

The Suitable Concept of the Relationship of Authority between the Center and the Regions for the Unitary State of the Republic of Indonesia According to the 1945 Constitution of the Republic of Indonesia



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ABSTRACT: The Unitary State of the Republic of Indonesia, which consists of many provinces, regencies, and cities, always strives to realize the goals of the state as contained in the Preamble to the 1945 Constitution of the Republic of Indonesia. The consequences of the form of an archipelagic state make its implementation through the application of the principles of centralization, decentralization, deconcentration, and co-administration. The application of the four principles is carried out simultaneously which is adjusted proportionally.

KEYWORDS: The Unitary State of the Republic of Indonesia, 1945 Constitution of the Republic of Indonesia, centralization, decentralization, deconcentration,

I. INTRODUCTION

The Unitary State of the Republic of Indonesia actually has a goal, namely to protect the entire Indonesian nation and the entire homeland of Indonesia and to promote public welfare, educate the nation's life, and participate in carrying out world order. This goal is always pursued by means of community development and services in order to improve the welfare of the community. With the form of a unitary state consisting of many provinces, regencies, and cities, the central government seeks development and community services by establishing relations with the regions so that development can be evenly distributed.

However, the relationship between the central government and the regions in Indonesia often changes following political developments and also the needs of the people in Indonesia. UU no. 1 of 1945 contains the concept of Indonesian autonomy with people's sovereignty, Law no. 22 of 1948 contains the concept of autonomy as much as possible, the era of the 1950s UUDS, there is Law No. 1 of 1957 and Law no. 6 of 1959 with real and broad autonomy. In the era of the 1945 Constitution of the New Order, there was Presidential Decree No. 6 of 1959 with real and broad autonomy, Law no. 18 of 1965 with real and widest autonomy and in it there is the principle of deconcentration complementary to decentralization, Law no. 5 of 1974 with real and responsible autonomy, the concept of decentralization is as important as deconcentration, Law no. 22 of 1999 with real, responsible and broad autonomy, Law no. 32 of 2004 with the revision of real, responsible and broad autonomy[1], Law no. 23 of 2014 which tends to adhere to the principle of deconcentration.

Changes in the relationship between the central and local governments indicate that the State of Indonesia has yet to find the right concept in establishing relations between the central and local governments. For this reason, the author wrote a paper "The suitable concept of the relationship of authority between the center and the regions for the Unitary State of the Republic of Indonesia according to the 1945 Constitution of the Republic of Indonesia".

From the description of the background of the problem above, it can be formulated the problems that will be discussed in this paper. The formulation of the problem in this paper is as follows: How is the concept of the authority relationship between the center and the regions suitable for the Unitary State of the Republic of Indonesia according to the 1945 Constitution of the Republic of Indonesia?

II. DISCUSSION

Unitary State Concept

When viewed in Article 1 paragraph (1) of the 1945 Constitution, the state of Indonesia is expressly stated as a unitary state in the form of a republic. The principle of a unitary state is that the one who holds the highest level of power over all state affairs is the central government without any delegation or delegation of power to the *local government* [2]. In a unitary state there is the principle that all state affairs are not divided between the central government (*central government*) and local government (*local government*)

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in such a way that state affairs within the unitary state remain a unanimity (*eenheid*), and that the highest authority in the state is the Central Government [3]. The theories put forward by Ni'Matul Huda in his book show that it should refer to the concept of a unitary state which is purely based on the principle that must be implemented is centralization, where the authority of the central government is absolute in managing the regions. However, for such a large area of Indonesia, it is very difficult to apply the principle of pure centralization. The concept is more suitable to be applied to a country with a small area or a city-state such as Singapore.

According to CF Strong, the essence of a unitary state is a state whose sovereignty is undivided, or in other words, a state whose central government power is not limited because the constitution of a unitary state does not recognize the existence of a law-making body other than a central law-making body [4]. CF Strong himself does not limit the distribution of authority between the Central and Regional Governments, but indeed in the unitary State system the Central Government has dominant power.

