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Local Autonomy As a Form of Constitutional Reform In Aspirational Governance

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Abstract

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This paper is a study of research results that aims to explain the birth of local autonomy from the results of constitutional reform as a form of governance following the community's aspirations. In the past, the problem of the centralized government system did not provide opportunities for regions to regulate and manage their regional government. It was considered undemocratic and did not bring progress to the people in the regions. Therefore, significant changes to the government system in the most aspirational areas through local autonomy are needed. This study, using a normative juridical research method with a philosophical approach. The research results obtained an understanding of the existence of local autonomy as a form of constitutional reform, which is the aspiration of the will of the people in the regions. With the constitutional reform, the system has changed to become decentralized. It has a closer relationship with the people in the regions and can understand the needs of the lower classes. The constitution, with its



amendments, can create a democratic system of government and ensure public participation in the life of the state.

A. Introduction

The strong desire of the Indonesian people to change for the better and get out of the multi-dimensional crisis has led to a significant change in Indonesia, namely, reform from 1997 to the present. The community demands that they be involved in the political world of this nation, which will determine who will be the rulers who will run the life of the government because it will significantly affect the realization of a just and prosperous Indonesian society such as the goals of the state written in the preamble to the 1945 constitution. To carry out changes as demand for reform, it is necessary to first amend the 1945 constitution of 1945 Constitution.¹ Because the constitution is the basis for implementing the life of the state order before the reformation was not under the will of the people, it is necessary to make an amendment or amendment to the 1945 constitution of 1945 Constitution. It is hoped that the amendment to the state's constitution can overcome the problems of a nation that is currently sinking. The result is the amendment of several articles of the 1945 Constitution.² Article 18, which was also amended, has changed the centralized government system to a decentralized system by granting autonomy to regions to regulate and manage their regional government affairs. Local autonomy has been distorted by handing over functions or delegating authority from the central government to regional governments. So the discourse on local autonomy means that it concerns the space for the authority to organize the government, given the authority of regional households.³ According to their initiatives based on the aspirations of the community, granting regional autonomy as a manifestation of decentralization essentially gives the region's authority to regulate and manage the interests of the local community.⁴

Public participation is critical, which will influence the integrated politics of the political system currently developing in Indonesia. Because it will be impossible if the life of a political system runs apart from the participation of the community as its main element, as a subject of behavior, society can position itself as an independent individual who is not bound by a particular group or organization and can also position itself as a party or representative of a particular group, organization, or institution. So that in-state life is very influential. Political literacy in the current era is a vital aspect of the consolidation of democracy. Lack of understanding of political issues and political activities often causes people to become apathetic towards various democratic processes and the political dynamics of government around them.⁵

¹ Udiyo Basuki, "PEMBAHARUAN KOSTITUSI SEBAGAI AMANAT REFORMASI (Suatu Tinjauan Sosio Yuridis)," vol. 1, 2001, https://www.aifis-digilib.com/uploads/1/3/4/6/13465004/1-1_udiyo.pdf.

² R. Herlambang Perdana Wiratraman, "Teori Konstitusi Dalam Perspektif Hukum Kritis," *Jurnal Konstitusi*, accessed February 11, 2021, <https://onsearch.id/Record/IOS1662.article-1214>.

³ Elvawati Elvawati, "TUJUAN OTONOMI DAERAH DAN ALASAN PEMEKARAN WILAYAH," *Jurnal Pelangi* 6, no. 1 (December 25, 2013): 17–22, <https://doi.org/10.22202/jp.2013.v6i1.277>.

⁴ Kardin Simanjuntak, "Implementasi Kebijakan Desentralisasi Pemerintahan Di Indonesia," *Jurnal Bina Praja* 07, no. 02 (June 1, 2015): 111–30, <https://doi.org/10.21787/JBP.07.2015.111-130>.

⁵ Khoiruddin Bashori, "Pendidikan Politik Di Era Disrupsi," *Sukma: Jurnal Pendidikan* 2, no. 2 (December 10, 2018): 287–310, <https://doi.org/10.32533/02207.2018>.

