



Implementation of Central and Local Government Relations Through Asymmetric Decentralization

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Abstract. Indonesia is a country with a variety of cultures that exist in each region (multicultural). Given that each part has a political, social, economic, and cultural structure, the development of asymmetrical decentralization should be aimed at achieving local democracy by appreciating the distinctiveness of a region or region, its natural potential, the needs of local communities, and the history of its formation. The formulation of regional autonomy in Law No. 23/2014 on Regional Government has yet to meet the need to strengthen the relationship between central and provincial governments. Asymmetric decentralization is believed to become an effective and efficient state administration instrument because it prioritizes a region's specificity. Still, asymmetric decentralization must be integrated with supporting policies such as the provision of funding, human resource development, regulation, leader creativity, political and institutional systems as well as strict law enforcement is also very necessary. Posing the problem, How is the current implementation of decentralization based on central and regional relations, and how is the performance of asymmetric decentralization in central and regional government relations? This paper uses the normative, empirical method, analyzing the application of relevant laws to implement regional autonomy. The conclusion of the relationship between the central and local governments is still many problems; overlapping regulations are inhibiting factors in implementing governance.

Keywords: Decentralization, Asymmetric Decentralization, Regional Autonomy.

1. Introduction

Indonesia has a vast territory with diverse geographical conditions. Indonesia is an archipelago-based country with 17,000 islands, with five main islands: Java, Sumatra, Kalimantan, Sulawesi, and Papua. Regarding demographics, Indonesia has a population of 278.52 million across 38 provinces. Indonesia is a country that adheres to extreme pluralism because, in the structure of society, it has Differences in religion, ethnicity, culture, language, and customs.[1] This diversity becomes a characteristic that affects each region's development style. Related to government, it is implausible that the central government can fully implement it. Therefore, provincial and district/city regional governments are needed. Which takes care of its government and the interests of its people, which becomes its authority through the principle of decentralization.[2]

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Decentralization is the spirit and soul of the application and/or implementation of regional autonomy; with decentralization, regional autonomy will run effectively, and vice versa. The 1945 Constitution of the Republic of Indonesia, Article 18 paragraph (1) states that "the territory of the Unitary State of the Republic of Indonesia is divided into autonomous regions, namely provinces and districts/cities, each of which has a regional government, which is regulated by law". It is further explained in paragraph (5) that "regional governments exercise the widest possible autonomy, except for government affairs which are determined by law to be the affairs of the central government". As a unitary state in the form of a republic, organizing regional government can be carried out based on the principles of provincial government, which consists of the principles of decentralization, deconcentration, and assistance tasks, all three of which are expected to overshadow all the actions of local governments in carrying out their duties to prosper the local people in particular and the Indonesian people in general.[3] With regional autonomy, it can increase the acceleration of regional competitiveness, trigger the creativity of regional innovation, especially in public services such as health, education, and administration, increase good public participation, and regional autonomy also increases the accountability and responsiveness of government officials so that it can prosper its people.[4]

The 1999 Law on Regional Government, which became the spirit of regional autonomy, lasted briefly and was later amended to Law No. 32 of 2004 on Regional Government. Finally, amended by Law No. 23 of 2014, the 2004 Regional Government, the concept of regional autonomy in the Law has reduced the spirit of regional autonomy in the reform era by adopting regional autonomy arrangements in Law No. 5 of 1974 on the Principles of Regional Government, which is a relic of the New Order regime. This shows the spirit of regional autonomy. It has returned to a neutralistic spirit, plus the 2014 Regional Government, making the space for regional movement even narrower with the division of absolute, concurrent, and general authority. The Regional Government has a minor role in determining regional policies because most of what was once its power was withdrawn back to the center.

Initially, the 1999 Regional Government Law, which was the initial spirit of autonomy, did not recognize the delegation of authority from the center to the regions but the "recognition of authority" by the central government, but the 2014 regional government no longer knows the terminology "recognition of authority" but recognizes the terminology "transfer of affairs". This means all government authority belongs to or lies with the central government.

