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Dynamic Relations Between Central and Regional Governments in Indonesia

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Abstract. This article raises the issue of the dynamic relations between central and regional governments in Indonesia. Article 18A of the 1945 Constitution, a result of the second amendment of 2000, states the relations between the Center and the Regions is only formulated in a broad outline, so that it does not reach its clarity on how the relations between the Center and the Regions should be carried out. The method used was Normative Jurisdiction with a statute approach, analytical approach, comparative approach, and historical approach. The discussion in this article analyzes the enactment of Law Number 5 of 1974 concerning the Principles of Government in the Regions, Law Number 22 of 1998 concerning Regional Government, Law Number 32 of 2004 concerning Regional Government, Law Number 23 of 2014 about Regional Government. By analyzing the approach and statute approach, it can be seen that each of the Laws on Regional Government that has been and is currently in force in Indonesia, turns out to have a different Political Law in following the development of dynamics occurring in society and is also adjusted to the aims and intentions from the direction of legal development implemented through legislation. In the future, the relationship between the Center and Regions must be carried out in a fair, harmonious manner, and attentive to the specificity and diversity of the region and must be regulated by laws which in its formation must be democratic and responsive.

Keywords: central and regional relations, political law, decentralization, deconcentration

INTRODUCTION

Issues regarding the relationship between the Central Government and Regional Governments, throughout the history of the Republic of Indonesia (RI) constitution, has been recorded as an interesting topic for analysis and study. It shows that the problem of relations between the Center and the Regions as regulated in Article 18 of the 1945 Constitution that has been ongoing so far is still trying to find an ideal format so that can guarantee the establishment of the unitary state of Indonesia as mandated by the 1945 Constitution is that the Republic of Indonesia is a unitary state with a decentralized system [1].

Decentralization is one of the joint organizational structures of the state accepted and agreed upon by the founders of the Republic of Indonesia Determination of choice as a unitary state with a decentralized system is what brings the consequences of government affairs that must be delegated to smaller government units [2]. In other words, the choice becomes a starting point for the need for a clear regulation regarding the relationship between the Center and the Regions [3].

In the unitary state system, like the Republic of Indonesia, there are two ways to relate between the Central and Regional Governments. The first method is called centralization, where all the functions, duties, and authorities of the governmental administration are in the Central Government, the implementation of which is carried out deconcentrated. The second way is known as decentralization, where the affairs, duties, and authority of the implementation of government are given to the broadest possible extent to the regions [4].

Delegation through deconcentration is the delegation of authority to the apparatus (vertical apparatus) which is under its hierarchy in the regions, while the handover in the context of decentralization is the delegation of functions to autonomous regions. There are three factors are the basis for the division of functions, tasks, and authority between the Center and the regions, namely the functions that are national in scale and related to the existence of the state as a political entity are left to the Central Government. Second, functions relating to community services that need to be provided uniformly or standardly for the whole region. This service function is more suitable to be managed by the central government considering it is more economical if operated on a large scale (economy of scale). The third service function is local, this function involves the wider community and does not require a standard level of service (uniform). This function can be managed by the

regional government. Local governments can adjust services to the needs and abilities of their respective regions [5]. Therefore, this paper will explain and give an overview of the dynamic relations between the central and regional governments that occur in Indonesian governance.

METHOD

The method used is Normative Jurisdiction. Legal materials used were Law Number 22 of 1999 concerning Regional Government, Law Number 32 of 2004 concerning Regional Government, Law Number 23 of 2014 concerning Regional Government. The three laws were analyzed using the statute approach, analytical approach, comparative approach, and historical approach.

RESULT AND DISCUSSION

In a unitary state, power is entirely owned by the Central Government. This means that the regulations of the central government determine the shape and composition of the autonomous regional government, including the type and extent of autonomy according to its initiative. Autonomous regions also regulate and manage central matters (medebewind), the Central Government continues to control the powers of supervision over these autonomous regions [6].

The regional household affairs are essentially sourced from autonomy and assistance tasks (medebewind). Autonomy and assistance tasks are based on decentralization. Therefore, it is not right even wrong, a provision that limits the notion of decentralization in the framework of autonomy. Co-administration is seen as something outside decentralization. Both autonomy and agency tasks are forms of decentralization [7].

Entering the eleventh year of the reform era, the administration of the state government continues to strive in finding a good model to achieve the goals of national and state life as mandated in the opening of the 1945 Constitution, namely the realization of a just and prosperous Indonesian society based on Pancasila and the 1945 Constitution.

The implementation of Law No. 22 of 1999 has brought many significant changes compared to Law No. 5 of 1974 which is "thick" with a centralistic feel. UU no. 22 of 1999 has enabled the Regional community to be intensely involved in the process of carrying out regional government and has been able to participate in determining the direction and struggle of the Region under the aspirations and interests of the Regional community.

Law No. 22 of 1999 has also resulted in the sinking of local political elites who happen to sit in the bureaucracy of the regional government, into legal issues, namely by mushrooming corruption cases which are now easily heard and witnessed in several areas involving members and former members of the Regional Representative Council (DPRD) or the Regional Heads as executives. This problem is one reason, because of the "wrong" understanding of the granting of broad autonomy from Law No. 22 of 1999 as can be seen in the General Explanation of the letters (h) and (i) numbers (2) [8].

Other causes are due to the incomplete understanding of the sound of Article 4 paragraph (2) of Law no. 22 of 1999 which in essence asserts that each Autonomous Region is independent and does not have a hierarchical relationship with each other. Whereas, theoretically, the policy of autonomy is always related to the choice of a unitary state, meaning that the extent of the autonomy granted to the Regions will never be separated from the framework of the unitary state [3].