Along with the collapse of the centralized government system, the desire of regions to claim their rights to govern their regions has opened wide. Because the regions feel they do not get justice in the implementation of central and regional relations. Regions always get a tiny portion of what they should get to not sufficiently develop their regions. The local autonomy that has been carried out so far is only a transfer of the obligations of the central government and regional government to the community.⁶ The principle of power-sharing, which is the consistency of applying the principles of the constitutional state of Indonesia, is fully regulated in the 1945 Constitution. The application of power-sharing in Indonesia consists of two parts: the horizontal division of power and the vertical distribution of power. The central government has the authority to devolve its powers partly to the regions, based on the right to autonomy.⁷ With the existence of local autonomy, it is hoped that regional governments have sufficient rights to regulate and manage their government to increase regional development, which will ultimately bring prosperity and welfare to the people in the area. However, all must run following the state constitution as the primary basis for administering government.⁸

The main characteristic of good governance is governance that runs based on the state constitution. This can be done by expanding the community's political participation because politics is a medium to socialize current interests. The demands and wishes of the people can be included in an aspiration by the competent state institutions through political means. There are fair general elections, a democracy that the people directly implement because it is under the constitution that sovereignty is in the hands of the people and is implemented based on the constitution. So that regional demands to regulate and manage government affairs themselves become the basis for the government to implement local autonomy. The authority of local governments in managing their regions, including in the economic sector, is because local governments are considered to be more familiar with their respective regions so that they will be more able to develop their regions through the local autonomy that is given. Centralized development in the regions is intended to develop regions so that they are more developed, especially in the regional economy.⁹

This paper uses a normative legal study method that understands the law as a positive legal system in statutory regulations. The approach used is legal philosophy which examines the problem in-depth so that it can be found an understanding of the fundamental law. The main material used in the research is data in the form of laws and regulations and other data found in books, journals, and various scientific works related to the theme. This study uses the deductive analysis method contained in statutory regulations. Descriptive analysis was also carried out to obtain a general description of the explanation related to the legal issues being studied.

B. Discussion

1. Local Autonomy as Aspirational Governance of the Government System Based on Constitutional Reform

⁶ Septi Nur Wijayanti, "Hubungan Antara Pusat Dan Daerah Dalam Negara Kesatuan Republik Indonesia Berdasarkan Undang-Undang Nomor 23 Tahun 2014," *Jurnal Media Hukum* 23, no. 2 (March 15, 2016): 186–99, <https://doi.org/10.18196/jmh.2016.0079.186-199>.

⁷ Gugun El Guyanie, "POLITIK HUKUM PENGATURAN JABATAN WAKIL KEPALA DAERAH DALAM SISTEM DESENTRALISASI," *IN RIGHT: Jurnal Agama Dan Hak Azazi Manusia*, vol. 5, March 27, 2015, <http://www.wartanews.com/read/Nasional/622e0734-b911-cce3->.

⁸ Wasisto Raharjo Jati, "Inkonsistensi Paradigma Otonomi Daerah Di Indonesia: Dilema Sentralisasi Atau Desentralisasi," *Jurnal Konstitusi*, vol. 9, May 20, 2016, <https://doi.org/10.31078/JK%20X>.

⁹ Yulia Devi Ristanti and Eko Handoyo, "UNDANG-UNDANG OTONOMI DAERAH DAN PEMBANGUNAN EKONOMI DAERAH," *Jurnal RAK (Riset Akuntansi Keuangan)* 2, no. 1 (April 20, 2017): 115–22, <https://doi.org/10.31002/RAK.V2I2.220>.

The prolonged economic, political, and trust crisis that hit the Indonesian nation impacted almost all aspects and structures of life. Even though it feels bitter that it has caused a downturn for the Indonesian people, the positive value that can be taken is "Blessing in disguise", namely the emergence of fundamental ideas and thoughts that foster total reform in aspects of the life of the nation and state. The main focus of this total reform is to create a civil society in the life of government, society, and a state that has good governance values (*behoorlijkbestuur*) which give rise to democratic values and an attitude of openness, honesty, justice, oriented to interests of the people and accountable to the people.¹⁰ It is also inevitable that there will be reforms to the constitution because the old 1945 Constitution has given birth to an authoritarian, corrupt, and undemocratic government full of corrupt governance.