The fact that the local government. 2014 received resistance from the district / city government, in a Judicial review at the Constitutional Court various regional heads took part in the meteril test (Verdict No. 137/PUU-XIII/2015), there are 46 regional heads in this case BUPATI from various regions as applicants, Prof. Dr. M. Ryass Rasyid, MA. as an expert witness expressed his views before the trial on the 2014 Regional Government, he stated "That the main content of the material contained in the 2014 regional government, there are 4 fatal mistakes on the withdrawal of authority from the regency / city to the Province, the four mistakes

include, (1) starting from the wrong assumptions about the power of the Central government (centralized spirit), (2) violating government ethics (not involving the city / district government. in the process of drafting the law), (3) undermined the spirit of regional autonomy, and (4) created uncertainty in public services at the district/city level (overlapping regulations).

Referring to research related to "Asymmetrical Decentralization, Fatmawati has previously written in her journal, "Asymmetrical Decentralization, for the Future of Authority Sharing in Indonesia".[5] Her research offers the Concept of Asymmetrical Decentralization, which gives freedom to the regions in managing the areas according to the needs and characteristics of the parts concerned. The problem is that there still needs to be a concept related to definite arrangements to be applied and accepted by all circles, especially the central government of, the provincial government, and districts/cities.

Based on this description, the author intends to restore the essence of regional autonomy in accordance by providing a few considerations and views in strengthening the relationship between central and provincial governments, in implementing asymmetrical decentralization in regional governance based on territorial and cultural, asymmetrical decentralization is believed to be an essential instrument in the effective and efficient administration of the State in Indonesia and strengthening the relationship between government and society.

2. Problems

- a. How is the current implementation of decentralization based on central and regional relations?
- b. How is Asymmetric Decentralization Implemented in strengthening the relationship between central and local governments?

3. Method

To discuss the problems in this research using normative, empirical legal research methods. The normative, practical research method is an approach that combines empirical and normative elements in carrying out a study. This method involves collecting empirical data in the form of facts and information that can be observed or measured objectively. Then the data is analyzed using a normative framework based on the Law or applicable rules.

This normative method collects data from relevant documents or literature and refers to applicable norms, rules, and theories. Normative, empirical research methods refer to exploring or examining phenomena or problems by paying attention to related normative aspects. This is done by gaining an in-depth understanding of what to do in a situation or what is expected in a context related to the prevailing norms, laws, and ethics.[6]

4. Discussion

4.1. Current Decentralization Implementation in the Context of Relationship Central and Local

The relationship between the central and regional governments is currently weakening in the context of strengthening local development. This is because regulations related to regional autonomy have not supported the acceleration and equitable distribution of development. Several policies related to regional development, investment, financial management and natural resource management are still under the control of the central government. This has implications for the slowness of public services, uneven development in the regions, minimal regional own-source revenue (PAD) and a decline in the level of people's welfare. Based on the phenomena that have been described, there are 4 (four) main problems faced in the Implementation of Government in Central and Regional Relations.

- a. Imbalance in the allocation of regional transfer funds between regions. Law No. 33 of 2004 on Central and Regional Financial Balance regulates the mechanism of resource sharing between the central and provincial governments. The central government has great authority in collecting and managing national resources. Article 15 explains that the central government provides balancing funds to regions, such as the General Allocation Fund (DAU) and the Special Allocation Fund (DAK), to strengthen regional finances. The analysis shows that this Article provides a legal basis for the central government to allocate financial resources to regions to enhance regional financial management, reduce disparities between areas, and improve public services in the provinces.

