

## Legal Politics in the Implementation of Regional Autonomy



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**ABSTRACT:** The 1945 Constitution is the highest law in Indonesia. From 1999 to 2002, the MPR underwent four stages of change which were carried out democratically, constitutionally and institutionally. Arrangements that have undergone changes include Article 18 concerning arrangements for the administration of regional government. The implementation of the provisions of Article 18 of the 1945 Republic of Indonesia Constitution is currently carried out by Law Number 23 of 2014 concerning Regional Government as the basis for political reference for regional autonomy law in Indonesia. The problems in this study are how is the implementation of regional autonomy in Indonesia, what is the impact of regional autonomy on the development of Indonesia's regions, and how are changes in the culture of society in the implementation of regional autonomy in Indonesia. The conclusion that can be drawn from these results is that the implementation of regional autonomy in Indonesia must have a sense of confidence from the central government, local government and the community, with decentralization which is expected to optimize community pre-cons, the impact of regional autonomy opens up opportunities to implement wide-open economic democracy, and so that it can advance the people's economy, as a result of the reform euphoria that can lead to counter-productivity. This must become a productive and constructive culture and behavior to realize healthy and balanced regional autonomy.

**KEYWORDS:** Legal Politics, Autonomous Region, Unitary State of the Republic of Indonesia.

### A. INTRODUCTION

#### 1. Background

Etymologically, the term legal politics is an Indonesian translation of the Dutch legal term *rechtspolitiek*, which is a formation of the two words *rech* and *politiek* (Imam Syaukani and A. Ahsin Thohari, 1999: 19). In Indonesian, the word *recht* means law. The word law itself comes from the Arabic *hukm* (plural word *ahkam*), which means decision, decree, order, power, punishment, and others. In relation to this term, there is no unified opinion among legal theorists about what the limits and true meaning of law are. Differences of opinion occur because of its abstract nature and broad scope as well as differences in the perspectives of experts in viewing and understanding what is called the law. However, as a guideline, we can simply say that law is a set of rules of behavior that apply in society.

The vigorous and widespread Reformation Movement was an accumulation of chaotic government. Three years before entering the 21st century, a major event occurred in Indonesia, starting the century that the entire world community has been waiting for. The Reform movement that occurred in mid-1997 was so powerful that it was able to overthrow the New Order government, which was considered unpopular to run the Indonesian government. In line with the emergence of the Reform movement, there are also heroic issues related to upholding democracy, efforts to avoid disintegration, efforts to form good and clean government, leader credibility, eradicating KKN (corruption, collusion and nepotism), community empowerment, sustainable development, establishment of autonomy area, and many other issues.

Not in accordance with people's expectations, coupled with a severe economic crisis. The root of the chaos mentioned above is the New Order government which is considered to have implemented a centralized, authoritarian and corrupt government. With the fall of the New Order government, the demands of the people, both at the central and regional elite levels, became more intense for regional autonomy to be implemented more broadly.

Regional autonomy as a decentralized system of government in Indonesia is nothing new. The implementation of regional autonomy has actually been regulated in the 1945 Constitution. However, in its development so far the implementation of autonomy area has not shown optimal results. After the Reformation movement took place and the Suharto government fell, the discourse to optimize the implementation of regional autonomy echoed again, was even louder and urgently needed to be implemented. The public's demand to optimize the implementation of regional autonomy was welcomed by President Habibie so that Law Number 22 of 1999 concerning Regional Government and Law Number 25 Year 1999 concerning Financial Balance between the Central and Regional Governments were enacted. With the passing of these two laws, a paradigm shift occurred, namely from centralized government to decentralized government. Based on the regional autonomy law, the enactment of the law is effective after two years

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since its promulgation. During the administration of President Abdurachman Wachid, the Regional Autonomy Law was implemented on January 1, 2001.<sup>1</sup>

### 2. Formulation of the Problem

From the various problems described in the background of the problem above, the author formulates a number of problem formulations including:

1. How is regional autonomy implemented in Indonesia?
2. What is the impact of regional autonomy on regional development in Indonesia?
3. How do people's culture change in the implementation of regional autonomy in Indonesia?

