayat (4) Undang-Undang Nomor 9 Tahun 2015 tentang Perubahan Kedua atas Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah.

¹⁰ Pasal 47 ayat (1) Undang-Undang Nomor 9 Tahun 2015 tentang Perubahan Kedua atas Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah.

¹¹ Pasal 47 ayat (2) Undang-Undang Nomor 9 Tahun 2015 tentang Perubahan Kedua atas Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah.

¹² Pasal 44 ayat (2) Undang-Undang Nomor 9 Tahun 2015 tentang Perubahan Kedua atas Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah.

¹³ Pasal 236 Undang-Undang Nomor 9 Tahun 2015 tentang Perubahan Kedua atas Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah.



Based on the description above, the author is interested in conducting a study of how the process of organizing regional autonomy, the interests of the central government and regional governments in the implementation of regional autonomy, and other related matters within the scope of regional otonomi with the title "**Interests Underlying the Implementation of Regional Autonomy**".

2. IMPLEMENTATION METHOD

This type of research is normative legal research. The method of data collection carried out is a literature study by conducting a review of the literature related to the object of study. Data analysis in this study was carried out systematically based on the formulation of the problem and described qualitatively.

3. RESULTS AND DISCUSSION

3.1 *The Process of Organizing Regional Autonomy*

To organize Regional Autonomy and Assistance Duties, the Regions formed a Regional Regulation formed by the DPRD with the joint approval of the Regional Head. The bylaw contains the content of 1. implementation of Regional Autonomy and Assistance Duties; and 2. further elaboration of the provisions of higher legislation. In addition to these materials, perda may contain local content materials in accordance with the provisions of laws and regulations.¹³

The Central Government sets out the DAU policy in the financial memorandum and draft state budget for the next fiscal year, which is submitted to the House of Representatives of the Republic of Indonesia and the Regional Representative Council of the Republic of Indonesia. The DAU policy was discussed first in the forum of the regional autonomy advisory council before submitting the financial memorandum and draft state budget to the House of Representatives of the Republic of Indonesia and the Regional Representative Council of the Republic of Indonesia. In setting the DAU policy, the Central Government considers regions with island characteristics. The Minister who organizes government affairs in the financial sector determines the allocation of DAU for each provincial and district/city region after the state budget is determined.¹⁴

DAK as referred to in Article 288 letter c sourced from the State Budget is allocated to the Regions to fund special activities which are Government Affairs which are the authority of the Regions. The DAK policy is discussed in the regional autonomy advisory council forum before the establishment of the Central Government's work plan. The technical minister/head of a non-ministerial government agency proposes special activities to the ministry that organizes national development planning and the ministry that organizes government affairs in the financial sector. The Minister who organizes government affairs in the field of national development planning coordinates the proposed special activities with the Minister, the ministry that organizes government affairs in the field of finance, and the governor as the representative of the Central Government to be designated in the work plan of the Central Government as a special activity to be funded by the DAK. The specific activities that have been stipulated in the work plan of the Central Government become the basis for allocating DAK. The allocation of DAK per region is determined by the ministry that organizes government affairs in the financial sector.¹⁵

Based on the description above, the regional autonomy advisory council has a strategic role in the implementation of regional autonomy. Based on Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014 concerning Regional Government, it is stated that in order to optimize the implementation of Regional Government, a regional autonomy advisory council is

¹⁴ Pasal 291 Undang-Undang Nomor 9 Tahun 2015 tentang Perubahan Kedua atas Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah.

¹⁵ Pasal 292 Undang-Undang Nomor 9 Tahun 2015 tentang Perubahan Kedua atas Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah.

formed in charge of providing consideration to the President regarding draft policies that include: a. regional arrangements; b. funds in the framework of the implementation of special autonomy; c. financial balance fund between the central and regional governments; and d. resolution of problems in the implementation of Regional Government and/or disputes between regions and non-ministerial government ministries/agencies.¹⁶