The multi-dimensional crisis has become a basis for thinking ahead and is the right momentum to implement changes or reforms to create a new Indonesian society. The reform aims to change the order of life as a nation, a state in a democratic society, and free from corruption, collusion, and nepotism that have damaged the foundations of the nation's life. It is not as easy as turning your palm to solve complex problems that have been rooted for decades. It needs mental preparation and sufficient human resources to accept the reality of life changes taking place amid the current situation and condition of society that is currently deteriorating.¹¹

There is great hope from the community that there will be a change in life for the better with all Indonesian people from Aceh to Papua. However, what happened after this reformation period, the changes that were expected by the community were not easy for the nation's political elites to make. Even the people themselves are trapped in an unhealthy political system or are only oriented to their personal or group interests and ignore the mandate of reform, namely to create a democratic life in all fields.¹² The community culture that was hegemonically created in an atmosphere of uniformity made it difficult to accept the diverse and distinctive cultures that have naturally existed and have grown from generation to generation in Indonesia.¹³

However, no matter how difficult it is to set formula, we must still find a correct, objective, and rational formula. It even needs to be accompanied with full wisdom, seeing that this issue is in the interests of the nation's people and not for the interests of a particular group of people or people. This is the basis for the thinking of the state's leaders in finding new legal alternatives that can overcome the problems of the Indonesian nation today. The regime that was then in power could do anything to achieve its goals. Through their political policies as the legitimacy of power, they wrap the law in their power politics because the policy, which is law, occurs not naturally but is constructed by the power of socio-political interests.

The emphasis that considers the criteria of local interests more will give birth to a government with a democratic, decentralized style that will be aligned with the criteria of national interests that still guarantee the identity and integrity of the nation, as well as the national interest as a whole which will give birth to a limited center power, so that a centralistic style government can be limited. The legal thinking developed by the government at that time was unable to solve the nation's problems, especially in Indonesia's legal tradition,

¹⁰ Danang Juliantara, *Arus Bawah Demokrasi* (Yogyakarta: Laper Pustaka Utama, 2000), 57.

¹¹ Mahfudz. MD, *Demokrasi dan Reformasi Konstitusi* (Jakarta: Rineka Cipta, 2000), 1-3.

¹² Bayu Dwi Anggono, "Konstitusionalitas Dan Model Pendidikan Karakter Bangsa Pasca Putusan Mahkamah Konstitusi," *Jurnal Konstitusi*, vol. 11, May 20, 2016, <https://doi.org/10.31078/JK%X>.

¹³ Harsono, *Politik, Demokrasi, dan Manajemen Komunikasi* (Yogyakarta: Galang Press, 2002), 11.

which is monopolized by a positivist stream that is not under the wishes of the people, which urgently requires definite steps and the state siding with the people.¹⁴

There is a need for an amendment to the 1945 constitution because it has created an authoritarian, corrupt, and undemocratic government. Although the conditions for forming a populist, clean and democratic government are not only determined by the constitution. But the constitution is the fundamental law, the basic principles of the administration of the state, and the direction in which the state will be taken.¹⁵ With the amendment of the constitution, Indonesia is committed to reforming the nation's life and state fundamentally and comprehensively. A constitutional amendment has become a separate history because it is the first time a constitutional amendment has occurred comprehensively, namely reviewing all of its articles, even though there are articles whose material editorial is retained. The United States alone, which claims to be a country that glorifies democracy in amending its constitution, only gradually implements it article by article until it has amended its constitution twenty times.

Demands for democracy from all over society create a formidable challenge for officials. Because there are so many interests that are wrapped in the nuances of power politics by certain groups, politics with law, in this case, the law cannot be separated. Politics is a process of gaining power, and power then requires laws to legitimize policies taken to not be considered a violation of the law. The positive impact of this reform in terms of politics and state administration there has been a paradigm shift from a centralized government system to a decentralized system of government by giving flexibility to regions in the form of broad regional autonomy and being responsible for regulating and managing the interests of local communities according to their initiatives. Based on community aspirations according to the conditions and potential of the area. It is under the mindset of reformers who require a democratic republic theory that describes the proper relationship between the state and society and provides the rights of the people, which the government must protect.

