Pak. j. life soc. Sci. (2024), 22(2):13588-13603 E-ISSN: 2221-7630;P-ISSN: 1727-4915

Pakistan Journal of Life and Social Sciences
www.pjlss.edu.pk

https://doi.org/10.57239/PJLSS-2024-22.2.00973

RESEARCH ARTICLE

The Essence of the Relationship between Government Authority In The Formation Of Regional Regulations Based On Regional Medium-Term Development Plans In North Maluku Province

Muhammad Asykin[1*], La Ode Husen[2], Syahruddin Nawi[3], Abdul Qahar[4]

[1]Student Doctor of Master of Law, Muslim University of Indonesia
[2,3,4] Master of Law, Muslim University of Indonesia

ARTICLE INFO

Received: Sep 28, 2024

Accepted: Nov 3, 2024

Keywords

Authority relationship
Government
Formation of regional regulations
Development plans

***Corresponding Author:**

muhammadasykin 021@gmail.com

ABSTRACT

This study aims to study, and analyze the essence of the relationship of government authority in the formation of regional regulations based on regional medium-term development plans in districts/cities in North Maluku Province; to study and analyze the extent to which regional medium-term development plans are used as a basis in the formation of district/city regulations in North Maluku Province; as well as to find and formulate an ideal model of the relationship of government authority in the formation of regional regulations based on regional medium-term development plans in North Maluku Province. This research is an explanatory empirical legal research conducted by providing a thorough explanation of facts and problems related to the object of research. The results of this study show that (1) The essence of the authority relationship is the essence of the power relationship, in this case, the legal power relationship in the formation of the regional regulation is the vertical restriction of power, especially the authority of the central and provincial governments; (2) the regional medium-term development plan has not been used as a basis for the formation of regional regulations in North Maluku Province; and (3) it is necessary to coordinate, integrate, synchronize, synergize harmonization, supervise and monitor and evaluate the regional regulations in order to be in line with the regional medium-term development plan.

INTRODUCTION

The idea of the relationship of authority between levels of government in Indonesia is an interesting thing to study because it intersects with the reality of the implementation of the government system, the structure and way of implementing the government as hinted at in the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia) which applies the terminology of multi-level government in the implementation of local government and the affirmation of identity as a unitary state in the form of a republic that The composition of the regions and their governments is based on the law, as in Article 18 of the 1945 Constitution of the Republic of Indonesia which is accompanied by the authority to regulate and manage government affairs according to the principle of autonomy and assistance duties, and has the right to establish regional regulations and other regulations to carry out regional autonomy and assistance duties.

The delegation of authority to the regions to form regional regulations and other regulations to carry out regional autonomy and assistance tasks is inseparable from the embodiment of the Indonesian state as a state of law as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. According to Nurul Qamar, a state of law is a country that relies on the constitution, constitution or basic law (grondrecht) and the implementation of its government is carried out based on the principles of law (funthamentale recht), equality before the law and upholds human values (humanrights). The recognition of the state of law, in the 1945 Constitution of the Republic of Indonesia (before it was amended) explains that the Indonesian state is based on law (rechstaat), not based on mere power (machsstaat). The state of power (machsstaat), according to Nurul Qamar, is a country whose policies are indicated to be repressive or restrictive, even terror for and for the people to fulfill the will of the ruler. According to Hamzah, the Indonesian state as a country based on law (rechsstaat) consciously acts, strives and strives to achieve its goals by making modifications in the life and livelihood of the community and its people through the implementation of development, its detailed plans, the laws that underlie it, the laws that support it and the policy regulations that support its implementation.

The affirmation that the Indonesian state is a state of law, is a consensus agreed upon by the founding fathers in formulating the 1945 NRI Constitution. According to Nurul Qamar, the state of law (rechtsstaat) or state of law is seen as one of the best options in arranging state life based on democracy with a constitution that regulates the relationship between the state and the people, the human rights of citizens and the limitation of the power of the ruler as well as the guarantee of justice and equality before the law and prioritizing the welfare of the entire society. According to Sri Soemantri, there is no country in the world that does not have a constitution or a constitution, because the state and the constitution are institutions that cannot be separated from others.

The concept of the Indonesian legal state, which is referred to as the Pancasila legal state, is a concept of a legal state that is different from others because this concept was born from the soul of the nation which in Friedrich Carl von Savigny's thought about the soul of the nation, that there is an organic relationship between the law and the disposition or character of a nation, the law is only a reflection of the soul of the nation (volkgeist). The customary law that grows and develops in the womb of the volkgeist, must be seen as the true law of life. The true law is not made, but must be found. According to Satjipto Rahardjo, a good life is a good legal basis. In the book The State of Law that Makes Its People Happy, he proposes a state of law with a conscience as a model for other legal states other than the liberal state of law. Indonesian law that originates from Pancasila should be happy for its people, because in Pancasila it is the content of cultural values. According to Padmo Wahjono, Indonesia has an economic foundation that can achieve national goals, namely justice and prosperity based on Pancasila, as well as the law, can achieve justice based on the fourth precept of Pancasila, of course, sourced from Pancasila. According to Teguh Presetyo and Purnomosidi, Pancasila has been placed as the ideal of law (rechtsidee) and the source of all sources which is the highest level in the level of legal norms. The legal ideals of Pancasila in the national legal system have three values, namely (a) basic values, (b) instrumental values, and (c) practical values. The development of laws based on Pancasila must be able to create justice and order, so it can be said that the law of Pancasila is a responsive law, which Din Syamsudin said is a common platform and common denominator for the Indonesian nation by borrowing the term Qur'an, stating that Pancasila can be seen as a single word that unites the pluralistic Indonesian nation because Pancasila is more than just a political statement (political statement), but it is also an ideological statement and as a political statement of Pancasila as a vehicle in uniting various existing interests and political streams. The recognition of Indonesia as a state of law can be seen from its existence as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which contains the meaning that every joint of society, nation and state life must be held based on the law, so that in delegating authority to the regions as an integral part of the concept of a unitary state, it is carried out with the provisions of