Guidance on the implementation of district/city local government is carried out by the governor as a representative of the Central Government. In carrying out the guidance, the governor as the representative of the Central Government is assisted by the governor's apparatus as the representative of the Central Government. The Governor as a representative of the Central Government carries out guidance that is general and technical in nature. The Governor as a representative of the Central Government carries out general guidance including a. division of Government Affairs; b. Regional institutions; c. staffing on the Regional Apparatus; d. Regional finances; e. regional development; f. public services in the Regions; g. Regional cooperation; h. Regional policies; i. regional heads and dprd; and j. other forms of guidance in accordance with the provisions of laws and regulations. The Governor as the representative of the Central Government carries out technical guidance on the technical implementation of Government Affairs which is handed over to the districts/cities. Guidance of a general and technical nature as referred to in paragraph (3), paragraph (4), and paragraph (5) is carried out in the form of facilitation, consultation, education and training as well as research and development in policies related to Regional Autonomy. In the event that the governor as a representative of the Central Government has not been able to carry out general and technical guidance, the Central Government carries out guidance to districts/cities by coordinating with the governor as a representative of the Central Government.¹⁷

Based on the description above, it is known that development in policies related to Regional Autonomy is part of the process of implementing regional autonomy which, among others, is in the form of public services in the regions.

According to Moenir as quoted by Tangkilisan, it is stated that the services needed by humans are basically of two types, namely physical services that are personal in nature as human beings and administrative services provided by others as members of organizations, be it mass organizations or the state. General services carried out by anyone, the form is inseparable from 3 types, namely: 1) services with oral, 2) services through writing and 3) services with deeds. The 3 forms of service do not always stand alone purely, but often combine, namely:¹⁸

1. Oral services
Oral services are carried out by officers in the field of Public Relations (PR), the field of information services and other fields whose job is to provide explanations or information to anyone in need.
2. Service through writing
3. Service through writing is the most important form of service in the implementation of tasks. Not only in terms of numbers but also in terms of its role.
4. Services in the form of deeds
In general, services in the form of actions 70-80% are carried out by middle and lower-level officers. Therefore, the factor of expertise and skill of the officer is very decisive

¹⁶ Pasal 396 Undang-Undang Nomor 9 Tahun 2015 tentang Perubahan Kedua atas Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah.

¹⁷ Pasal 375 Undang-Undang Nomor 9 Tahun 2015 tentang Perubahan Kedua atas Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah.

¹⁸ Hessel Nogi S. Tangkilisan, *Manajemen Publik*, PT Gramedia Widiasarana, Jakarta, 2005, hlm. 208.

¹⁹ H.A.S. Moenir, *Manajemen Pelayanan Umum di Indonesia*, PT Bumi Aksara, Jakarta, 2008, hlm. 190-195.

²⁰ Hanif Nurcholis, *Teori dan Praktik Pemerintahan dan Otonomi Daerah*, PT Gramedia Widiasarana Indonesia, Jakarta, 2007, hlm. 286.



for the results of the deed or work. In everyday reality this type of service is indeed not spared from oral service, so between deed service and oral service often joins. This is because oral relationships are most widely performed in service relationships in general (except for those specifically carried out through written relationships, due to the distance factor).¹⁹

According to Hanif Nurcholis, the term public comes from the English *public* which means general, society or country, which is elaborated with the following space:

1. Which has a general meaning, for example, *public offering*, *public ownership*, *public utility*.
2. Which means the community, for example *public relations*, *public service*, *public opinion*, and *public interest*.
3. Which means the state, for example, *public authorities* (state authorities), *public buildings* (state buildings), *public revenue* (state revenue), and *public sector* (state sector).²⁰

Based on a brief description of the definition of service as previously outlined and the definition of public as mentioned above, it is known that what can be interpreted as public service is a way of serving or trying to serve the needs of many (general) people.

Public service according to John Wilson as followed by Hanif Nurcholis, relates to services that fall into the category of public sector, not private sector. These services are carried out by the central government, local governments, and BUMN / BUMD. The three components that deal with the public sector provide public services such as health, education, security and order, social assistance, and broadcasting. Improving the quality of public services, according to Tangkilisan, will affect the effectiveness of the organization in increasing Regional Native Income.²¹²²