The amendment to the constitution that has the most influence on the Indonesian government system is article 18 of the 1945 Constitution. A centralized government system has been transformed into a decentralized government system based on regional autonomy. Article (1) "The unitary state of the republic of Indonesia is divided into provincial areas and provincial areas are divided into districts and cities, each of which has a regional government, which is regulated by law". Article (2) "Provincial, regency and municipal governments shall regulate and administer government affairs themselves according to the principle of autonomy and co-administration" so that a regional government law appears which regulates in more detail how the implementation of the constitution.¹⁶ Through this constitutional reform, it is hoped that it will bring changes to the life of the regional government, which can create a democratic regional government to bring the government closer to its people, which in turn will improve services and the welfare of the people as a whole. The Indonesian state was founded with philosophy and ideology that are conditional on each region's different personalities and characteristics. So that what the community wants and needs can be achieved.¹⁷

¹⁴ Zulkarnain Ridlwan, "Cita Demokrasi Indonesia Dalam Politik Hukum Pengawasan Dewan Perwakilan Rakyat Terhadap Pemerintah," *Jurnal Konstitusi* 12, no. 2 (May 20, 2016): 305, <https://doi.org/10.31078/jk1226>.

¹⁵ Puguh Windarawan, "Pergeseran Kekuasaan Tipologi Ketiga; Fenomena Kekuasaan Ke Arah Konstitusional Heavy," *Jurnal Konstitusi*, vol. 9, May 20, 2016, <https://doi.org/10.31078/JK%X>.

¹⁶ Sunarno Danusastro, "Penyusunan Program Legislasi Daerah Yang Partisipatif," *Jurnal Konstitusi*, vol. 9, May 20, 2016, <https://doi.org/10.31078/JK%X>.

¹⁷ Satjipto Rahardjo, *Membedah Hukum Progresif* (Jakarta: Kompas, 2008), 31.

Regulations on local autonomy have existed in Indonesia since the issuance of law number 22 of 1999 concerning regional governance, which was then renewed by law number 32 of 2004 concerning regional governance. So with that, the aspirations of the people to take care of their regional government affairs have been accommodated by the state. However, along with the progress of democratization in Indonesia, regulations related to local government were replaced by law number 23 of 2014 concerning regional government. In this last law, it can be said that it is more in line with the realities of the social development of society in the regions. This is related to institutional governance systems and community involvement in the implementation of regional autonomy. Because the community wants a more realistic role and an open system of democratic regional government for the advancement of their region, the main objective in implementing regional autonomy with this law can be realized because there is a basis for laws and regulations that legalize it as a form of the wishes of the people in the regions. In addition, there is a critical problem related to ensuring the welfare of the people in the regions with better local government arrangements.

Local autonomy as a manifestation of the implementation of the principle of decentralization in government administration is essentially an application of the concept of the theory of the area of the division of power which divides power vertically in a country. In this system, state power will be divided between the central government on the one hand and local governments on the other. The system of power-sharing in the framework of handing over local autonomy between one state and another will not be the same, including Indonesia, which legally adheres to a unitary state system. Local autonomy authority that leads to regional independence within the unitary state cannot be interpreted as having absolute complete freedom from one region (*absolute onafhankelijkheid*) to exercise autonomy rights and functions according to their wishes, the interests of other regions, and the national interest as a whole. Without a guiding vision like this, the law will be trapped in a cheap analogy game that worsens things.

The difference in interests between the freedom of autonomy and maintaining the unity and integrity of the nation is usually an arena of conflict of interest that often drags on because each one looks at it from different perspectives so that regional autonomy rests on a different perspective. Such as the occurrence of social conflicts in Ambon, Poso, Aceh, Papua, and even in the Java area, there have been many frictions of interest that have led to conflicts between fellow children of the nation. The election results were filled with political interests and public distrust of the leaders by acting without paying attention to Indonesia's national interests.

The authority of regencies and cities is to carry out which includes the authority of all areas of government, except for the authority in the fields of foreign policy, defense, and security, justice, monetary and fiscal, religion, as well as other fields of authority that will be stipulated in regional regulations. It needs to be taken into account in determining the distribution of power between the center and the regions. From this general point of view and criticism, the idea arises that it is necessary to give the broadest possible regions autonomy and focus on regional autonomy at the regional level closest to the people. This is based on the premise that the implementation of regional autonomy implies the meaning of regional people's political maturity where community participation and empowerment are realized and at the same time means the people's welfare. After all, the demands for equality and justice, which are often carried out, both in the economic and political fields, will eventually become the main focus in the implementation of regional autonomy.