laws and regulations that are instruments for the implementation of government in Indonesia. Regarding the above opinion, the 1945 NRI Constitution is a constitutional basis in carrying out constitutional life in Indonesia to achieve prosperity for all people, as in the fourth paragraph of the Preamble to the 1945 NRI Constitution, by placing regions as subordinates in a single unit of the territory of the Republic of Indonesia which is then divided into regions in the form of provinces, and the provincial areas are divided into districts and cities that have a government autonomous (streek and locale) stipulated by law.

In terminology, local governments according to Law Number 23 of 2014 concerning Regional Government which has been amended by Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014 concerning Regional Government with Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law emphasizes that in the implementation of government affairs carried out by local governments and the House of Representatives Regional (DPRD), according to the principle of autonomy and assistance duties with the principle of autonomy as widely as possible in the system and principles of the Republic of Indonesia. This is done through the granting of legal power through the authority to the regions to take care of and regulate all government affairs outside the government affairs stipulated in the Law which is the absolute authority of the central government, and the regions have the authority to make policies to provide services, increase participation, initiatives, and empower the community aimed at improving the welfare of the people. In line with this principle, the principle of real autonomy and responsibility is also implemented, where the principle of real autonomy is a principle to handle government affairs carried out based on duties, authorities and obligations that actually exist and have the potential to grow, live and develop in accordance with the potential and peculiarities of the region because in its implementation, the content and type of autonomy for each region are not always the same as other regions. Meanwhile, responsible autonomy is autonomy that in its implementation must be completely in line with the goals and intentions of granting autonomy, which is basically to empower the region, including improving the welfare of the people.

The vertical division of state power is the division of state power between the central government and local governments. In the context of the relationship between the central and regional governments, of course, what is relevant to be discussed in this article is the vertical division of state power. This division of state power basically aims to limit the power of the state or government so that it does not act arbitrarily. The vertical division of power basically aims to limit the power of the government (central) to the regional government, in other words, without the vertical division of power it is impossible for the arbitrariness of the central government over the regions to be prevented. If the division of state power is not carried out vertically, there can be no autonomous regional government, which means that there is no handover of authority from the government (central) to the autonomous regions to regulate and manage the interests of their people within the framework of the Republic of Indonesia. The handover of authority occurred because of the vertical division of power. The delegation of this authority means that the central government limits its power to no longer regulate and manage the authority that has been handed over to the autonomous region. It can be said that the presence of this regional government institution (decentralization) is very necessary.

Decentralization is an alternative model that is quite good because it is responsive, able to provide high-quality services, and very possible to strengthen the participation of the people in the government process. In the division of power or authority between the central and regional governments in the context of decentralization, the division of authority, duties and responsibilities between the central and regional governments is usually regulated in various legal methods, especially laws and regulations. Arrangements regarding this matter are usually related to the regional household system, namely the order concerned by dividing government authority, duties

and responsibilities between the central and regional governments. Theoretically, this system provides the widest possible breadth to the regions to regulate and manage government affairs into their household affairs. This autonomous nature implies the flexibility in the regions to regulate, manage and carry out their own government affairs according to the principles of decentralization, deconcentration and assistance duties (medebewind) by emphasizing the acceleration of the realization of the level of community welfare through improving services, empowering participation by paying attention to the principles of democracy, equity, justice, privilege and specificity as well as the potential and diversity of regions in the frame HOMELAND. The regional autonomy policy is implemented with a broad, real and responsible autonomy principle to the regions by growing and developing the quality of democracy in the regions, increasing community participation, equity and justice by paying attention to the potential and diversity of the regions. The principle of autonomy as widely as possible is the authority of the regions to take care of and regulate all government affairs outside those that are government affairs stipulated by law. According to Marbun, the regions have the authority to form regional policies to provide services, increase participation, initiatives, and community empowerment aimed at improving people's welfare. The principle in real terms emphasizes more on the potential to realize the content and type of autonomy delegated because the content and type of autonomy of each region is not always the same as other regions, so that in its implementation it must be really in line with the purpose and intention of granting autonomy and can be held accountable for its implementation. The implementation of autonomy and assistance tasks delegated to local governments is also accompanied by the right to local governments to form regional regulations, which is a tangible manifestation of the implementation of regional autonomy because regional regulations are a means of realizing regional independence and affirming the position of local governments as an integral part of the central government that can solve societal problems in the corridor of autonomy and assistance tasks. Because the right to form regional regulations delegated to local governments remains in the corridor of principles for the formation of national legislation, by upholding human rights, and siding with the interests of the community in the region, being environmentally insightful and reflecting and considering the culture or ideal values that grow and develop in society.

In the hierarchy of laws and regulations guided by the Indonesian nation, regional regulations are placed as a legal product that becomes authority and can be formed in the regions that function as a regulating and controlling tool, for the implementation of government affairs, development and community services. Article 236 paragraph of Law Number 23 of 2014 concerning Regional Government, which has been amended by Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014 concerning Regional Government, last with Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law which states that to carry out regional autonomy and assistance duties, Regions form Regional Regulations (Perda) with the mutual approval of regional heads whose content material is related to the implementation of regional autonomy and assistance tasks and further elaboration of higher provisions of laws and regulations and can contain local content materials. From the theoretical aspect, regional regulations which are one of the types of laws and regulations that are recognized for their existence and have binding legal force as stipulated in Article 7 of Law Number 12 of 2011 concerning the Establishment of Laws and Regulations which are then emphasized in Article 236 of Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014 concerning Regional Government, affirming that:

1) To carry out Regional Autonomy and Assistance Tasks, the Regions form Regional Regulations.
2) The Regional Regulation as referred to in paragraph (1) is formed by the DPRD with the joint approval of the regional head.
3) The Regional Regulation as referred to in paragraph (1) contains the following contents:
   a. implementation of Regional Autonomy and Assistance Duties; and

b. further elaboration of higher legislative provisions.

