



REGIONAL GOVERNMENT PROBLEMATICS

Bambang Sugeng Irianto^{1)*}, Salsabilah Assyifa¹⁾, Satria Birawa¹⁾¹⁾ Faculty of Law, University Pembangunan Nasional "Veteran" Jawa Timur, Indonesia

*Corresponding Author, E-mail: bambangir1763@gmail.com

ABSTRACT

Background. In this reformation era, one of the areas of concern is the policy regarding Regional Autonomy, with the promulgation of the Law on Regional Government, which has brought significant changes to the relationship between the Center and the Regions. The purpose was to explain the effectiveness of the implementation of the Law on Regional Government.

Research Method. This research used a normative legal approach. Analysis of an issue of the research using legal context and books of legal or law constitution.

Findings. It is deemed necessary to carry out Regional Autonomy by giving broad, real, and accountable authority to the Regions in a proportional manner, which is manifested by the regulation, distribution, and utilization of natural resources. National resources, as well as central and regional financial balances, in accordance with the principles of democracy, community participation, equity, and justice, as well as the potential and diversity of the regions, which are carried out within the framework of the Unitary State of the Republic of Indonesia. So we have now arrived at the constitutional vision of life as stated in Pancasila and the 1945 Constitution, the value and meaning of political solidarity, solidarity economic, socio-cultural solidarity, and defense and security solidarity.

Conclusion. The system of government Republic of Indonesia according to the 1945 Constitution gives flexibility to the Regions to carry out Regional Autonomy. In the implementation of Regional Autonomy, on the principles of democracy, community participation, equity, and justice, as well as pay attention to regional potential and diversity.

Keywords: Central, Law on Regional Government, Regional Autonomy, Regional Relation.

BACKGROUND

According research by Haris put more emphasis on restructuring Central-Regional relations to be more harmonious based on partnership and interdependence. The consequence of this point of view is to see Regional Autonomy only as a memorandum between the Central Government and Regional Governments through representatives of the people in the Regions [1]. By incorporating the principles of democracy, community participation, and justice, efforts have been made to strengthen the characteristics of *good governance* that need to be supported by the characteristics of transparency, accountability, clean from all forms and possibilities of abuse of power, and honesty with ethics [2]. Several obstacles that might hinder the realization of this principle still exist, including the incomplete recognition of pluralism, the existence of the old cultural bureaucracy, and the absence of a new paradigm as a "competition" to the old New Order dogma.

In this reformation era, one of the areas of concern is the policy regarding Regional Autonomy, with the promulgation of the Law on Regional Government, which has brought significant changes to the relationship between the Center and the Regions [3]. With this policy, it is hoped that it can foster the reform process at the local level and provide space for movement in the political sector, financial management in the regions for the benefit of local communities, so as to create a new pattern of development in the regions in order to create harmonious relations between the Central Government and Regional Governments [4].

The ongoing process of implementing Regional Autonomy, in practice, will not be able to run smoothly and will certainly encounter obstacles, both at the conceptual level and in field

practices which if no immediate improvements are made will hamper the goals of Regional Autonomy itself.

The Regional Autonomy Policy was born with the aim of saving the Government and the integrity of the State, freeing the Central government from unnecessary burdens, encouraging the ability of Regional initiatives to pursue people's welfare, but in practice, there have been disturbing distortions of understanding. Therefore the Central Government must be able/need to take a firm stance in implementing this Law, and the requirements that must be met by the Government are high leadership competence, and strong commitment, without which Regional Autonomy will become a problematic policy, not a policy that solves problems.

Regional Autonomy is basically not a goal, but a tool in the framework of realizing the ideals of justice, democracy and people's welfare. The Regional Autonomy Policy which is oriented towards the interests of the people will never be achieved if at the same time the democratization agenda does not take place [5]. In other words, Regional Autonomy which can minimize Central-Regional conflicts on the one hand and can guarantee the ideals of justice, democracy and prosperity for local communities on the other hand, can only be achieved within the broad framework of democratization of national life in the fields of politics, law, and economy.

According to other literature, in discussing the relationship between the Central and the Regions, stated that the conflict of interest between the Center and the Regions really depends on the existence of 3 (three) factors, namely: 1) To what extent have national democratization and local democracy been successfully developed and to what extent can local democracy be integrated into national democratic procedures, 2) To what extent can the national democracy that is built on the basis of local democracy create the existence of local communities politically, economically and culturally in the national political community, 3) The extent to which government management distributes economic, political and economic resources across localities so that they remain relevant in supporting nation-states [6]. The purpose of this research was to explain the effectiveness of the implementation of the Law on Regional Government.