The essence of the problem is to what extent the flexibility of local autonomy can be given to regions so that these regions function as autonomous regions that are independent, based on the principles of democracy and people's sovereignty, without disturbing national

stability and the integrity of the nation. The independence of the autonomous region becomes a buffer to maintain and maintain the existence of the state and the nation. In other words, how to find a balance point between the centrifugal political will that gave birth to decentralized politics and subduing the centripetal position that gave birth to a central power to ensure the maintenance of national identity and integration. It is difficult to determine the right formula to find a solution to the problem because the political configuration will very much influence it at a particular time, and it is almost sure that in every country in seeking this balance point always takes into account economic, political, social considerations, welfare, and security.

To realize a strong legal foundation for the implementation of local autonomy by giving flexibility to the regions to make autonomous regions independent in the context of upholding the system of government of the unitary state of Indonesia according to the constitution of the 1945 Constitution. as well as society, equity, and justice, as well as paying attention to the potential and diversity of the region. Increase the role and function of the legislature, both as a regional legislative body, as a supervisory body, as well as a means and vehicle for developing democracy.¹⁸ To anticipate the development of the situation, both at home and the challenges of global competition, which inevitably affect the regions. To re-support the position of the village or under another name as the lowest legal community unit that has the right of original autonomy, which is recognized and respected by the government system of the unitary state of Indonesia.

Responsible autonomy is a consequence of granting rights and authority to the regions in the form of duties and obligations that the region must bear in achieving the goal of providing autonomous regions, in the form of improving services and improving community welfare, developing democratic life, justice, and mapping, fiber maintaining harmonious relations between the center and the regions as well as between regions to maintain the integrity of the unitary Republic of Indonesia. Seeing the decentralization politics in the law on regional governmental principles issued during the past administration, the implementation of real and responsible autonomy, which emphasizes regional autonomy at second-level regions, is still running sluggishly, slowly and deeply things just backed off.

To achieve democratic politics, a synergy and close cooperation are required between the authorities, in this case, the political elites who sit in the legislative, executive, and judicial institutions from the central to regional levels so that the government as the maker and implementer of policies will pay attention to the aspirations of the community and can have a good influence on the life of the community itself.¹⁹ The new regional government law can encourage to empower the community, foster initiative and creativity, increase community participation, develop legislative roles and functions so that this law places regional autonomy as a whole in districts and cities, which have the authority and discretion to form and implement regional policies. To avoid misuse of the law, in this case, the regional government law, every product of the legislation must be criticized to be aware of the existence of a 'hidden political agenda' of an established elite group (rule scepticism). This leads to the discourse of legal politics and 'legal reform' to produce an 'ius contituendum' that will favor those who are more vulnerable, according to the people's will.

The local autonomy policy, which emphasizes more on the realization of community participation (empowering people), will be more relevant for the Indonesian people to accept so that when the community is capable, the community will be better able to elect and determine people's representatives who will seriously defend the interests of the people they

¹⁸ Hotlan Samosir, "KONSTITUSI, DEMOKRASI, DAN PEMILIHAN UMUM," *Jurnal Konstitusi*, accessed February 11, 2021, <http://www.mahkamahkonstitusi.go.id>.

¹⁹ Taliziduhu Ndraha, *Keybernology: Ilmu Pemerintahan Baru* (Jakarta: Rineka Cipta, 2003), 496.

represent. Providing regional autonomy does not only mean implementing democracy but also encourages the development of auto-activity. Auto-activities mean acting alone, doing what is considered important for their environment. With the development of auto-activity, what is meant by democracy will be achieved, namely the government implemented by the people and for the people. People not only determine their destiny but also, and above all, to improve their destiny.

It is argued that because the State of Indonesia is an *eenheidsstaat*, Indonesia will not have any regions in its environment which are also *staat*. Indonesia's territory will be divided into provinces, and provincial areas will be divided into smaller regions. In regions that are autonomous (*streeklocaal lechtgemeenschappen*) or merely administrative in nature, all according to the rules established by law. In autonomous regions, regional representative bodies will be held. Therefore, even in the regions, the government will cooperate based on deliberation.

Thus, the government has a strong desire to implement local autonomy by providing broad, real, and accountable authority to the regions, as stated in the regional government law. Just regulation, distribution, and utilization of national resources between the center and the regions within the framework of the parental nation of Indonesia. In principle, this autonomy regulates the implementation of regional governments that prioritize implementing the decentralization principle. Based on the regional government law and the strong will of the community, the implementation of local autonomy is carried out by granting broad, tangible, and accountable authority to the regions in a proportionate manner which is realized by the just arrangement, distribution, and utilization of national resources. The implementation of local autonomy is also carried out with the principles of democracy, community participation, equity, and justice and paying attention to regional potential and diversity.