4) In addition to the content material as intended in paragraph (3), the Regional Regulation may contain local content material in accordance with the provisions of laws and regulations.

The attribution of the authority to form this regional regulation is not only in the implementation of autonomy and assistance duties as well as the elaboration of higher provisions of laws and regulations, but more importantly, it can contain local content material by considering the culture or ideal values that grow and develop in society as an essence of the implementation of regional autonomy placed in the district and city areas as an effort to bring services closer to the community as stated in the regional development planning documents, both RPJPD, RPJM and RKPD which are a unit in the national development planning system as mandated in Article 260 paragraph (1) of Law Number 23 of 2014 concerning Regional Government. In the preparation of regional regulations which is preceded by the preparation of a list of draft regional regulations or programs for the formation of regional regulations (prolegda), it contains a list of the order and priorities of the draft to be made in 1 (one) fiscal year based on higher legislation, regional development plans, the implementation of regional autonomy and assistance tasks, as well as the aspirations of local communities.

This affirmation is based on the provisions of Articles 35 and 40 of Law Number 12 of 2011 concerning the Establishment of Laws and Regulations, as amended by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Laws and Regulations. According to La Ode Husen, A. Razak and Hamzah that the existence of valid regional regulations greatly guarantees the rights of the community and the rights of citizens, and can even make the region more advanced and developed, although every regulation that is made must have pros and cons, but in the end there will definitely be changes or even changes in the future, because there is not a single regional regulation that does not experience obstacles at the time of the implementation of the regulation, The idea of the historical paradigm has proven it to all of us, so it must be understood that regional regulations are about the institution of regional desires and the wishes of the community, therefore an in-depth study is needed to find a better conception related to the formation of regional regulations as a substance to bring change in the region in the needs of the people.

The implementation of the RPJMD is not only a matter of realizing physical development (infrastructure), but also the mental and spiritual development of the community which provides legal certainty through the formation of legal instruments (perda) that act as a binding force and coercion to change people's behavior to do and/or not do a legal act, so that the development goal of realizing a just and prosperous society can be carried out throughout the territory of the Republic of Indonesia. To realize this, it is very necessary to affirm the relationship of authority between provincial and district/city governments in the formation of regional regulations so that the formation of regional regulations in carrying out regional autonomy and assistance tasks can be aligned with the regional head program enshrined in the RPJMD because it is an elaboration of the vision and mission of the regional head to be implemented by considering local content materials that are in accordance with cultural characteristics and living ideal values and developing in the community, as well as development issues that favor the community.

North Maluku Province which was formed as one of the youngest provinces out of 33 provinces in Indonesia was officially formed on October 4, 1999, through Law Number 46 of 1999 concerning the Establishment of North Maluku Province, Buru Regency, and West Southeast Maluku Regency. The coverage of the North Maluku Province consists of 10 (ten) districts and cities, namely Ternate City, Tidore Islands City, West Halmahera Regency, Central Halmahera Regency, North Halmahera Regency, South Halmahera Regency, Sula Islands Regency, Morotai Island Regency, and Taliabu

Island Regency, which have different entities in each region based on ethnic/ethnic background, customs, language and religion.

The reality is that since the establishment of North Maluku Province in 1999 until now, there has not been a synergy or equalization of perception, coordination, integration, and synchronization between district and city governments in the formation of regional regulations that are in line with the provisions of Article 35 letter (b) and Article 40 of Law Number 12 of 2011, as amended by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Laws and Regulations. The impact of this misalignment can be seen in the products of regional regulations in general that tend to only fulfill the duties and functions in the legislation, as part of the duties and responsibilities as organizers of government affairs in the regions. The local government and the DPRD focus more on the formation of Regional Regulations and Regional Regulations related to the implementation and accountability of regional heads which are perceived as orders of higher laws and regulations to overcome the current legal situation (ius constitutum), but not the essence of the formation of regional regulations as a legal instrument needed to realize what is aspired to (ius constituendum) in the RPJMD as a means to independence and efforts to empower the community in the region. Starting from this problem, the author feels the need to conduct a research with the title "The Nature of the Relationship of Government Authority in the Formation of Regional Regulations Based on Regional Medium-Term Development Plans in North Maluku Province".

RESEARCH METHODS

The use of this type of empirical legal research is used to see the reality of the role of the provincial government, in this case the governor as a representative of the central government in the region, it is very important to coordinate, integrate, synchronize and synergize the provincial development planning documents and between districts and cities in their regions in realizing the concept of planning that is in accordance with the plan for the preparation of regional regulations. So that the medium-term development plan and the regional regulation plan become mutually reinforcing instruments in achieving development goals. However, the fact or reality is that this is not implemented so that the regional medium-term development planning document is only focused on material infrastructure that does not synergize with legal instruments (regulations), so that the formation of legal instruments (regulations) only awaits adjustment with the attribution of authority from higher regulations formed by the central government. The determination of the independent variables from this study is adjusted to the formulation of the problem, namely how the nature of the relationship between government authority in the preparation of regional medium-term development plans based on prolegda, the extent to which the products of the regional medium-term development plan are used as a basis for the formation of regional regulations in districts/cities, and how the ideal relationship is in the formation of regional regulations based on regional medium-term development plans, while the bound variables are the realization of responsive regional regulations in accordance with the regional development plan in North Maluku Province.