Changes that occur with the enactment of Law Number 32 of 2004 concerning Regional Government, then the following changes occur [3]:

1. Principle of Autonomy, Division of Affairs, and Hierarchical Relations

   The principle of autonomy in Law No. 32 of 2004 did not experience many changes, namely the principle of broadest autonomy in which the region was given the authority to administer and regulate all government affairs outside the central government affairs stipulated in the Act. The affairs which are the authority of the central government are foreign affairs, defense, security, justice, national monetary and fiscal matters, and religion.
2. Election of Regional Head

   Law No.32 of 2004 adopts a direct electoral system that gives broad opportunities to the people of the region to elect their Regional Heads and Representatives. This is per the provisions stipulated in Article 18 paragraph (4) of the 1945 Amendment.
3. Accountability of Regional Heads

   The Regional Government only submitted information in the form of reports to the DPRD, in the form of a Statement of Accountability (LKPj) regarding the implementation of its duties in the past year or a report on the end of the term of office. Accountability of the Regional Government is carried out to the Central Government. In this case, the Governor submits the Regional Government Accountability Report (LPPD) to the President through the Minister of Home Affairs, while the Regent/ *Walikota* submits the Regional Government Accountability Report (LPPD) to the Minister of the Interior through the Governor.
4. Supervision System

   Provisions on supervision, which are regulated in Law No. 32 of 2004, balanced with guidance through supervision in the form of an assessment of regional products in a certain way

and until a certain time. The guidance of the central government to the regions is not intended to reduce or even hinder the implementation of regional autonomy. However, this guidance is intended to prevent national disintegration and disharmony of national law.

5. Regional Finance

   Provisions regarding regional financial resources are regulated in article 157 of Law No.32 of 2004, which consists of regional own-source revenue (PAD) and legitimate balancing funds and other income.

6. Regional Staffing

   Article 129 of Law No. 32 of 2004 states that the government (center) carries out management of civil servant management in the regions in one national civil service management exercise.

7. Dismissal of Regional Head

   In Law No. 32 of 2004 DPRD can only submit an opinion regarding the reason for the dismissal of the Regional Head because it violates an oath/promise and does not carry out its obligations to the Supreme Court, which is then proposed by the Supreme Court's decision to the President. The opinion of the DPRD which will be submitted to the Supreme Court must be expressed through a plenary meeting mechanism which is attended by at least three-quarters of the total number of DPRD members and the decision is taken with the approval of at least two-thirds of the total members present.

Law Number 23 of 2014 concerning the Regional Government has changed the Political Law of the Regional Government. The granting of the widest possible autonomy to the Regions is directed to accelerate the realization of the welfare of the community through the improvement of services, empowerment, and community participation. In addition, through broad autonomy, in the strategic environment of globalization, the Region is expected to be able to increase its competitiveness by paying attention to the principles of democracy, equity, justice, privileges, and specificities as well as the potential and diversity of the Region in the Unitary State of the Republic of Indonesia [9]

In essence, Regional Autonomy is given to the people as a legal community unit that is given the authority to regulate and manage their Government Affairs given by the Central Government to the Regions and in its implementation carried out by the regional head and DPRD assisted by the Regional Apparatus. Government Affairs submitted to the Regions derived from the power of government in the hands of the President. The consequence of a unitary state is that the final responsibility of the government rests with the President. For the implementation of Government Affairs submitted to the Regions to run under national policies, the President is obliged to conduct guidance and supervision of the implementation of the Regional Government [10].

Law Number 23 Year 2014 puts the responsibility and the highest authority holder in the Regional Government in the President, as the holder of government power-assisted by the minister of state and each minister is responsible for certain Government Affairs in the government. Some Government Affairs which are the responsibility of the minister are autonomous to the Regions. The consequence of ministers as assistants to the President is the obligation of ministers on behalf of the President to provide guidance and supervision so that the implementation of the Regional Government runs by statutory provisions. To create synergy between the Central and Regional Governments, ministries / non-ministerial government institutions are obliged to make norms, standards, procedures, and criteria (NSPK) to be used as guidelines for Regions in carrying out Government Affairs submitted to the Regions and become guidelines for ministries / non-ministerial government institutions to provide guidance and supervision. The President delegates authority to the Minister as the coordinator of guidance and supervision carried out by the ministries / non-ministerial government institutions for the administration of the Regional Government. Ministries / non-ministerial government agencies carry out technical guidance and supervision, while the Ministry carries out general guidance and supervision. The mechanism is expected to be able to create harmonization between ministries / non-ministerial government institutions in developing and overseeing the implementation of the Regional Government as a whole. In other words, actually Law Number 23 Year 2014 has the character of the Politics of Law on re-centralization.

CONCLUSION

The dynamics of the Center and Regional Relations that occur in Indonesia can be seen in the regulation of the Regional Government Law which experiences changes following changes in society, changes in political configuration, and the direction of legal and political development in Indonesia. In the era of Law No. 22/1998 on Regional Government which has a political style of law to give the widest possible autonomy to regional governments. This is done by giving very broad freedom to local governments. Law Number 32 of 2004 has a concern on the Regional Government which has a political style of law to balance the relationship between the central government and the regions to make corrections with the concept of responsible autonomy. At present with the enactment of Law Number 23 of 2014 concerning Regional Government, it turns out that the legal

politics of the relationship between the center and the regions tends to be re-centralized. The central authority to take control of the regional government was again strengthened. From the historical course of the dynamics of the regulation of the central and regional relations, it is reflected that the politics of law applied turns out to be adapted to the conditions and situations that develop in society. In the future, the relationship between the Center and the Regions must be carried out fairly, in harmony, and concerning the specificity and diversity of the region and must be regulated by laws which in its formation must be democratic and responsive.

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