## B. THEORETICAL FRAMEWORK

### 1. Definition of Legal Politics

Etymologically, the term legal politics is an Indonesian translation of the Dutch legal term *rechtspolitiek*, which is a formation of the two words *rech* and *politiek* (Imam Syaukani and A. Ahsin Thohari, 1999: 19). In Indonesian, the word *rech* means law. The word law itself comes from the Arabic *hukm* (plural word *ahkam*), which means decision, decree, order, power, punishment, and others. In relation to this term, there is no unified opinion among legal theorists about what the limits and true meaning of law are. Differences of opinion occur because of its abstract nature and broad scope as well as differences in the perspectives of experts in viewing and understand what is called the law. However, as a guideline, we can simply say that law is a set of rules of behavior that apply in society.

According to Padmo Wahjono, Legal Politics is the basic policy that determines the direction, form, content of the law to be formed. More specifically, Padmo Wahjono explained that Legal Politics is a state administration policy regarding what is used as a criterion for forming something that includes the establishment, application and enforcement of law.

According to Satjipto Rahardjo Political Law activities to choose certain social goals. Politics is a field that aims with the goals of society. Meanwhile, the law deals with the necessity to make choices about the goals or methods that will be used to achieve the goals of the community. According to Mahfud MD, Legal Politics is a legal policy or official policy line regarding law that will be enforced either by making new laws or by replacing old laws, in order to achieve state goals..

Thus it can be concluded that legal politics is a policy regarding law that determines the direction, form and content of law which includes the formation, application and enforcement of law in the context of achieving legal political goals, namely certain social goals/state goals.

### 2. Definition of Regional Autonomy

Regional Autonomy is the transfer of authority from the central government to regional governments to manage their own household affairs based on the initiatives and aspirations of the people within the framework of the unitary state of the Republic of Indonesia. with the existence of decentralization, the emergence of autonomy for a regional government. Decentralization is actually an organizational term that is simply defined as the transfer of authority. In relation to the Indonesian government system, recent decentralization is often associated with the government system because decentralization now causes a change in government in Indonesia.

Decentralization can also be interpreted as the transfer of responsibility, authority, and resources (funds, people, etc.) from the central government to local governments. The rationale behind it is the desire to move decision-making to be closer to those who directly feel the influence of programs and services designed and implemented by the government.

There is also what the government is doing, namely decentralization which is a transfer (transfer) of authority and responsibility for public functions. These transfers are made from the central government to other parties, either to subordinate regions, semi-independent government organizations or to the private sector. Furthermore, decentralization is divided into four types, namely:

1. Political decentralization, which aims to channel the spirit of democracy positively in society
  2. Administrative decentralization, which has three main forms, namely: deconcentration, delegation and devolution, aims to make governance run effectively and efficiently
  3. Fiscal decentralization, aimed at providing opportunities for regions to explore various sources of funds
  4. Decentralization of the economy or market, aims to provide more responsibility related to the public sector to the private sector.
- The implementation of regional autonomy, as well as the application (implementation) of the demands of globalization which should have empowered the regions by giving them broader, more real and responsible authorities. Especially in managing, utilizing and exploring potential sources that exist in their respective regions.<sup>2</sup>

<sup>1</sup> Riyadi and Bratakusumah, implementation of regional autonomy in Indonesia: loyal library of Jakarta 2003 page 343.

<sup>2</sup> <http://makalahdaze.blogspot.com/> downloaded December 23, 2022

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### 3. Purpose of Regional Autonomy

Regional autonomy is not immediately implemented in Indonesia, unless of course there is a clear reason and purpose. The purpose of regional autonomy in Indonesia is as follows:

#### a. Improving Public Services

With regional autonomy, it is hoped that the public services of government institutions in each region can emphasize the maximum service delivery. With maximum service, it is hoped that the community will directly experience the benefits of regional autonomy.

#### b. Improving Community welfare

With adequate service, it is hoped that the welfare of the people in the autonomous regions can be accelerated. The level of community welfare shows how the autonomous regions can use their rights and authorities wisely and on target.

#### c. Increase regional competitiveness

With the aim of increasing regional competitiveness, it is hoped that it can be implemented optimally. Improving regional competitiveness must pay attention to the forms of diversity and specificity of certain regions and still refer to the diversity of "Bineka Tunggal Ika", although they are different but still one.