Types and Data Sources

The type of data used in the preparation of the dissertation is a type of qualitative data, namely data that is not measured by numbers in this study is qualitative primary data expressed in the form of sentences or narratives according to research or observations in the field (field research) which focuses on collecting empirical data in the field.

In this empirical legal research, the data sources used by the author are:

1) Primary data is data obtained based on the main sources directly related to this research which are used as sources/respondents, including:
   a) Head of the Regional Research and Development Agency of 3 (three) Regencies and Cities in

North Maluku Province;
b) Head of the Law and Human Rights Section at the Regional Secretariat of 3 (three) Regencies and Cities and the Head of the Legal Bureau of North Maluku Province;
c) Chairman of the Regional Regulation Making Agency (Bapemperda) of the DPRD 3 (three) Regency and City.

2) Secondary data is data obtained from laws and regulations related to the object of research, literature and literature sources related to related research objects through legal materials which include:
a) Primary legal materials are binding legal materials, which consist of legal principles/principles and laws and regulations consisting of the 1945 NRI Constitution and the Local Government Law, RPJMD and other legal instruments, both national and related to the relationship between provincial governments and district/city governments in the preparation of regional regulations based on development plans. Primary legal materials are also sourced from the Constitutional Court's court decisions related to judicial review of a number of articles in the Local Government Law;
b) Secondary legal materials are legal materials that provide explanations about the relationship between authorities in the formation of regional regulations based on regional medium-term development plans, seminar papers, print and internet media, scientific journals, annual reports; and
c) Tertiary legal materials are materials that provide clues consisting of legal dictionaries or black law dictionaries, dictionaries of legal terms, Indonesian dictionaries and encyclopedias.

Population and sample

North Maluku Province consists of 10 (ten) districts and cities, namely Ternate City, Tidore Islands City, West Halmahera Regency, Central Halmahera Regency, North Halmahera Regency and South Halmahera Regency, East Halmahera Regency, Morotai Island Regency, Sula Islands Regency, and Taliabu Island Regency as a representative in this study.

The population seems small, so in this study the author took 3 (three) districts and cities and 1 (one) North Maluku Provincial Government as a sample that was carried out deliberately with a purposive sampling technique, namely Ternate City, Central Halmahera Regency and Sula Islands Regency with the reason or consideration that these three districts and cities and one provincial government have represented the city area, districts that are national strategic industrial estates and the farthest districts compared to other regions and for provincial governments in addition to being representatives of the central government in the regions, the province also because of its authority can synchronize and evaluate the district/city Ranperda by providing endorsement in the form of granting a registration number in the district/city regional regulations before the Ranperda is issued.

Sample of this study, then the author identifies related parties that can be used as sources/respondents from this study, including:

1) Regional Research and Development Agency 3 (three) Regencies and Cities;
2) Legal and Human Rights Section of the Secretariat of 3 (three) Regencies and Cities and the Provincial Legal Bureau;
3) Regional Regulation Making Agency of DPRD 3 (three) Regency and City.

Data Collection Techniques

There are two types of data in empirical law research, namely primary data collection and secondary data.

1) Primary data, the data collection technique used by the author in empirical legal research is interviews and questionnaires that are used individually or separately or used together at the

same time that are adjusted to the existence of the respondents.

a) The interviews conducted by the author are the main data obtained directly from various types of respondents, both from elements of the government, DPRD, and/or local government policy observers. Interviews were conducted using in-depth interview techniques to sources who were considered potential to support the data needed in this study. In-depth interviews are conducted in a directional manner (directive interview) by preparing basic questions as interview guidelines and possible variations of questions that develop from basic questions. The results of the interview will later be analyzed qualitatively by processing the data in full to then be interpreted.
b) Questionnaire is a research instrument consisting of a series of written questions. The goal is to get responses from selected groups of people (respondents and informants) through direct or indirect interviews such as online media, postal and others, to collect primary data directly from predetermined respondents at the research location.
   The questionnaire contains at least the research identity, education level, occupation, position, and address of the respondent, while the name may not be written to ensure the confidentiality of the respondent's answers and the necessary information related to provincial, regency and city government relations in the preparation of regional regulations based on the regional medium-term development plan in North Maluku Province.

2) Secondary data, a technique used to collect secondary data, namely by collecting and documenting books, journals, scientific papers, dictionaries, encyclopedias, and documents related to research problems sourced from literature or legal materials, both primary legal materials, secondary legal materials, and tertiary legal materials.

Data Analysis

Data analysis techniques basically depend on the type of data. This research is an empirical legal research, so in processing and analyzing the primary data using qualitative methods based on certain theoretical or conceptual foundations. In processing and analyzing empirical research data, guidelines from literature materials are used as the source of research. The literature materials are processed by quoting, copying writings in the form of books, national and international journals, scientific works, and laws and regulations, which include activities that are carried out systematically and using analysis with explanatory techniques. The explanatory analysis is carried out by providing a thorough explanation of the facts and problems related to the object of research.

The data that has been collected is then analyzed expositively. The relationship between the theories obtained in the literature study will then be studied and outlined in the form of a dissertation. Data analysis using explanatory techniques aims to collect facts accompanied by data interpretation, then the data obtained will be processed qualitatively from literature studies and analyzed using a normative juridical approach, to be presented in explanatory form to obtain conclusions.