As a unitary state, Indonesia adheres to the principle of decentralization in governance by providing opportunities and flexibility to regions to carry out local autonomy. Article 18 of the 1945 Constitution states that the division of Indonesian regions into large and small regions, with government form and structure, is stipulated by law. This is also following the founders of the Indonesian nation that the best way to overcome the dilemma contained in the relationship between diverse and single elements is to divide Indonesia's territory into regions so that each region has the right to manage its regional government. Following the characteristics and interests of the region itself.²⁰

With the legitimacy of law, it becomes more capable of controlling power when the basis for which it is used can be seen in its form and specialization. If democracy is equated with majority rule, then the result may be just simple accountability because most votes are a form of control overpower. However, if democracy is seen as a form of a set of principles regarding the self-preserving consent of those governed, then the possibility of accountability will increase. The power of legitimate control increases as we move from crude legitimacy to deep legitimacy. Deep legitimacy extends the authority of certain actions and policies directed towards the desired law in power. Deep legitimacy is best attained when power can be scrutinized based on its performance or when legitimacy rests on specifically delegated power and responsibility. The basic shift is from a blanket certification for the source of power to a continuing justification of applying the use of power in the field.²¹

Legal institutions develop when a mechanism is designed to legitimize an act or policy. The greater the need to justify power, the more doubtful its acceptance as an authority, so legitimacy requires special attention from the makers or those who legitimate it. Legalizing

²⁰ Endriatmo Soetarto, *Elite Versus Rakyat* (Yogyakarta: Laper Pustaka Utama, 2006), 185.

²¹ Philippe Nonet and Philip Selznik, *Hukum Responsif*, (Bandung: Nusamedia, 2007), 63.

legitimacy will become a separate social function, and legalization begins when this function is maintained and guarded by the competent institution. The rulers will have limited credibility as legitimizing their legitimacy. The rulers will exercise their power with legal legitimacy so that their policies are not categorized as violating the law because they act according to legal legitimacy.²²

Local autonomy does not only regulate the implementation of regional government based on decentralization but also regulates the administration of government which is based on deconcentration. It is emphasized that the implementation of local autonomy is based on decentralization; its implementation is joint with deconcentration. The implementation of local autonomy is carried out solely based on the principle of decentralization, which leads to the principle of devolution. The regional head is only as a regional instrument and not concurrently as a regional head. At the time this law was still drafted before being submitted to the legislature, the title of the law should not have been regional government, allowing laws on decentralization and local autonomy which focused on regulating freedom and freedom of participation, initiative and community empowerment and the potential for territorial areas, not solely on the power of local government. In the implementation of regional governance, adhere to the local democratic model.

The principle is the broad, real and responsible autonomy by emphasizing democratic values, community participation, equity, and justice, and taking into account the potential for regional diversity. In this case, regional autonomy is more people-oriented (more democratic in nature) than local governments, namely the authority of autonomous regions to regulate and manage the interests of local communities according to their initiatives based on community aspirations, meaning that the authority of local governments is only as a tool and facilitator to provide services to local communities. The community provides facilitation to the people through community participation and empowerment so that the community's interests in the area can be fulfilled under existing social realities.

Placing broad and complete autonomy in regencies and cities, and not concurrently as administrative regions and, while provinces as autonomous regions have limited authority, and concurrently as administrative regions, the Governor as the government's representative carries out the tasks delegated in the context of deconcentration. There is no hierarchical relationship and no subordinated relationship between autonomous regions. The legislative position is empowered by expanding their rights and powers. The responsibility of regional heads to the legislature is reinforced, allowing regional heads to be processed through impeachment if the legislature rejects their accountability. However, the legislature's position remains an equal partner with the regional head to maintain checks and balances between the legislature and the regional head, as well as to maintain the effectiveness and stability of the regional government. The development of party politics that is stable and leads to a renewal of the social order of life is a democratic struggle.