Meanwhile, according to Soehino, a unitary state is a country with a single structure, in the sense that within the country there are no parts of the region that have state status, there is only a state and there is no state within the state, there is only one central government which has the highest power and authority. in all fields of government; and only has one constitution. From the definition of the Unitary State as stated above, the principles of the Unitary State can be stated as follows [5]:

1. The authority to form a constitution rests only with the central government.
2. In the administration of government in the regions can implement the principle of decentralization, the principle of deconcentration, and the principle of co-administration.
3. In a unitary state that implements the principle of decentralization, the formulation and mention of government affairs which are under the authority of the regional government are formulated and stated explicitly and in detail.
4. Original power or authority rests with the central government

Judging from the constitutional structure, Indonesia is a unitary state. In this context as reflected in Article 18 of the 1945 Constitution, in the national dimension of state administration politics does not only recognize one form of government politics or decentralization, but also involves territorial aspects which are a reflection of the general duties of government. The principle of a unitary state places the power/authority of the government on the central government, in other words, the holder of power is fully in the hands of the central government. However, in the context of efficiency and effectiveness in the administration of government, this authority is transferred to the Regional Government through the concept of decentralization, so it is necessary to form Autonomous Regions that have autonomous rights and authorities. Realizing this, however wide the autonomy is granted to the regions, it still has limits. In other words, Regional Autonomy is not without limits, but there is still a frame of authority of the central government which is better known in the sense of general government. The difference is that if the past frame was very narrow, then in the era of broad autonomy, it became quite broad, so that the region had the freedom to be creative [6]. More fundamentally, according to Nick Devas, the relationship between the center and the regions concerns the sharing of power within the government [7].

Centralization, Deconcentration, Decentralization and Co-Administration

In the system of a unitary state, like the Unitary State of the Republic of Indonesia, there are two ways that can connect the central and regional governments. The first method is called centralization, in which all the affairs, functions, duties and authorities of the administration of government rest with the central government whose implementation is carried out in a deconcentrated manner, in which the affairs, duties, and authority of implementing government are left to the widest possible extent to the regions [8].

Deconcentration by Amrah Muslimin [9] is defined as the delegation of part of the authority of the Central Government to the tools of the Central Government in the regions. According to Bagir Manan, deconcentration arrangements, especially those related to the formation of administrative government areas, must avoid several things, including:[10]

- a. The presence of an administrative government area should not shift the autonomous government unit which is one of the joints of the state administration system according to the 1945 Constitution;
- b. The presence of an administrative government area should not lead to dualism in the administration of regional government. This happened when the era of the enactment of Law no. 5 of 1974 with real and responsible autonomy, the concept of decentralization is as important as deconcentration ;
- c. The presence of an administrative government area should not lead to confusion of authority, duties and responsibilities with the autonomous government unit which will affect the function of service to the community.

CST Kansil and Christine ST Kansil [11] state that the principle of decentralization is the principle that states the handover of a number of government affairs from the central government or from higher level regional governments to lower level regional governments so that they become the household affairs of the region. Thus, the initiatives, authorities and responsibilities regarding the submitted affairs are fully the responsibility of the region, both regarding policy policies, planning and implementation as well as regarding aspects of their financing.

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Furthermore, Amrah Muslimin, defines decentralization as the delegation of authority to agencies and groups in society in certain areas to take care of their own household. Furthermore, Amran Muslimin distinguishes decentralization into political decentralization, functional decentralization, and cultural decentralization. Article 1 of Law No. 23 of 2014 concerning Regional Government itself provides the definition of Decentralization is the handover of Government Affairs by the Central Government to autonomous regions based on the Autonomy Principle. What is meant by the principle of autonomy according to the Law is the basic principle of administering Regional Government based on Regional Autonomy.