The main data in this study, the researcher used an interview technique, which was then collected as data obtained directly from various types of respondents both from elements of the government, DPRD, and/or local government policy observers. Interviews were conducted using in-depth interview techniques to sources who were considered potential to support the data needed in this study. In-depth interviews are conducted in a directional manner (directive interview) by preparing basic questions as interview guidelines and possible variations of questions that develop from basic questions which then the results of the interview will later be analyzed qualitatively by processing data completely to then be interpreted.

RESULTS AND DISCUSSION

The Nature of the Relationship of Government Authority in the Formation of Regional Regulations Based on RPJMD.

The relationship of government authority between the central and regional governments in the formation of regional regulations.

The construction of the relationship between the central and regional governments in the formation of regional regulations has developed in tandem with political and legal developments in the Republic of Indonesia because it has greatly influenced the pattern of configuration of relations between the central and regional governments which has actually been structured in the 1945 Constitution of the Republic of Indonesia.

The form of government authority relationship in the Republic of Indonesia has gone through 2 (two) phases of the model that connects the central and regional governments, which is based on Article 1 of the 1945 Constitution of the Republic of Indonesia which states that the State of Indonesia is a unitary state in the form of a republic which has consequences on a national form of government with all absolute authority and then the formation of regions as an extension of the authority of the national government in order to prosper the people's life with all the authority that is concurrent both mandatory affairs and optional affairs, so that the relationship model that is known and used is the first, the centralization model which is a model that places all affairs, duties, functions and authorities for the administration of government in the central government whose implementation is carried out in a decentralized manner, and the second model is decentralization, where the affairs, duties, functions and authorities of the implementation of government administration handed over as widely as possible to the local government.

The position of the Constitution itself is a "character of nation" which carries ideals, ideas, concepts and ideologies as the basis in laying the structure of government and the joints of the nations, especially in the statement of oneself as a country within the framework of the Republic of Indonesia which is stated in Article 18 of the 1945 Constitution of the Republic of Indonesia which emphasizes that:

1) The Unitary State of the Republic of Indonesia is divided into provinces and provincial areas are divided into districts and cities, each province, district and city has a local government regulated by law.
2) Provincial, district and city governments regulate and manage their own government affairs according to the principle of autonomy and assistance duties.
3) Provincial, regency and city governments elect Regional People's Representative Councils (DPRD) whose members are elected through general elections.
4) Governors, regents and mayors as heads of provincial, regency and city local governments are democratically elected.
5) Local governments exercise the widest possible autonomy, except for government affairs that are determined by law as central government affairs.
6) Local governments have the right to establish regional regulations and other regulations to carry out autonomous tasks and assistance tasks.
7) The structure and procedures for the implementation of local government are regulated in the law.

Furthermore, Article 18A paragraph (1) emphasizes that:

1) The relationship of authority between the central government and local governments of provinces, districts, and cities or between provinces and city districts, is regulated by law by taking into account the specificity and diversity of the region.

2) Financial relations, public services, utilization of natural resources and other resources between the central government and local governments are regulated and implemented in a fair and harmonious manner based on the law.

The clustering system in the relationship between the central and regional governments, aims to provide a guarantee that in the process of implementing regional autonomy there is no centralization and in the end the design of the central-regional relationship is not applied homogeneously to all government units in the regions both at the provincial and district/city levels, considering that the homogeneity in its implementation actually leads to the politics of centralization which has been seen as having failed to give birth to democratization and welfare in the regions. The configuration of the relationship between the central and regional governments has been structured in the constitution of a country which is a "character of nation" that carries ideals, ideas, concepts and ideologies as the basis for the composition and joints of the nation and state. The independence of the Republic of Indonesia then becomes a logical consequence of the recognition and discovery of a constitution as the basis for the formation of a state, as well as in order to compose and declare itself as a state.

Referring to the comparison of the constitution before and after the amendment related to the affirmation of the existence of local governments in Article 18 of the 1945 Constitution before it was amended, it seems that it does not provide firmness regarding local governments as autonomous units of government, as seen in the reading of Article 18 of the 1945 Constitution before it was amended, namely: The division of Indonesia's regions into large and small regions, with the form of government structure determined by law, by looking at and remembering the basis of deliberation in the state government system, and the rights of origin in special regions. From this comparison, the existence of Article 18 of the 1945 Constitution of the Republic of Indonesia as a result of the amendment explained earlier, that there has been a fundamental change related to its structure and substance, because structurally, Article 18 which was only one article became three articles with a comprehensive replacement of its explanation, which is contained in Article 18, Article 18A, and Article 18B.

In substance, both conceptual and legal, the new articles on Regional Government in the 1945 Constitution of the Republic of Indonesia contain various new paradigms and new political directions of government, namely contained in Article 18 paragraph (2), Article 18 paragraph (3), Article 18 paragraph (5), Article 18A paragraph (1), Article 18A paragraph (2), Article 18B paragraph (1), Article 18B paragraph (2) which marks the shift of the local government system from a centralized system to a wider decentralization and autonomy for the regions.

In the context of the formation of regional regulations, it can be described as follows:

1) The principle of decentralization, which is the delegation of authority from the central government to local governments to regulate and manage their own government affairs, one of which is through the delegation of authority to the regions to form regional regulations and other regulations.
2) Regional autonomy, which is the authority given to regions to regulate and manage their own households in accordance with the needs and conditions of their communities, which means that local governments have the authority to form regional regulations that are in line with the needs and conditions of the communities in their respective regions.
3) Assistance tasks which are assignments from the central government to local governments to carry out certain tasks in the context of the formation of regional regulations, assistance tasks can be in the form of assignments to local governments to make regional regulations in order to implement national policies or in accordance with the provisions of higher laws and regulations.