RESEARCH METHOD

The type of this research used normative legal research. The formulation of the problem in this research was "How far is the effectiveness of the implementation of the Law on Regional Government"? Normative legal research was searching for the truth about legal issues by using primary legal documents in the form of laws, case law, and secondary legal documents such as books, journals, expert opinions, using philosophical, legal and conceptual approaches. Descriptive analysis was used in this research [7].

FINDINGS

1. Regional Autonomy Philosophy

The basic philosophy of autonomy itself still revolves around Regional Government Autonomy, not local community autonomy. The trap of this trend is that there are distortions in implementation, the community as the most important subject of the Regional Autonomy policy is still marginalized in the political process at the local level. Realities and tendencies like this certainly have the opportunity for the emergence of gaps between the orientation of the political process at the elite level on the one hand and society on the other.

The alternative perspectives offered in this connection are: (1) Seeing Regional Autonomy as regional community autonomy, not "*just*" Regional Government Autonomy, and (2) Viewing Regional Autonomy as a regional right that already exists in the local community. The precedent for this kind of perspective is the Government's acknowledgment of Yogyakarta's special status as an Autonomous Sultanate, even though its political rights have been revoked. Meanwhile, the extreme pole of this perspective is for example shared by

some Acehnese people, especially among the Aceh Separatist Movement (Free Aceh Movement/GAM), who see that the Jakarta government basically "came into existence" later, namely when Aceh was even autonomous from Dutch colonial *oppression*. The logical consequence of the first-mentioned point of view is that the Regional Autonomy policy package must be oriented towards the empowerment and welfare of local communities. Meanwhile, the logical consequence of the second point of view is that Regional Autonomy as a community right cannot be revoked by the Central Government. In this regard, the authority of the Central Government is only limited to the delegation and regulation of authority that already exists in the Regions through various forms of policies mutually agreed upon by both parties [8].

2. Nature of Central- Regional Relations

In the context of Central-Regional relations, a centralistic perspective which tends to be hierarchical-dominative and sees regions as subordinate to the Center, is of course no longer in accordance with the demands for reform and democratization of Central-Regional relations. Regional resistance to the Center basically stems from the tendency of a hierarchical-dominative perspective, so that there is no opportunity for the Regions to develop according to their respective local capabilities, potential and diversity.

Therefore, in order to realign Central-Regional relations in a more harmonious direction, it is time to develop progressive thinking based on partnership and interdependence relations. This means that even though regional governments are hierarchically ranked lower, because local communities are basically autonomous, the regulation of central-regional relations necessitates the principle of partnership and interdependence between the two.

The logical consequence of this thinking is the necessity of enacting the perspective of Regional Autonomy as a "*contract*" between the Central Government and Regional Governments through the people's representatives in the Regions. It is hoped that this new perspective will not only guarantee a partnership and interdependence relationship between the Center and the Regions, but can also become the basis for a more harmonious relationship between the two parties in the future. Contracts that are central-regional agreements are important on the agenda to maintain consistency in the implementation of decentralization on the one hand, and to ensure that the regions do not separate from the Republic on the other.

3. Other Aspects

Apart from the various aspects above, a number of other aspects that need to be put on the agenda within the framework of a new perspective on Regional Autonomy are as follows:

- 1) Flexible autonomy or conditional autonomy for the Regions. Differences and diversity of regional potentials, capabilities, and needs necessitate the agenda of Regional Autonomy which is flexible or conditional. This means that opportunities must be opened for the Regions to implement relatively full-scale autonomy (special autonomy), broad autonomy, and limited autonomy, where the administrative weight is greater than the political weight.
- 2) As a logical consequence of the above perspective, the new paradigm also necessitates the reorganization of Regional Government according to the potential, capabilities, and needs of each Region. The scale and magnitude of the needs of each region are almost certainly not the same as a logical consequence of the heterogeneity and diversity of regional potentials. As an illustration, DKI Jakarta Government organizations that do not own forests are clearly not the same as the needs of the East Kalimantan Regional Government which requires regional institutions to manage forestry potential.
- 3) The institutionalization of mechanisms for people's participation to avoid the tendency for the transfer of CCN from the Center to the Regions and the emergence of new petty kings in the Regions, requires community participation in it. Such participation is primarily needed in the context of community involvement in the local political process on the one hand, and in an effort to encourage transparency in the process of formulating policies in the regions.

- 4) The institutionalization of community control over local government processes. It is hoped that through public oversight transparency, efficiency and accountability will emerge in the administration of regional government. For this reason, the community needs to be empowered in terms of awareness of their rights and obligations in the process of local government.

Apart from the need for their participation in the local political process, it is also necessary to have public awareness in carrying out the function of controlling the behavior of the regional political elite and the administration of the regional government itself [9].

- 5) Expansion of regional income sources. Bearing in mind that there will never be autonomy without economic and financial resources, the paradigm of Regional Original Revenue (PAD) that has been adhered to so far needs to be changed in a direction that is more just and proportional to the Regions. If the old paradigm of "*original income*" is maintained, it can be said that at any time the regions will never have adequate sources of income to finance their regional needs. In this regard, it is necessary to redefine "*original income*" which should be the right of the Regions in particular and the scope of the Central-Regional financial balance in general.