3.2 The Interests of the Central Government and Local Governments in the implementation of Regional Autonomy

Within seven years of the fall of the New Order regime, the Indonesian nation continues to strive to improve its system of government. Even the change efforts intended for improvement are very often carried out along with the change of president, starting from Habibie, Gus Dur, Megawati, to Susilo Bambang Yudhoyono. In addition to being partial, attempts at changes made in very short time intervals end up being seen only as dismantling systems and structures without achieving the goal of repair effectively. One of the important changes made was the replacement of the centralization system to decentralization. Starting in January 2001, Indonesia through Law No. 22 and 25 of 1999 transformed itself into a decentralized state, which gave great authority to districts/cities and provinces to manage their interests and needs. Decentralization not only caused benefits but also several madharats so the government revised the deserty system of government in October 2004 through Law Number 32 of 2004 concerning Regional Government.²³

According to Samodra Wibawa, almost all nations of this world want autonomy, which is essentially the right to manage one's own household without any interference and intervention (not to mention colonization from other parties). The state needs autonomy when there is a tendency for economic and political intervention from other countries. But not only the state, provincial and district/city governments in a country also need autonomy. To some extent, they want or demand

²¹ *Ibid.*, hlm. 287.

²² Hessel Nogi S. Tangkilisan, *Op. Cit.*, hlm. 161.

²³ Agus Dwiyanto, *Mewujudkan Good Governance Melalui Pelayanan Publik*, Gadjah Mada University Press, Yogyakarta, 2008, hlm. 44.

²⁴ *Ibid.*, hlm. 44.

something in managing their resources to meet the needs, organize interests, and address the public problems of local communities, with the small intervention of the central government.²⁴

Otonomi region is nothing but the embodiment of delegation of authority and responsibility and has a close relationship with decentralization. Regarding this, Mahfud MD stated that decentralization is the handover of authority from the central government to local governments to regulate and take care of the regions, starting from policy, planning, to implementation and financing in the framework of democracy. Meanwhile, autonomy is the authority possessed by regions to take care of their own households in the context of decentralization.²⁵

Based on the aforementioned reviews, it can be said that the goals and objectives of the regional autonomy policy are:

- a. Efficiency and effectiveness of service delivery to the community.
- b. Increased economic growth and regional development.
- c. Increased public participation in political life and the implementation of development.
- d. Improving the effectiveness of the implementation of development coordination and supervision.²⁶

Law Number 32 of 2004 concerning Regional Government has changed the system of government in the regions by strengthening the decentralization system (Regional Autonomy). The amendment is an implementation of Article 18 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia which mandates that: "Provincial, district, and municipal governments regulate and manage government affairs themselves according to the principle of autonomy and assistance duties".

²⁷ Based on the Academic Manuscript of the Draft Law on Local Government, Ministry of Home Affairs of the Republic of Indonesia, one of the highlights in the academic manuscript is regarding: even though Law Number 32 of 2004 has succeeded in solving several problems in the implementation of local government, but it turns out that in its implementation several new problems have emerged that need to get the attention of the Central Government and all stakeholders. The vagueness of the regulations in Law Number 32 of 2004 often causes different interpretations of various interest groups and is one of the sources of conflict between the government and its officials. For example, in the division of affairs, the vagueness of the division of affairs between governmental structures is still a persistent problem faced by Indonesia in the implementation of decentralization. Conflicts and overlapping authorities between governmental structures and between regions continue to occur and require clearer and more effective arrangements. Ecologically based government affairs. Especially those related to forestry and marine affairs, it is still difficult to divide between levels of government because the boundaries of government administrative areas are often incompatible with the externalities caused by ecologically based government affairs.²⁸

²⁵ Hessel Nogi S. Tangkilisan, *Op. Cit.*, hlm. 1.

²⁶ *Ibid.*, hlm. 3.

²⁷ Tim Direktorat Fasilitasi Perancangan Peraturan Daerah, Direktorat Jenderal Peraturan Perundang-undangan Departemen Hukum dan Hak Asasi Manusia R.I. bekerjasama dengan United Nations Development Programme (UNDP) melalui Proyek Enhancing Communications, Advocacy and Public Participation Capacity for Legal Reforms (CAPPLER Project), 2008. *Panduan Praktis Memahami Perancangan Peraturan Daerah*, CAPPLER Project, Jakarta, hlm. vi.

²⁸ Naskah Akademik Rancangan Undang-Undang tentang Pemerintahan Daerah, Kementerian Dalam Negeri Republik Indonesia, hlm. 13.