The implication is that regencies and other cities have strong economic potential, so the rate of regional growth and autonomy of regional autonomy is expected to be more secure. Still, on the other hand, for regions with less strong regional potential, it is feared that they will face difficulties in pursuing regional growth and autonomy. Will be hampered. Although this weakness can be overcome by balancing central and regional finances as stipulated in the law on balancing regional and central finance, it is not a guarantee because it is still heavy at the center. What does autonomy mean if society is organized in a rigid, conspicuous system of interests and a social layer that still benefits certain groups?

²² Ahmad Fadlil Sumadi, "Hukum Dan Keadilan Sosial Dalam Perspektif Hukum Ketatanegaraan," *Jurnal Konstitusi* 12, no. 4 (May 20, 2016): 849, <https://doi.org/10.31078/jk1249>.

The format of local autonomy should be structured in such a way according to the broad requirements and sufficient regional potential to develop the capacity for regional autonomy, from the perspective of economy, democratization, population, participation, and community empowerment, so that uniformity and formatting of autonomy must be avoided, and must still refer to it, on the diversity of conditions and potential in the area. Thus the location of local autonomy does not need to be put together for all districts and cities but depends on the strength and potential of the region concerned.

In this case, it is also necessary to anticipate the possibility of an autonomous region being abolished and or merged with other regions if the region concerned cannot carry out its local autonomy. This possibility seems difficult to implement, considering political, psychological, and cultural considerations. For an area that has been designated as an autonomous region, it will be seen as a retreat from autonomy if it is removed. However, for regions whose people truly wish to cooperate and merge their powers into a single territorial unit as an autonomous region that is broad and strong enough, it can be possible according to legal regulations, so that the location of autonomy is not in regencies or cities but also in province, either in the old province or the province that was newly formed.

On the other hand, local autonomy allows an autonomous region to be expanded into more than one autonomous region, especially the expansion of districts or cities. This policy will impact the economic potential of a regency or city autonomous region, and in turn, the carrying capacity for the independence of an autonomous region will also decrease. Therefore, the policy of dividing the autonomous regions into more than one district or autonomous city region the implementation should not be encouraged because it will not strengthen their autonomy.

Regencies and cities must implement basic needs and basic services vital for the community's benefit. In other words, the regions cannot make a choice not to handle them, namely covering the fields of public works, health, education and culture, agriculture, transportation, industry and trade, investment, environment, land, cooperatives, and labor. So, insofar as it is the authority of regencies and cities, the local government is obliged to handle them. Following the government's duty to be able to provide welfare for the people in the area. As studied in the reform program, namely reforming government organizations, laws, economic organizations, and community rights systems.

C. Conclusion

Since the beginning of the reforms, the community demanded a great change in the government system into decentralization. This is strongly supported by the constitutional reform of the 1945 Constitution. Providing autonomy to the regions is highly expected by the community. The importance of broad authority for people in the regions to regulate and manage their regional government affairs as a form of regional decentralization and the principle of local autonomy. Because only the local government itself knows the needs of the people in the area because it is closer to the community. Empowerment of community potential in the regions for equity, justice, and welfare of the community. The principle of decentralization utilizing local autonomy as the mandate of the 1945 constitution is the right of the people in the regions which must be used to regulate and administer their respective regions according to the wishes and resources or potential of the regions to create a just, prosperous, prosperous society within the framework of the unitary state of the Republic of Indonesia.

Bibliography

A. Book

- Harsono. *Politik, Demokrasi, dan Manajemen Komunikasi*. Yogyakarta: Galang Press, 2002.
- Juliantara, Danang. *Arus Bawah Demokrasi*. Yogyakarta: Laper Pustaka Utama, 2000.
- MD, Mahfudz. *Demokrasi dan Reformasi Konstitusi*. Jakarta: Rineka Cipta, 2000.
- Ndraha, Taliziduhu. *Keybernology: Ilmu Pemerintahan Baru*. Jakarta: Rineka Cipta, 2003.
- Nonet, Philippe and Selznik, Philip. *Hukum Responsif*. Bandung: Nusamedia, 2007.
- Rahardjo, Satjipto. *Membedah Hukum Progresif*. Jakarta: Kompas, 2008.
- Soetarto, Endriatmo. *Elite Versus Rakyat*. Yogyakarta: Laper Pustaka Utama, 2006.