According to the latest data from the Ministry of Finance and the Central Bureau of Statistics (BPS) in 2023, regions that are not balanced in terms of the allocation of regional transfer funds in 2023 are provinces that have high poverty rates, such as those in Papua, West Papua, West Nusa Tenggara, and Maluku have a low allocation of transfer funds to regions compared to more developed provinces such as West Java, Central Java, and DKI Jakarta, which still get a more significant portion of transfer funds compared to less developed areas. From the author's search results, the balancing funds received by the regions sourced from the State Budget (APBN) still need to fulfill a sense of justice and equality. We can see the Transfer of Regional Funds and Village Funds (TKDD) in the TKDD posture of West Java Province amounting to Rp. 68,529.04 M with a budget realization of Rp. 37,036.02 M. [Ministry of Finance, 2023] and TKDD of East Java Province amounting to Rp.77,879.05 M with a budget realization of Rp. 42,484.36 M.[7] This shows an imbalance in the distribution of regional transfer fund allocations, considering the population and area of West Java

Province are more significant than that of East Java Province. It is known that the area of West Java Province is 37,040 square kilometers, with the largest population in Indonesia reaching 48.64 million people (in 2022). Meanwhile, East Java Province has an area of 48,033 km², with a population of 41,144,067. [8]

The imbalance in the allocation of regional transfer funds between regions also occurs in terms of the division between developed areas and regions that have high poverty rates, as is the case in West Papua Province. When comparing the TKDD posture of West Java and East Java Provinces with the TKDD posture of West Papua Province, it is very lame with a ceiling/budget of Rp. 13,202.10 M with a budget realization of Rp. 4,150.76 M. Whereas it is known that West Papua Province has abundant energy resources. In contrast, it is known that West Papua Province has excellent energy resources. This budget imbalance must be a serious concern because it impacts things: uneven economic growth, increasing social and economic disparities between regions, inequality of access to essential services such as education and health, and the potential for political tension between the central and regional governments.

This shows that the allocation of transfer funds still shows inequality in development between the center and the regions. The funds provided by the central government to the regions are still considered insufficient and unbalanced, especially for regions that have natural resources and regions that are still underdeveloped. This shows that the central government does not have a transparent, accountable and timely funding system.

b. Centralized Power in the Central Government

The current relationship between the central and regional governments in the regulatory aspect is still centralized at the center. This means that the central government still takes over several policies or authorities relating to local government management. Still, in the aspect of implementation in all regions, it needs to pay attention to each region's conditions, needs, or interests. The centralized policies, as stipulated in Law No. 23 of 2014 concerning regional government, are:

- 1) Article 2 paragraph (1) and Article 3 paragraph (1) substantially regulate that local governments are authorized and responsible for managing and regulating government affairs, which are the authority of autonomous regions. However, this Article also states that local governments perform their duties and authorities within the Unitary State of the Republic of Indonesia (NKRI) framework. The analysis shows that local governments have autonomy in managing regional affairs but are still bound by the laws and rules set by the central government.
- 2) Article 5, paragraph (1) and section (2), in substance, states that local governments must pay attention to national unity and uphold the national interest in managing and regulating government affairs. This emphasizes that local governments are obliged to be in the corridor of federal Law and

be responsible for paying attention to national interests in carrying out their duties and authorities.

- 3) Article 10 paragraph (1) regulates the division of tasks and authority, where the centralized power of the central government includes national policy as mentioned in article 10 paragraph (1). This shows the limits of authority between the powers of the central and regional governments. Although the regional autonomy regulation has given regional governments the authority to regulate and manage local affairs and meet the needs of local communities as stipulated in concurrent affairs and general government affairs. However, local government powers remain limited within the legal framework established by the central government. Law No. 23 Year 2014 on Local Government.

c. Overlap between Government Regulations and Regional Regulations.

The legal system in Indonesia has two levels of regulations: government regulations (regulations issued by the central government) and regional regulations (regulations issued by provincial governments). Both groups of laws aim to regulate people's lives and run an effective government. However, there is often an overlap between government and local regulations, leading to uncertainty and even conflict in their implementation.

d. Public Services have not been Evenly Distributed in the Region.