In the relationship between the Central Government and regional governments, let's look at Article 18 of the 1945 Constitution, which means that the territory of Indonesia is divided into a number of large and small autonomous regions, namely regions that are allowed to take care of their own household and administrative regions, namely regions that are not allowed to exist. Alone. This is a reflection of decentralized and then deconcentrated areas. However, these two things are only at the administrative level, which in fact both constitute a territorial unit which in government is referred to as a *territorial* unit. Although in the construction of Law no. 22 of 1999, the two positions were united in the institution of the Regional Head which in the government is often referred to as a personal unit. In other words, the consequence of Article 18 of the 1945 Constitution is that the government is required to implement decentralization and deconcentration politics in the field of state administration. Article 1 of Law No. 23 of 2014 concerning Regional Government provides the meaning of Deconcentration is the delegation of part of the Government Affairs which are under the authority of the Central Government to the governor as the representative of the Central Government, to vertical agencies in certain areas, and/or to the governor and regent/mayor as in charge of general government affairs.

What is related to the relationship between the implementation of the general government and the autonomy of the Regional Government is the principle of balance which demands knowledge of how far Deconcentration can be carried out to the extent that the implementation of decentralization is not harmed, but actually benefits. Likewise, how to find a balance between the implementation of the principle of decentralization and deconcentration in a balance point that allows efficiency and effectiveness of services to the community. Because basically decentralization and regional autonomy are merely instruments to achieve goals and not goals themselves. So that when the regional authority is getting bigger which is supported by the existence of institutions that are made according to the needs of the region, the existence of financial sources, personnel, and equipment, which are fully regulated by the region, the regional government can prosper the people.

The purpose of providing assistance tasks is to increase the effectiveness and efficiency of the implementation of development and public services to the community. In addition, the provision of assistance tasks also aims to facilitate the implementation of tasks and problem solving as well as help develop regional and village development according to their potential and characteristics. Article 1 of Law No. 23 of 2014 concerning Regional Government provides the meaning of Co-administration Tasks, namely assignments from the Central Government to autonomous regions to carry out part of the Government Affairs which are under the authority of the Central Government or from the Provincial Government to Regency/Municipal Regions to carry out part of Government Affairs. which is the authority of the province. Not all powers can be exercised through the principles of decentralization or deconcentration. Meanwhile, whether it is realized or not, the village and district/city area as government organizations that are closest to the community will be a measure or parameter for the community in assessing the work of the government as a whole. In other words, the good and bad performance of the Regional Government in various aspects will have an impact on the public's image of the Central Government. The government as the person in charge of regional progress and people's welfare needs to provide assistance tasks to regions and villages.

Various laws and regulations governing regional government using the principles of decentralization, deconcentration, and co-administration, show the dynamics of the size of the regional authority in regulating and managing their household. The greater the application of the principle of decentralization to the autonomous regions, the wider the government affairs regulated by each region. Vice versa, the smaller the application of the principle of decentralization or the greater the application of the principle of centralization, the smaller the government affairs regulated by each region.

Meanwhile, deconcentration, even though it involves local governments in the administration of central government affairs in the regions, does not give local governments the authority to regulate. Deconcentration is essentially carrying out the affairs of the central government in the regions and is authorized to make its own decisions to a certain degree based on its authority. Co-administration is the duty of the regional government to participate in carrying out certain government affairs of the central government in the regions. In several regional government laws and regulations, although there are variations in the formulations regarding decentralization, deconcentration, and co-administration, the substantive meaning remains the same [12].

In accordance with Law Number 22 of 1999 concerning Regional Government, which has been amended by Law Number 32 of 2004 concerning Regional Government in conjunction with Government Regulation Number 3 of 2005 concerning Amendments to Law Number 32 of 2004 concerning Regional Government, the principle of decentralization Deconcentration, and co-administration tasks are still given the same meaning as the previous law, namely decentralization is defined as the handover of government affairs which become the affairs of autonomous regions, deconcentration as delegation of authority to central

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government officials in the regions and co-administration tasks as a duty to participate. carry out central or top-level government affairs to the regions.