B. Journal and Article

- Bashori, Khoiruddin. "Pendidikan Politik Di Era Disrupsi." *Sukma: Jurnal Pendidikan* 2, no. 2 (December 10, 2018): 287–310. <https://doi.org/10.32533/02207.2018>.
- Basuki, Udiyo. "PEMBAHARUAN KOSTITUSI SEBAGAI AMANAT REFORMASI (Suatu Tinjauan Sosio Yuridis)." Vol. 1, 2001. https://www.aifis-digilib.com/uploads/1/3/4/6/13465004/1-1_udiyo.pdf.
- Danusastro, Sunarno. "Penyusunan Program Legislasi Daerah Yang Partisipatif." *Jurnal Konstitusi*. Vol. 9, May 20, 2016. <https://doi.org/10.31078/JK%X>.
- Dwi Anggono, Bayu. "Konstitusionalitas Dan Model Pendidikan Karakter Bangsa Pasca Putusan Mahkamah Konstitusi." *Jurnal Konstitusi*. Vol. 11, May 20, 2016. <https://doi.org/10.31078/JK%X>.
- Elvawati, Elvawati. "TUJUAN OTONOMI DAERAH DAN ALASAN PEMEKARAN WILAYAH." *Jurnal Pelangi* 6, no. 1 (December 25, 2013): 17–22. <https://doi.org/10.22202/jp.2013.v6i1.277>.
- Guyanie, Gugun El. "POLITIK HUKUM PENGATURAN JABATAN WAKIL KEPALA DAERAH DALAM SISTEM DESENTRALISASI." *IN RIGHT: Jurnal Agama Dan Hak Azazi Manusia*. Vol. 5, March 27, 2015. <http://www.wartanews.com/read/Nasional/622e0734-b911-cce3->.
- Hotlan Samosir. "KONSTITUSI, DEMOKRASI, DAN PEMILIHAN UMUM." *Jurnal Konstitusi*. Accessed February 11, 2021. <http://www.mahkamahkonstitusi.go.id>.
- Raharjo Jati, Wasisto. "Inkonsistensi Paradigma Otonomi Daerah Di Indonesia: Dilema Sentralisasi Atau Desentralisasi." *Jurnal Konstitusi*. Vol. 9, May 20, 2016. <https://doi.org/10.31078/JK%X>.
- Ridlwan, Zulkarnain. "Cita Demokrasi Indonesia Dalam Politik Hukum Pengawasan Dewan Perwakilan Rakyat Terhadap Pemerintah." *Jurnal Konstitusi* 12, no. 2 (May 20, 2016): 305. <https://doi.org/10.31078/jk1226>.
- Ristanti, Yulia Devi, and Eko Handoyo. "UNDANG-UNDANG OTONOMI DAERAH DAN PEMBANGUNAN EKONOMI DAERAH." *Jurnal RAK (Riset Akuntansi Keuangan)* 2, no. 1 (April 20, 2017): 115–22. <https://doi.org/10.31002/RAK.V2I2.220>.
- Septi Nur Wijayanti. "Hubungan Antara Pusat Dan Daerah Dalam Negara Kesatuan Republik Indonesia Berdasarkan Undang-Undang Nomor 23 Tahun 2014." *Jurnal Media Hukum* 23, no. 2 (March 15, 2016): 186–99. <https://doi.org/10.18196/jmh.2016.0079.186-199>.
- Simanjuntak, Kardin. "Implementasi Kebijakan Desentralisasi Pemerintahan Di Indonesia." *Jurnal Bina Praja* 07, no. 02 (June 1, 2015): 111–30. <https://doi.org/10.21787/JBP.07.2015.111-130>.
- Sumadi, Ahmad Fadlil. "Hukum Dan Keadilan Sosial Dalam Perspektif Hukum Ketatanegaraan." *Jurnal Konstitusi* 12, no. 4 (May 20, 2016): 849.

<https://doi.org/10.31078/jk1249>.

Windarawan, Puguh. "Pergeseran Kekuasaan Tipologi Ketiga; Fenomena Kekuasaan Ke Arah Constitutional Heavy." *Jurnal Konstitusi*. Vol. 9, May 20, 2016. <https://doi.org/10.31078/JK%X>.

Wiratraman, R. Herlambang Perdana. "Teori Konstitusi Dalam Perspektif Hukum Kritis." *Jurnal Konstitusi*. Accessed February 11, 2021. <https://onsearch.id/Record/IOS1662.article-1214>.