Adequate and equitable public services are essential for building a prosperous and equitable society. However, in many parts of Indonesia, there are inequalities in the public services provided by the government. These inequalities include accessibility, quality, and availability of public services in different regions. Based on data from, public services in local government receive the most complaints from the public.[9]

Seeing the above, despite experiencing several updates to local government regulations, it seems that the government still has not found an appropriate concept in organizing governance in Indonesia, even though there have been setbacks. So in this case it is necessary to find the appropriate concept of governance in order to provide welfare to the community. In practice, government administration has not synergized the relationship between institutions. Various institutions at the center and in the regions often do not work in a coordinated manner, making the implementation of public policies slow and ineffective. One of the main problems that often occurs is the overlap of duties and functions between government agencies at the central and regional levels.

4.2. Implementation of Asymmetric Decentralization in Central-Regional Relations

Based on research conducted by Plod Ugm there are five asymmetrical decentralization models currently implemented in Indonesia: *first*, asymmetrical decentralization, based on the uniqueness/specialty of a region due to political factors, primarily regional conflicts with the prolonged national government. Aceh and Papua

are among the regions that represent this model. *Second*, regions are based on the community's strong social and cultural characteristics. The Special Region of Yogyakarta (DIY) is a region that gets specialization because of this. *Third*, geographically-strategic based regions or border regions, Papua and Riau Islands are regions that get specialization because of this. *Fourth*, special regions based on economic potential and growth, Jakarta, Papua, and Aceh, are examples that apply it; *Fifth*, regions based on the level of development acceleration and governability capacity; the area that represents this model is Papua. In general, each existing region certainly has its distinctive structure, be it political, social, or cultural, therefore asymmetrical.[5]

Decentralization is a strategic alternative to be applied in all regions in order to avoid disappointment in the regions toward the national government.[10] In addition, it also avoids regional conflicts in the center, as happened in Aceh at that time and in Papua, which tried to separate itself from Indonesia. Given that decentralization in all provinces in Indonesia cannot be implemented evenly in each region, asymmetrical decentralization is a solution to this situation.[11] Asymmetric decentralization is the application or transfer of special authority only given to specific regions in a country.

Based on the above, we can see several regional factors that can be applied to asymmetrical decentralization include: first, due to political considerations related to conflicts in a particular region that demand special treatment; second, consideration of the diversity that exists in the region both based on ethnicity, religion, and demographics; Decentralization as a form of democracy, democracy is the right choice in achieving a goal of realizing justice for the entire community, in connection with justice, one of the philosophers from Greece, Plato, said that justice could be realized when society is returned to its original structure.[12] The ideal state is based on justice; justice can be learned from the structure of society in this case, isn't it the case that the one who best understands the structure and aspects of the aspects in region referred to above is the local government itself and its people, of course the local government understands better what it should do in managing its region than the center, so the task of the central government should be to provide guidance to its organizers as well as supervise local governments regarding reasonable procedures in organizing their governance, not limiting the creativity of a region and its authority on the grounds of the interests of the people or the national interest, firm action is also needed.[13]

The implementation of Asymmetric Decentralization in Aceh began after a natural disaster that shook Aceh on December 26, 2004, which resulted in a tsunami and caused more than 112,000 deaths, the city of Banda Aceh at that time was devastated. The armed conflict between the government and the Free Aceh Movement began to fade at this time. Peace was made in Helsinki, Finland, in 2005 and poured into a memorandum of understanding, or the Helsinki MOU, as a follow-up to this Law No. 11 of 2006 concerning the Aceh government was born. At that time, the Aceh and Kab./kota Governments had the authority to regulate and manage government affairs in all public sectors except those that had become central authority. Government as referred to in planning and utilization along with its

supervision, organizing public order and peace, handling health, education, environment, land, etc.