In the 1945 constitution there are 2 basic values regarding the implementation of regional autonomy and decentralization, these two basic values are:

##### 1. Basic values Territorial decentralization

The government is obliged to carry out deconcentration and decentralization politics in the field of state administration.

##### 2. Nilai dasar Units

Indonesia does not have another government unit that has the characteristics of a state, meaning that sovereignty is in the hands of the people, the Unitary State of the Republic of Indonesia will not be divided into governmental units.<sup>3</sup>

## C. DISCUSSION

### 1. Implementation of Regional Autonomy in Indonesia

Autonomy comes from the word autonomous (Greek) means self-governing. In essence, regional autonomy is an effort to improve the welfare of society through optimal empowerment of regional potentials. The meaning of regional autonomy is that the region has rights, authorities and obligations to manage its own household in accordance with applicable laws and regulations (Pusat Bahasa, 2001: 805).

Law Number 22 of 1999 article 14 states that the authority of an autonomous region to regulate and manage the interests of the local community according to their own initiative is based on the aspirations of the community in accordance with statutory regulations. The aspect of "self-initiative" in regional autonomy gives a "spirit" to the implementation of more regional development participatory. Without efforts to foster local initiatives, regional autonomy, which is expected to give the feel of democratization of regional development, will lose its most important meaning.

Broad autonomy is actually a translation of decentralization as a whole. Ideally, the implementation of broad autonomy must also be accompanied by the principles of democracy, justice, equity, community empowerment and participation, exploration of regional potential and diversity focused on improving the economy at the district and municipal levels.

The implementation of regional autonomy can be seen from various aspects, namely first, from a regional perspective (territorial) must be oriented towards empowering and extracting regional potential. Second, in terms of governance structure, it is oriented towards empowering local governments in managing their resources responsibly and upholding the principles of the unity of the state and nation. Third, from a social perspective, it is oriented towards empowering and involving the community in development in various regions according to their respective capabilities.

Laws and regulations regarding regional autonomy have been drafted since Indonesia's independence. This shows that state leaders from the Old Order, New Order era to current state leaders have thought about how important regional autonomy is given that Indonesia's vast territory is the responsibility of the government. . The granting of autonomy to the regions is basically an empowerment effort in the context of managing development in the region. It is hoped that the regions will be able to release their dependence on central government assistance little by little by increasing creativity, increasing innovation and increasing their independence. If the implementation of regional autonomy is in accordance with the rules and regulations that have been drawn up, then the beautiful hope of realizing "developmental regions" (not "development of regions") can be achieved immediately.

Regional autonomy gives a bright hope to the regions to further increase the efficiency and effectiveness of governance in the framework of providing effective services to the community. Another thing that is no less important is that the regions can carry out development functions and develop community initiatives as a whole. democratic, so that development targets are directed and adapted to the conditions and problems that exist in the region.

<sup>3</sup> <http://www.miung.com/2013/11/pengertian-otonomi-daerah-di-indonesia.html> downloaded December 23, 2022

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In fact, it is very ironic that the implementation and application of regional autonomy since the Old Order, the New Order and until now have never been completed. Various factors causing the implementation of regional autonomy that are not smooth are due to the distortion of the political interests of the authorities that accompany the implementation of regional autonomy so that the authorities tend to continue to carry out government in a centralized and authoritarian manner. Besides interest the political interests of state leaders to govern and rule absolutely by politicizing regional autonomy has resulted in regional autonomy becoming increasingly unclear. An example is during the reign of President Suharto, a pilot project was established to implement regional autonomy in 26 level II regions based on Law No. 5/1974, but nothing came of it.

The implementation of regional autonomy through Law Number 22 of 1999 is currently still looking for form, because the attitude of the government is still "ambiguous". On the one hand, the government is aware that regional autonomy is urgently needed to be fully implemented immediately, but on the other hand, the government is also trying to maintain strong control over the regions. This can be seen in the wide range of powers that are still being handled by the government, especially those with great potential as sources of finance. Apart from that, another government authority that can also threaten the implementation of regional autonomy is the government's authority to revoke the autonomy that has been given to the regions. For approximately four years since the promulgation of regional autonomy in Indonesia, the regional empowerment which has been intensively fought for has in fact not been implemented optimally. Development in the regions pays little attention to the needs and interests of the community. Government decisions and development programs do not involve the community, so development programs in the regions tend to be self-governing top down from bottom up planning.