The above description shows that democratization can be productive but can also be counter-productive depending on the current system of government and the political behavior of both the central and regional governments [1]. The current era of reform has succeeded in bringing society to freedom. If freedom has no boundaries and even always collides with regulations, then it is not impossible that this era will also suffer the same fate as the political system which in the past only wanted to present the best democracy but in the end, had connotations that were counterproductive to the development of democracy itself. But one thing is certain democracy will not stop, it will continue to find its way to find its beautiful shape *offshore sea* even though in front of facing various obstacles and obstacles. The authority to realize democracy in the regions is indeed enormous, but the guts are not as great as the people or the Autonomy giver expect.

4. Freedom and Regional Autonomy

Regional Autonomy is a real form of democratic practice. At the societal level, democracy talks about the freedom of individuals and groups in society; whereas in the relationship between the Center and the Regions, democracy demands the freedom of the Regions to regulate themselves (Regional Autonomy). In a social order, individual and group freedoms need to exist so that individual progress can be achieved as well as a way of guarding against possible violations of the rights and interests of society by the State.

The desired freedom for individuals and regions is a requirement for progress. Individual progress is expected to produce progress not only for the individual concerned, but also for society as a whole. Individuals who develop will be able to bring progress to other individuals which means society as a unit. Regional progress with the existence of Regional Autonomy is expected to bring progress to the nation as a whole. The basic premise is that progress must start from the development of individual independence (in democracy) and the regions (in regional autonomy).

History has proven that such a vision of the New Order actually posed a serious threat to the integrity of the Unitary State of the Republic of Indonesia. Excessive concern for the freedom of the Regions results in a centralism of power in the hands of the Central Government which is then used by cronies and ruling families at the Central level to drain natural wealth in the Regions. The management of Central-Regional relations carried out by the New Order opened opportunities for political elites at the National level to take economic advantage for themselves by exploiting natural resources on a large scale and without limits. Those who suffer are the people in areas rich in natural resources.

5. Implementation Regional Autonomy

The implementation of regional autonomy in Indonesia, which has just entered its initial stage, has created new problems. Because regional autonomy is based on the values of freedom, the possibility of positive and negative impacts has the same opportunity. Freedom

that cannot be controlled by those who exercise freedom itself and weak *law enforcement* will be greater. As a result, the regions took steps that according to them were in line with regional autonomy. There are three reasons used by the Government to implement the Law on Regional Government:

- 1) The great authority of the DPRD as a result of the change in DPRD which was originally part of the local government to become a legislative institution in the area, which is used by certain people to bargain with regional heads to obtain funds (money politics);
- 2) There is a tendency for many district and city governments to increase PAD and sources of income generation by increasing fees and taxes. This authority is considered as part of the freedom of the autonomous region to obtain funds, which is actually done without considering the negative impacts it causes;
- 3) The problem of hierarchy between the Regional Government at the Provincial and Regency/City levels. The great authority given to the Regency/City has created a perception among Government officials there that they are no longer bound and subject to the Central Government and the Provincial level.

DISCUSSIONS

Managing Central-Regional relations in a more harmonious direction and fulfilling the aspirations of both parties in a fair and proportional manner is not an easy matter. The history of the Indonesian nation itself shows the high level of conflict fluctuations and tensions in Central-Regional relations, even though various efforts to resolve them have been made until the current reform era. The settlement agenda offered by the Central Government almost always leads to the emergence of new problems that are not or have not been anticipated and accommodated in policy proposals as a result of the high interest of the Jakarta political elite, to maintain a superior position and dominance of the Center over the Regions [6].

Why has the relationship between the Center and the Regions for more than 50 years of independence always been colored by conflict and tension between the two? To what extent is the broad autonomy policy opportunity for the Regions a solution for resolving Central-Regional conflicts on the one hand and fulfilling the demands for justice and the welfare of our people at the local level on the other?, if there is an opportunity for the Regional Autonomy policy as a "way out" for resolving Central-Regional conflicts and tensions, what kind of Regional Autonomy format actually can guarantee the upholding of justice, democracy and prosperity for the regional people while at the same time maintaining harmonious Central-Regional relations and the integrity of the Nation?[10]

In line with this principle, the principle of real and responsible autonomy is also implemented, while the principle of real autonomy is a national principle, for example in the form of cultural heritage areas, national parks, strategic industrial development, development of high technology such as nuclear power, missile launching, development of communication infrastructure, telecommunications, transportation, ports and free trade areas, military bases and exploitation areas, conservation of strategic minerals, research and development of national resources, social laboratories, specific correctional institutions. The Central Government, in this case, is obliged to involve the Regional Governments in the formation of the special area, so that conflicts between the Central Government and the Regional Governments regarding their respective authorities will not occur, with the hope that the balance between the Center and the Regions can be maintained as well as possible.