This is in line with the provisions of Article 236 of Law Number 23 of 2014 concerning Regional Government, which states that:

1) To carry out regional autonomy and assistance tasks, the regions form Regional Regulations;
2) The Regional Regulation as referred to in paragraph (1) is formed by the DPRD with the joint approval of the regional head;
3) The Regional Regulation as referred to in paragraph (1) contains the following contents:
   a. implementation of regional autonomy and assistance tasks; and
   b. further elaboration of higher legislative provisions.
4) In addition to the content material as intended in paragraph (3), the Regional Regulation may contain local content material in accordance with the provisions of laws and regulations.

The attribution of the authority to form regional regulations given by the central government to local governments implies the existence of conditional provisions for local governments in forming regional regulations. This is reflected in the signal that the content material of the regional regulation must be focused on the aspect of implementing regional autonomy and the task of assistance and further elaboration of the provisions of higher laws and regulations or must not contradict higher regulations and the material can contain local content material that is in accordance with the provisions of laws and regulations.

Therefore, the relationship of government authority between the central government and local governments in the formation of regional regulations, as explained above, by paying attention to basic principles, including:

1) The principle of decentralization, namely the handing over of authority from the central government to local governments to regulate and manage government affairs;
2) The principle of deconcentration, namely the delegation of authority from the central government to officials in the regions in carrying out assistance tasks;
3) The principle of assistance duties (medebewin), which is an assignment from the central government to local governments to carry out certain tasks; And
4) The principle of cooperation, which is a relationship of mutual respect and assistance between the central government and local governments.

This means that the relationship of government authority between the central government and local governments in the formation of regional regulations is very clear, because they have their respective roles and the central government has a role, namely:

a. Establish national laws and regulations as a basis for local governments in the formation of Regional Regulations.
b. Provide guidelines and directions to local governments in the formation of regional regulations in accordance with the provisions of laws and regulations.
c. Conducting guidance and supervision of the implementation of the formation of regional regulations.
d. Resolve disputes between the central and regional governments in relation to the formation of regional regulations.

Meanwhile, the role of local governments in the formation of Regional Regulations, namely:

a) Prepare a regional regulation in accordance with the needs and conditions of the region as reflected in the Prolegda that has been agreed upon with the DPRD and regional heads.
b) Discuss the draft regional regulation with the DPRD according to the stages indicated by laws and regulations.
c) Stipulating the regional regulation after obtaining approval from the DPRD.
d) Implement the local regulation as well as possible.
e) Evaluate the implementation of local regulations periodically.

In the Omnibus Law, especially in the Regional Government section, it is emphasized that the central government in organizing concurrent government affairs, is authorized to establish norms, standards, procedures, and criteria that refer to or adopt good practices in the context of implementing government affairs. The determination of norms, standards, procedures, and criteria by the central government in the form of provisions of laws and regulations as implementation rules in the implementation of government affairs that are the authority of the central government and become the authority of local governments.

The determination and norms, standards, procedures, and criteria by the central government can be translated as an effort to restore the centralistic system of government with a decentralized appearance through the unification of norms in the form of laws and regulations, so that the central government's efforts to control all actions against local governments can run in accordance with the will of the central government.

The relationship of government authority between provinces and districts/cities in the formation of regional regulations.

The relationship of authority between provincial governments and districts/cities in the formation of regional regulations, in accordance with the provisions of Article 18 paragraph (1) and paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which confirms that: Paragraph (1) The Unitary State of the Republic of Indonesia is divided into provinces and the provincial areas are divided into districts and cities, each province, district and city has a local government regulated by law; Paragraph (2) provincial, regency and city governments regulate and manage government affairs themselves according to the principle of autonomy and assistance duties.

The provisions of Article 18 paragraph (1) and paragraph (2) of the 1945 Constitution of the Republic of Indonesia are new because they hint at how the authority of the provincial government and the regency/city government is in the government system of the Republic of Indonesia. This pattern of relationship which is intended in Article 18 of the 1945 Constitution of the Republic of Indonesia, especially in paragraphs (1) and (2) places provincial and regency/city areas as independent public legal entities, but this does not mean that they are completely detached or stand alone that have sovereignty, but sovereignty remains with the central government.

Further arrangements related to the pattern of government authority relations carried out through the delegation of authority to provincial and regency/city governments through Law Number 23 of 2014 are carried out through the division of government affairs both central, provincial and regency/city regions based on the principles of local government implementation which is directed to accelerate the realization of community welfare through service improvement, empowerment, and community participation, as well as increasing regional competitiveness by paying attention to the principles of democracy, equity, justice, and the uniqueness of a region in the system of the Republic of Indonesia.

In the provisions of Article 13 and Article 14 of Law Number 23 of 2014, it is expressly stated that the implementation of government affairs is based on the level of government. In that article, it is stated that mandatory affairs that are the authority of the provincial local government are affairs on a provincial scale, while mandatory affairs that are the authority of the district/city local government are district/city scale affairs. The regency/city area is the largest recipient of authority, while the provincial area receives authority that is coordination, supervision, and guidance. The basis of the idea is that the district/city is a government unit that is in direct contact with the community, that is, directly serving the community. Therefore, the weight of authority must be focused on this government unit, not on the province. The province is given the authority to coordinate between districts/cities under its coordination because in addition to being a representative of the central government in the region, the governor is also given the authority to supervise and coach