The Constitution of the Unitary State of the Republic of Indonesia has given local governments the authority to determine local regulation policies and other regulations to implement autonomy and assistance tasks. However, the case is different for Aceh Province, which is unique regarding government implementation and terminology; in Aceh, local regulations are known as qanun Aceh. Article 1 point 21 of Law No. 11/2006 states that qanun Aceh is a type of provincial regulation that regulates government administration and the lives of the people of Aceh. The position of Qanun has been recognized by the central government;. However, Qanun can be equated with regional regulations but is different because the material contained in Qanun must be based on Islamic Law. Even so, its position is still equated with regional regulations so that if the qanun conflicts with the legislation, it can be submitted to the Supreme Court.[14] After enacting the particular regulation in question, the Aceh government has subsequently issued various qanuns related to Law, education, economy, justice, politics, society, culture, and several other qanuns. [15]

Some exciting things about the privileges granted to the Aceh region that are not owned by other regions include the implementation of religious life, customs, education, and the role of the ulama in determining regional policies. They then made a provincial qanun to implement the PA Law—special authority as a form of asymmetrical decentralization.

- a. Everything directly related to the Aceh region that will be made by the Central Government later, including international agreements, must first consult in order to obtain consideration from the Aceh People's Representative Council (DPRA), then in terms of administrative policies must also be consulted in advance with the Governor of Aceh, in the case of the formation of laws by the DPR consulting directly with the DPRA for consideration;
- b. in terms of government affairs, both mandatory and/or optional affairs, as referred to (Article 16-17 PA Law), are regulated in Qanun while still complying with general (national) regulations;
- c. The Aceh region can choose and establish a Flag, Coat of Arms, and Hymn of Aceh in the hope that these symbols can unite the people in the region, but not as sovereignty in the Aceh region;
- d. The Aceh government also has broad authority in the economic sector, namely, managing its natural resources, marine, and fisheries sectors and in the trade and investment sectors following its authority. The provincial and district governments can also attract foreign tourists and provide investment licenses which will be regulated in Aceh's regional regulations or what is called Aceh's Qanun, taking into account the guidelines on the rules that have been generally applicable in Indonesia.[16]

In supporting the effectiveness of local government implementation, the exciting thing in Aceh, with other regions, is the legalization of Islamic criminal

justice, or the qanun jinayat. Qanun jinayat is procedural Law in the Sharia court. This also applies to non-Muslims who violate Islamic laws in Aceh. Then the Prosecutor's Office coordinates with other Sharia law enforcement agencies such as the Sharia Office, Wilayatul Hisbah, Police, Aceh Islam, and Syar'iyah Court judges so that its implementation can run effectively.

- a. The Islamic Sharia office was formed to achieve a just and dignified Aceh society. To achieve this, widespread information dissemination is carried out in all Aceh regions regarding Islamic sharia, socializing qanuns, and regulations regarding implementing Islamic sharia. Prepare and guide human resources who will later become implementers and supervise their implementation so that an honest, fair, effective, and efficient court can be achieved based on Islamic sharia;
- b. Wilayatul Hisbah is a body whose function is to carry out supervision to remind about the rules according to Islamic Law; and
- c. The Prosecutor's Office, in terms of implementing Qanun in Aceh Province, acts as an executor following the duties of the Prosecutor in general, namely implementing court decisions that have been Inkrah van gewijsde or legally binding and in particular, the Prosecutor is also the executor as the executor of flogging punishment for Qanun cases.

The asymmetrical decentralization policy in Aceh after the PA Law was enacted was not without obstacles; several challenges and problems between central and local relations in its implementation, including:

- a. In the Draft Government Regulation (RPP), as a derivative of the Law, there are still 3 RPPs that still need to be established, the *first RPP*. Related, Standards, Norms, and Procedures for the Development and Supervision of Civil Servants in Aceh Province and Regency/City, *second*, RPP. Regarding the name Aceh as well as the Title of Officials in the Aceh Government, *third*, regarding the Transfer, Funding, Personnel, Infrastructure, and documents in connection with Madrasah Ibtidaiyah and Madrasah Tsanawiyah Education;
- b. There are still 12 draft qanuns in Aceh that have not been approved together in order to get a stipulation and immediately promulgated;
- c. In the social sector, health and education are absolute requirements in submitting proposals for programs and activities funded by special autonomy funds. While human resources in the health sector in the regions are uneven, there is a considerable accumulation of health workers in urban areas. In contrast, health workers in the regions are minimal, while special autonomy funds are also intended to be given to areas in need, such as remote areas left behind;
- d. Regarding the Special Autonomy Fund for Aceh (DOKA), starting from the planning stage, the budgeting stage, to the implementation stage. can provide opportunities for corrupt practices because no system specifically performs these stages;