There are several things that need to be considered so that regional autonomy can be realized. First, it must be realized that regional autonomy must always be placed within the framework of the Unitary State of the Republic of Indonesia. Regional autonomy is a subsystem within a complete government system. Second, it needs political will (political will) from all parties such as central government, local government and society. Political will from all parties can strengthen the goal to build Indonesian society as a whole.<sup>4</sup>

through regional developments. This political will is expected to stem primordial, partial, ethnocentric thinking and so on. Third, high commitment from various interested parties is needed so that the implementation of regional autonomy can achieve its goals.<sup>5</sup>

## 2. The Impact of the Implementation of Regional Autonomy in Indonesia

During approximately 60 years of Indonesia's independence, regional autonomy has also accompanied the journey of the Indonesian nation. During the Old Order era, regional autonomy was not fully implemented, because state leaders who implemented guided democracy tended to be authoritarian and centralistic in carrying out their government. Likewise during the New Order government with its Pancasila democracy, the implementation of government still tended to be centralized and authoritarian. In addition, during these two periods there were many policy distortions related to regional autonomy. Of course we have not been able to see the impact and influence of the implementation of regional autonomy in those two periods, because in reality regional autonomy has not been fully implemented, even though many laws and regulations have been made to carry out regional autonomy.

During the Reformation period the demand for implementing regional autonomy was very intense so that the government also seriously redrawn the law governing regional autonomy, namely Law Number 22 of 1999 concerning Regional Government. After 2 years of going through a transitional period and socialization to implement the regional autonomy policy, regional autonomy officially took effect on January 1, 2001, during the administration of President Abdurachaman Wachid. After approximately 4 years of regional autonomy being enforced, the visible impact is the emergence of two groups of people who have different views on regional autonomy. On the one hand, there are people who are passive and pessimistic about the success of the regional autonomy policy, considering the experiences of implementing regional autonomy in the past. This community group is not very enthusiastic about providing support or demanding programs that have been set out in regional autonomy. On the other hand, there are community groups who are very optimistic about the success of the regional autonomy policy because this policy is quite aspirational and is supported by almost all regions and all components.<sup>6</sup>

Enthusiasm and demands to immediately implement regional autonomy also come from groups that are economically and politically interested in the implementation of regional autonomy. In addition, people who are still influenced by the euphoria of reform consider regional autonomy to be unlimited freedom to carry out government according to their hopes and dreams. Communities from regions that are rich in natural resources, but have not enjoyed the results of development so far, consider regional autonomy to provide bright hopes for improving their lives. Great expectations in implementing regional autonomy have resulted in regions competing with each other to increase local revenue (PAD). There are various examples of the region's incessant efforts to increase PAD in the easiest way, namely by intensively collecting taxes and retribution. Another example, it is not uncommon for disputes to occur between regions over boundaries of areas that have high economic potential. Scramble for local revenue sources

<sup>4</sup> Mubyarto, 1988, Indonesian Economic System and Morale, Jakarta: LP3ES page 20

<sup>5</sup> Ginanjar Kartasasmita, 1996, Development for the People: Integrating Growth and Equity, Jakarta: CIDES p. 201

<sup>6</sup> Soekanto, Soerjono, 1970, Sociology An Introduction, Jakarta: University of Indonesia Publisher foundation. p.35

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also often occurs between the central government and regional governments. Thoughts that are regional, partial, ethnocentric, primordial, often color the implementation of regional autonomy so that it is feared that it can become the seed of national disintegration.

In addition to the negative impacts of the implementation of regional autonomy as mentioned above, there are also positive impacts that give hope for the success of regional autonomy. The atmosphere in the regions today tends to race against each other to increase the potential of the regions in various ways. All components of society, starting from the local government and community members, are generally expected to be able to develop their creativity and be able to innovate in various fields. The development and innovation of fields and resources that previously attracted little attention to development can now become a potential mainstay of the region. In addition, regional autonomy spurs democratization in people's lives, promotes healthy competition, and distributes power in accordance with competence.