districts/cities within the scope of his province. This is in accordance with Article 91 of Law Number 23 of 2014 concerning Regional Government, stating that the governor as a representative of the government in the provincial area has the duty and authority to coach and supervise, coordinate the implementation of district/city local government. In carrying out coaching and supervision, the governor as a representative of the central government has the task of coordinating coaching and supervision, implementing assistance tasks in the district/city area, monitoring, evaluating, and supervising the implementation of the district/city government in his area, empowering and facilitating the district/city area in his area, evaluating the draft district/city regional regulation on RPJPD, RPJMD, APBD, changes to the APBD, accountability for the implementation of the APBD, regional spatial planning, regional taxes, and regional levies, supervising Regency/City Regulations, and carrying out other duties in accordance with the provisions of laws and regulations. Furthermore, in carrying out the duties of the governor as a representative of the central government, he has the authority to cancel the regent/mayor regulations, give awards or sanctions to the regents/mayors related to the implementation of local government, resolve disputes in the implementation of government functions between districts/cities in 1 (one) province, give approval to the draft district/city regional regulations on the formation and composition of the district/city regional apparatus; and carry out other authorities in accordance with the provisions of laws and regulations. The authority to cancel the regional regulation by the governor as a representative of the central government was then canceled by the decision of the Constitutional Court because it was considered unconstitutional based on Decision Number 137/PUU-XIII/2015 concerning the Cancellation of Regional Regulations, dated April 5, 2017 and the Constitutional Court Decision Number 56/PUU-XIV/2016 concerning Institutions that Have the Right to Decide Regional Regulations.

In addition to the implementation of these duties, the governor as a representative of the central government has the duty to maintain the life of the nation, the state in order to maintain the integrity of the Republic of Indonesia, maintain and practice the ideology of Pancasila and democratic life, maintain political stability, and maintain ethics and norms of government administration in the regions. Ideally, the role of the governor as a representative of the central government to carry out guidance, supervision, coordination and alignment of development activities in the regions will be able to reduce the tension that has often occurred in the relationship between regents/mayors and governors. Differences in understanding the pattern of relationships between the two levels of government tend to complicate coordination and synergy in planning and implementing activities in districts/cities.

Robert Reinow said that there are 2 (two) main reasons for the policy of forming a government in the regions. First, build a habit so that the people decide for themselves some of their interests that are directly related to them. Second, to provide opportunities for each community that has various demands to make its own rules and programs. The pattern of relations between government levels, especially between provinces and districts/cities, is considered important because it concerns the effectiveness of government performance in serving the community. The governor is required to implement the Regional Medium-Term Development Plan (RPJMD), especially regarding the targets that have been set. It is impossible for this to be done without the support and cooperation of the district/city. In the context of the establishment of regional regulations, the relationship of authority between local governments, provinces and districts/cities in Indonesia is coordinated, interrelated and mutually supportive, because the essence of the formation of a regional regulation is one of the important legal umbrellas for local governments in organizing the wheels of government and implementing various regional development programs that regulate various aspects of people's lives in the regions.

Government authority in the formation of regional regulations.

Regional regulations are conditio sine quanon (absolute conditions/absolute requirements) in order to carry out the authority of regional autonomy. There are two things that are intertwined between regional regulations and regional autonomy, namely as a guideline for autonomous regions in carrying out all regional affairs, and regional regulations must also be able to provide legal protection for the local people. The implications of the amendment to the 1945 Constitution, especially Article 18, have a direct impact on the system of government, law and legislation, including the position of regional regulations as a sub-system of national laws and regulations, as referred to in Article 18 paragraph (6) which emphasizes that local governments have the right to establish regional regulations and other regulations to carry out autonomy and assistance duties. From the provisions of Article 18 of the 1945 Constitution of the Republic of Indonesia, it was then implemented through various laws that expressly delegated to local governments to form laws and regulations to run their respective governments within the framework of the Republic of Indonesia.

This was marked by the replacement of Law Number 5 of 1975 concerning Regional Government which was replaced by Law Number 22 of 1999 concerning Regional Government which was then also replaced by Law Number 32 of 2004 concerning Regional Government which came into effect on October 15, 2004. However, then in 2014 Law Number 23 of 2014 concerning Regional Government was formed, which was promulgated on October 2, 2014, which was complied with the stipulation of Government Regulation in Lieu of Law Number 2 of 2014 concerning Amendments to Law Number 23 of 2014 concerning Regional Government which was also promulgated on October 2, 2014. Then on March 18, 2015, amendments were made to Law Number 23 of 2014 concerning Regional Government with Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014 concerning Regional Government. Especially in the field of legislation, the establishment of Law Number 10 of 2004 concerning the Formation of Laws and Regulations and came into force on November 1, 2004 whose enactment provides fundamental changes in the field of legislation, both the issue of type and hierarchy, the content of laws and regulations, as well as the process and techniques of its formation which was then in 2011 replaced by Law Number 12 of 2011 concerning the Formation of Laws and Regulations, which came into effect on August 12, 2011.

COVER

Conclusion

1. The essence of the authority relationship is the essence of the power relationship, in this case it is the legal power relationship in the formation of regional regulations is the restriction of power, especially the authority of the central and provincial governments to avoid arbitrariness from higher organs (the central government).
2. The regional medium-term development plan has not been fully used as a basis for the formation of regional regulations in North Maluku Province as seen from the results of regional regulations produced at the research site because the Regional Government and DPRD focus more on open cumulative regional regulations, rather than forming regional regulations based on conformity with the development plan.
3. The ideal model of the relationship of government authority in the formation of regional regulations based on regional medium-term development plans in North Maluku Province must optimize and implement the model of coordination, integration, synchronization, synergy, harmonization, supervision as well as monitoring and evaluation which begins with the preparation of the list of regional regulations as carried out in the process of preparation and consultation of regional development planning documents.