The description above explained that the roots of the Central-Regional conflict stem from a number of factors including the imbalance in the economic structure between Java and Outside Java, excessive political centralization policies, ideological conflict between Islam and Pancasila as a result of the low level of consensus between the two . Meanwhile, during the New Order era, as a result of the policy of excessive political centralization and conflict, it was controlled repressively by the military with the modus operandi of creating latent "**BLACK GOATS**", referred to as **the EKI** (communist and radical nationalist groups who

were considered sympathetic to him) and **the EKA** (groups of dissidents). They sympathizers, supporters of the Masyumi party and adherents of other "political Islam". The politics of centralization, domination and exploitation of the people in general or of the regions in particular, has become more intense and repressive, so that it has not only led to widespread abuse of power, but also to very serious state mismanagement [11]. In this connection, post-New Order local upheavals and conflicts, such as those that occurred in Aceh, Riau, Poso, Maluku and Irian Jaya, seem to be a product as well as an impact of this very acute state mismanagement.

Evaluation of the conflict resolution agenda between the Regions and the Center as well as the implementation of the principle of decentralization mandated by the constitution, the Central Government has long ago issued a policy of autonomy for the Regions, even though the fate of our people can be said to have never changed, namely to become victims of State exploitation in almost all aspects of life [12]. Why is that? , Herein lies the urgency of a fundamental review of the government's settlement agenda, especially with regard to the applicable Regional Autonomy policy package.

The need for a fundamental evaluation of the material of the Regional Autonomy legislation and its implementation is related to our nation's need for a Regional Autonomy format that can guarantee the continuation of the process of reform and democratization on the one hand, and the achievement of justice and prosperity for the majority of our people at the local level. on the other hand. In addition, the urgency of evaluation relates to the level of ability of the current Regional Autonomy policy package to minimize conflicts and tensions in Central-Regional relations [13].

There are 3 (three) benchmarks that will be used to meet our collective needs as a Nation for an ideal form of Regional Autonomy: 1) The continuation of the process of reform and democratization, meaning that the existing policy package has accommodated our need for a change in the perspective of decentralization, from administrative decentralization to political decentralization, namely the ongoing transfer of some of the powers from the central government to local governments. As is known, during the New Order period, Regional Autonomy never became a reality because it was designed within the framework of administrative decentralization, and even tended to preserve excessive political centralization through uniform policies in almost all areas of life; 2) Has the regional autonomy policy been enjoyed by the majority of our people at the local level? one of the big pitfalls of regional autonomy policy is the tendency to preserve regional autonomy in a narrow sense, namely just autonomy for the interests of the regional government; 3) The ability of the existing policy packages to minimize conflicts and tensions in Central-Regional relations.

In this connection, the agenda for decentralization and regional autonomy must also be based on the identification of the roots of the Central-Regional conflict, so that the marginalization of regional interests as happened in the past will not occur again. This means that the formulation of the material on decentralization and regional autonomy that is scheduled for this must come from a "shared perception" between the central government and representatives of the regional people, not just a unilateral perception by the center of regional needs. This of course necessitates the enactment of regional autonomy as a "contract" between the Center and the Regions, through democratically elected regional representatives in the General Elections [14].

The implementation of decentralization is not only aimed at the interests of the Central Government, but also in the context of local interests. Among the important regional interests are the realization of political equality, the emergence of responsible local government (local accountability), and local community responsiveness to objective community problems at the local level. Whereas the problem of Central-Regional relations is not solely related to economic inequality, especially between Java and Outer Java, but is also related to political injustice and violations of human rights (referred to as HAM), the framework for decentralization and regional autonomy required seems to be comprehensive. , meaning that the Central-Regional conflict cannot be resolved simply through a more proportional

financial balance for the Regions, but also requires a broader sharing of power, including the right for Regions to participate in managing their own regional government and resources.

CONCLUSION

Regional Autonomy is basically not a goal, but a tool in the context of realizing the ideals of justice, democracy and people's welfare. Regional Autonomy is expected to be able to minimize Central-Regional conflicts on the one hand and can guarantee the ideals of justice, democracy and prosperity for local communities on the other hand, this can only be achieved within the broad framework of democratization of national life in the fields of Politics, Law and Economy

Central and regional tensions can also be triggered by the organization of political parties, a proportional election system can actually be an effective instrument for integrating each party from the National level to the Village level. However, the complicated problem facing Indonesia today is internal party centralization and authoritarianism which can also lead to tensions between party units at the national level and their units in the regions.

Conflict of Interest

Author declares there is no conflict of interest with publication of this paper.

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