- e. The main problem found in the implementation of DOKA supervision is that the inspection is only a formality; secondly, the lack of collaboration and synergy between state agencies, in this case, the Financial Supervisory Agency, the Development Finance Supervisory Agency, and the Inspectorate as supervisory institutions are not maximally supervising DOKA, third, the implementation of supervision is only monitoring and evaluation, this incident shows that the regional institutional system is still weak both in terms of the Aceh Government and the Aceh Parliament, all of which are still very ineffective in carrying out the implementation of their respective tasks and functions as their responsibility.[17]

The Special Autonomy Fund, which is also of interest to regions that have implemented asymmetric decentralization, should be able to provide services to the community and improve community welfare. The special autonomy fund in Aceh is regulated in Article 183 of the PA Law. The funds will be provided for 20 years starting from 2008. Moreover, these 20 years are divided into two parts. The first part is implemented starting from 2008 - 2022, and the amount is equivalent to 2 percent of the ceiling of the national general allocation fund. While for 2023 - 2028, the amount is equivalent to 1 percent of the ceiling of the national general allocation fund. Furthermore, in the second part, or for the sixteenth year (2023) to the twentieth year (2028), the amount is equivalent to 1 percent of the ceiling of the National General Allocation Fund. , Currently, the special autonomy fund is only Rp. 4 trillion, even though in 2022, Aceh received special autonomy funds of Rp. 7.5 trillion. When viewed cumulatively from 2008 - 2021, the total allocation of special autonomy funds received is IDR 88.53 trillion; this nominal is quite large, but the management of the funds has not been maximized because, in the period 2013 - 2020, the funds are remaining at IDR 7.7 trillion.[18]

Departing from the above discussion, it is necessary to strengthen the implementation of regional autonomy and decentralization to be applied in the regions, which is intended to: *First*, asymmetric decentralization allows for better tailoring of public policies to the needs of each region, *Second*, it allows for greater autonomy in managing natural resources, preserving and developing local culture, *Third*, it allows regions to be more responsive to local problems that require specific solutions, *Fourth*, asymmetric decentralization can also facilitate political participation and more active community participation at the local level. By giving greater authority to local governments, local people have more significant opportunities to be involved in the decision-making process.

Implementing asymmetrical decentralization with broad authority does not mean the implementation goes well without obstacles. It requires the ability of government officials, creativity, transparent regulations, and strict law enforcement that is not only a formality. challenges for the regions to anticipate the risk of failure of the implementation of asymmetric decentralization must consider Regulatory Management Aspect, Human Resource Management Aspects of Government, Control System.

5. Conclusion

The implementation of regional autonomy and decentralization in Indonesia still needs to be solved. The tug of authority between the central and local governments and the overlap in several regulations cause uncertainty in decision-making, so regional development is hampered. The relationship between the central and local governments is also not harmonious; as a result, the implementation of decentralization cannot run effectively and efficiently in some regions.

The implementation of governance in the regions still needs to strengthen the relationship between the central and regional governments with better policy adjustments in the regions and pay attention to the peculiarities of culture, customs, religion, social problems, geographical and economic conditions that exist in the regions, but despite the broad authority given to local governments does not mean that its implementation goes well without obstacles. The role of human resources in the government as the primary key, creativity, transparent regulations, and strict law enforcement are also supporting factors for the success of governance in the regions to create welfare and justice for the Indonesian people in general and the regions in particular.

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