Suggestion

1. The concept of vertical distribution of authority in Indonesia is no longer in line with the times,

so it is necessary to make changes through the limitation of authority from the central government outside the absolute authority it has such as foreign policy, defense, security, judiciary, monoter, and national fiscal, as well as religion, which begins with the limitation of the central government's authority on the formation of regional regulations as a form of implementation of broad, real and responsible autonomy within the framework of the Republic of Indonesia

2. The DPRD as the institution authorized to determine the plan for the formation of regional regulations must be more selective and sort out the regional regulations proposed by the local government and/or the DPRD's own initiative by classifying the form of regional regulations in the priority and urgent categories outside the list of open cumulative category regional regulations by guiding the regional development plan as hinted by the provisions of the applicable laws and regulations.
3. The provincial government, in this case, the governor as the representative of the central government in the region, facilitates the creation of a roadmap for the formation of a plan for the formation of a regional regulation that is adjusted to the RPJMD document that has been consulted and ratified by the provincial government so that it becomes a reliance for the district/city government in producing regional regulations.

BIBLIOGRAPHY

Ajizah, S. N., Wijaya, E., & Meutia, F. (2021). The role of the Depok City Regional Development Planning Agency (BAPPEDA) in the preparation of regional medium-term development plans. *Journal of Legal Reasoning*, *4*(1), 44-64.

Anas, M. K., Fahmal, A. M., & Qamar, N. (2021). The position of the Regional Representative Council in the Indonesian constitutional system. *Journal of Lex Philosophy (JLP), 2*(2), 123-136.

Anggalana, A. (2020). Synergy of Village Government in the formation of Village Regulations. *Legal Institutions*, *15*(1), 1-21.

Arrsa, R. C. (2013). Political Restoration Legislation for the Establishment of Research-Based Regional Regulations. *Journal of Rechts Vinding: National Legal Development Media*, *2*(3), 397-415.

Farid, M. (2017). Authority of Local Governments and Community Participation in Regional Potential Management. Legal Lantern, 4, 97.

Firmanto, T., & Sanusi, G. (2020). Muhammadiyah's work and efforts to realize the Indonesian legal state as the country of Baldatun Thoyibatun Warobbun Ghofur. *Fundamental: Scientific Journal of Law*, *9*(2), 169-190.

Fitriani, H. L., & Nurhadi, N. (2022). Constitutional Law on Government and Regional Autonomy. *YASIN, 2*(4), 467-503.

Habsy, B. A., Lailah, A., Damayanti, A., Asy'ari, A. H., Fitrianti, L. I., Saputri, M. A., & Alifah, S. A. S. (2024). The Urgency of Maintaining Pancasila Values as Indonesian Human Identity in the Industrial Revolution 5.0. *Journal of Tambusai Education*, *8*(1), 4956-4972.

Halim, H., & Putera, K. R. S. (2013). Practical Ways to Prepare and Design Regional Regulations: A Theoretical & Practical Study Accompanied by a Manual: Theoretical Conception Towards Empirical Articulation. Gold.

Halim, Hamza and Putra, Syahrul, Kemal Redindo, 2010. Practical Ways of Drafting and Designing Regional Regulations (A Theoretical & Practical Study with Manual): Theoretical Conception Towards Empirical Articulation. Gold. Jakarta.

Hamzah, H., & Razak, A. (2022). The Urgency of Forming Regional Regulations in the Implementation of Regional Government: A Study in Makassar City. *Journal of Lex Generalis (JLG), 3*(8), 1360-1374.

Hasana, S. (2018). Development Planning System in National Legal Structuring (A Study of Law Number 25 of 2004 concerning the National Development Planning System). *Meraja Journal*, *1*(3), 55-65.

Hasrul, M. (2017). Structuring institutional relations between the provincial government and the regency/city government. *Perspective: Studies of Legal and Development Issues*, *22*(1), 1-20.

Hidjaz, M. K. (2010). *The effectiveness of the implementation of authority in the local government system in Indonesia*. Reflection Library.

Irvansyah, I., Widarto, J., Markoni, M., & Subiyanto, A. E. (2024). Analysis of Regional Regulation of the Special Region of Yogyakarta Number 1 of 2022 concerning Pancasila Education and National Insights. *Social Science Academic*, *2*(2), 231-250.

Piris, H. J. (2014). The Role of Legal Politics in Regional Development Planning. *Sasi*, *20*(2), 14-20.

Sani, A. A., Marsuni, L., & Razak, A. (2023). The Effectiveness of the Implementation of Regional Regulations in South Sulawesi Province: A Case Study on the South Sulawesi Provincial DPRD Bapemperda. Journal of Lex Generalis (JLG), 4(2), 540-563.

Setiawan, A., Suwaryo, U., & Rahmatunnisa, M. (2020). Community Participation in Village Development Planning in Bandung Regency. *Academia Praja: Journal of Political Science, Government, and Public Administration*, *3*(02), 251-270.

Setyawan, V. (2023). Pancasila As A Philosophical Basis Of Law Formation In Indonesia. *NUSANTARA: Journal Of Law Studies*, *2*(1), 1-8.

Simandjuntak, R. (2015). The Decentralization System in the Unitary State of the Republic of Indonesia: A Constitutional Juridical Perspective. *De Jure: Journal of Law and Shari'ah*, *7*(1), 57-67.

Usman, M. A., Nawi, S., & Qahar, A. (2023). Granting Land Rights for Communities in the Coastal Border Area, Untia Village, Biringkanaya District, Makassar City. *Innovative: Journal Of Social Science Research*, *3*(3), 8855-8869.

Wardhana, A. F. G. (2022). The Relationship of Authority of the Central Government and Regional Governments in the Arrangement of the Greater Jakarta-Punjur Metropolitan Area. *Ius Quia Iustum Law Journal*, *29*(3), 494-515.