In Law Number 32 of 2004 concerning Regional Government, government affairs are divided into affairs that are under the authority of the Central and Regional Governments. The authority of the Central Government can be delegated part of its affairs to the Central Government apparatus or representatives of the Central Government in the regions or can assign to regional governments and regional government affairs are divided into mandatory and optional affairs. However, in Law Number 23 of 2014, government affairs are divided into Absolute Affairs organized by the Central Government, congruent government affairs which are divided between the Central Government, Provincial Governments and Regency/City Regional Governments. As stated in Article 9 (1) Government Affairs consist of absolute government affairs, concurrent government affairs, and general government affairs; (2) Absolute government affairs as referred to in paragraph (1) are Government Affairs which are fully under the authority of the Central Government; (3) Concurrent government affairs as referred to in paragraph (1) are Government Affairs which are divided between the Central and Provincial Governments and regencies/municipalities; (4) Concurrent government affairs that are handed over to the Regions become the basis for the implementation of Regional Autonomy; (5) General government affairs as referred to in paragraph (1) are Government Affairs under the authority of the President as head of government.

In Article 5 paragraph (4) it is explained that the Implementation of Government Affairs as referred to in paragraph (2) in the Regions is carried out based on the principles of Decentralization, Deconcentration, and Co-Administration.

Absolute government affairs as described in Article 10 paragraph 1, consist of Foreign Policy, Defense and Security, Judiciary, monetary, fiscal and religious. However, the Central Government in delegating its authority to vertical agencies and representatives of the central government in the regions namely the Governor based on the principle of deconcentration as referred to in Article 5 paragraph 4 of Law Number 23 of 2014. Thus, absolute government affairs are indeed the absolute authority of the Central Government and not related to the city/district government which prioritizes the principle of decentralization.

In addition, to maximize the performance of local government administration, both the Governor as the representative of the Central Government and the city and district governments, it has been divided into two types of concurrent affairs, namely mandatory government affairs and optional affairs. Compulsory affairs are further divided into two, namely mandatory matters relating to basic services and those not related to basic services. These mandatory affairs are legally regulated by using a priority scale that the implementation of mandatory matters relating to basic services is prioritized as regulated in Article 18 paragraph 1 of Law Number 23 of 2014 Regional Government Administrators prioritize the implementation of Mandatory Government Affairs relating to Basic Services. This is done so that the performance of local governments becomes more effective without having to form a new institution, but continuing what the central government is doing.

Concurrent Government Affairs also adheres to the division of work areas between the Central Government, Provincial Government and Regency/City Governments as referred to in Article 13 paragraphs 2, 3 and 4 of Law Number 23 of 2014. The aim is to expedite licensing affairs between governments both central and local governments also increase accountability, efficiency, externalities and also advance strategic interests.

III. CONCLUSIONS

None of the concepts of Centralization, Deconcentration and Decentralization can be applied purely. The point is that one of the concepts of the relationship between the Central and Regional Governments cannot be applied to only one concept, because in essence as a unitary State (Article 1 paragraph 1 of the 1945 Constitution) Indonesia is also a country consisting of various regions that have their own autonomy (Article 18 1945 Constitution). This is in accordance with the characteristics of the State of Indonesia.

For this reason, the concepts of central and regional government relations in the form of Centralization, Deconcentration, and Decentralization can be applied simultaneously with different portions, there will be certain domination but cannot rule out others. Because if you put the others aside, the concept of our country is not unity. Indonesia is not like the United States where there are countries that agree to unite. Indonesia existed first and then the regions were divided.

It would be better if the concept of decentralization took more of a role in the context of regional welfare. Decentralization in the economic field so that the region can be more prosperous. Centralization in the field of defense, social security and foreign policy. And deconcentration in the licensing sector related to strategic resources and population, as well as assistance tasks related to the population sector. This writer can see in Law no. 23 of 2014 concerning regional government, although it is not yet perfect and tends towards deconcentration, because it will be tested at the practical level. However, the author only analyzes the concept that should be according to the 1945 Constitution.

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