²⁹ Candra Fajri Ananda, *Pembangunan Ekonomi Daerah: Dinamika dan Strategi Pembangunan*, UB Press, Malang, hlm. 27-28.

³⁰ Hadi Sumarsono, Nasikh, dan Siti Muslikah, *Indegenous Ekonomi Pembangunan Daerah*, Gunung Samudera, Malang, 2017, hlm. 1.



There are two interests that underlie the enactment of regional autonomy, namely the interests of the central government and the interests of local governments. Based on the interests of the central government, the implementation of regional autonomy is aimed at political means, leadership training, creating political stability and realizing the democratization of the government system in the regions. Meanwhile, when viewed from the side of the interests of local governments, there are three objectives, namely as follows:

1. To realize the so-called *political equality*, this means that through regional autonomy, it is hoped that it will provide greater opportunities for the community to actively participate in various political activities at the local and regional levels.
2. To create *local accountability*, it means that regional autonomy will increase the ability of local governments to pay attention to the rights of the community.
3. To realize *local responsiveness*, this means that regional autonomy is expected to facilitate anticipation of various problems that arise and at the same time increase the acceleration of regional social and economic development.²⁹

In the era of regional autonomy, local economic development should be based on local regional potential. The scale of regional development priorities must be set both sectorally and partially on a smaller scale, namely at the village or sub-district level.³⁰

Regional autonomy will be carried out properly if it is supported by several important indicators, namely:

1. There is a pro-life government political *will*.
2. There is strong internal supervision and *law enforcement*.
3. Strengthened by the availability of reliable and adequate human resources in the ranks of the local government apparatus.
4. There is a balance and clarity in terms of the division of authority and responsibility to levy taxes and regional levies in order to increase regional original income (PAD).³¹

In practice, regional financial management still poses thorny problems because there is still a reluctance of regional heads to issue pro-people's APBD policies. The pro-people Regional Budget (APBD) is an APBD in budgeting and financing directly touching on the interests of the people which includes infrastructure development, education, health, SMEs, and other development priorities according to the regional characteristics of each region.³²

To implement the pro-people's budget, it requires the courage of regional heads to issue policies to cut indirect spending to be directed to direct spending for the people and followed by improvements in regional financial management and an increase in understanding of *good financial governance*, namely participatory, transparent, accountable, and fair. *Good financial governance* (GFG) is important to implement so that the regional budget set annually by local governments is really useful for improving the welfare of the people. In addition, effective supervision through an internal supervision system (SPI) is needed to prevent and overcome deviant financial governance practices.³³

4. CONCLUSION

The conclusions of this study are as follows:

1. The process of implementing regional autonomy involves various institutions such as the Regional Government, the Central Government, the House of Representatives of the Republic of Indonesia, the Regional Representative Council of the Republic of Indonesia,

³¹ Hendra Karianga, *Carut-Marut Pengelolaan Keuangan Daerah di Era Otonomi Daerah: Perspektif Hukum dan Politik*, Kencana, Jakarta, 2017, hlm. 12.

³² *Ibid.*, hlm. 12.

³³ *Ibid.*, hlm. 12-13.

and the Regional Autonomy Advisory Council. If in the process of implementing regional autonomy, it is known that the Region or several Regions are unable to organize Regional Autonomy, then a Regional Merger is carried out based on the agreement of the region concerned or the results of an evaluation from the Central Government.

2. The interests of the central government and local governments in the implementation of regional autonomy, are outlined as follows. Based on the interests of the central government, the implementation of regional autonomy is aimed at political means, leadership training, creating political stability and realizing the democratization of the government system in the regions. Meanwhile, when viewed from the side of the interests of local governments, there are three objectives, namely: First, to realize the so-called *political equality*, meaning that through regional autonomy, it is hoped that it will provide greater opportunities for the community to actively participate in various political activities at the local and regional levels. Second, to create *local accountability*, meaning that regional autonomy will increase the ability of local governments to pay attention to the rights of the community. Third, to realize *local responsiveness*, meaning that regional autonomy is expected to facilitate anticipation of various problems that arise and at the same time increase the acceleration of regional social and economic development.

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