### 3. Cultural Change as a Result of the Implementation of Regional Autonomy in Indonesia

The implementation of regional autonomy in various regions in Indonesia has had impacts, both positive and negative impacts, as some of the examples that the authors have mentioned above. In addition, regional autonomy has also brought cultural changes in Indonesian society.

The definition of culture or culture in a broad sense according to E.B. Tylor is a complex that includes knowledge, beliefs, morals, laws, customs and abilities other abilities and habits acquired by humans as members of society through the learning process (Tylor in Soekanto, 1969: 55). In a narrow sense, culture is defined as the creation, work and initiative of humans to express their desire for beauty. So the notion of culture in the narrow sense is in the form of artistic results.

In line with the government's determination to implement regional autonomy, there have been paradigm changes (Warseno in Ambardi and Prihawantoro, 2002: 181), namely:

- Paradigm from centralization to decentralization
- Closed policy paradigm to open (transparent) policy
- The paradigm that makes society the object of development to society which is the subject of development.
- Paradigm from real and responsible autonomy to broad, real and responsible autonomy.
- Paradigm from inefficient organization to efficient organization .
- Paradigm of program planning and implementation top down to the mixed planning systems paradigm top down and bottom-up

This paradigm shift also changes the culture of the people in carrying out their activities within the context of implementing regional autonomy. The change in the paradigm of centralized government to decentralized government has caused confusion among local government officials who are used to accepting programs designed by the central government. Now they are required to carry out government that is efficient and oriented towards quality of service and involves community participation.

Regional Governments are required to independently carry out planning, implementation and supervision of development programs implemented in their regions. In addition, regions are required to have the ability to finance most of their development activities so that qualified, creative, innovative human resources are needed, which are expected to generate thoughts, concepts and policies in the context of finding sources of development financing.

The paradigm shift in a relatively short period of time, of course, has not made local government officials and the public fully understand the essence and rules for implementing regional autonomy. Even so little by little government officials regions and communities are beginning to learn to adjust to the climate of regional autonomy. Activities that lead to efficiency and efforts to improve service quality, innovation and creativity in exploring regional potential have begun to be intensified. Several examples can be mentioned, namely that government agencies in the regions actively encourage their employees to improve and develop their skills and expertise through increased education, both formal and non-formal. Another example is trimming long-winded bureaucratic procedures, with the aim of efficiency.

The climate of openness that characterizes regional autonomy has brought about a change in the behavior of people who were previously not given the opportunity to know about and play a role in planning, implementing and supervising development and then were given the opportunity to be involved in development programs. This situation then gave birth to attitudes that are sometimes very exaggerated.

People who are still unfamiliar with the implementation of the democratic system think that all government matters must also be directly accountable to them. At the beginning of the reformation period, we could see the rise of public demonstrations which were sometimes very brutal and violent, demanding that government officials deemed to have deviated from carrying out the tasks assigned to them be tried or resign.

It is as if the community no longer has any trust in institutions that can channel their aspirations, so that vigilante acts are a very common sight. As an example, we can look at the incident that happened to the Regent of Temanggung who was recently asked by almost all the people of Temanggung to resign, because they were considered to have committed corruption. Even civil servants in Temanggung staged demonstrations and went on strike in protest against the Regent. Of course, if we look proportionally at the actions of the community, especially civil servants, the strike is an act that violates the rules and can be subject to sanctions

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because these civil servants carry out the task of serving the community.<sup>7</sup>

Another area that has also started implementing rules based on Islamic law is Cianjur. There have been drafted rules that encourage Muslim women to wear the headscarf as well as an appeal to all Muslims to leave their jobs to immediately perform prayers when the adhan resounds. Violation of this provision is in the form of moral sanctions and social sanctions.

Community behavior related to exploring and developing economic potential also gives birth to an attitude and culture of being creative and innovating to create new things. In an effort to increase competitiveness, several regions must pay attention to the potential of natural resources, human resources, culture and leaders/policy makers. If not, there will be unhealthy competition between community groups in the area, competition between regions and so on. In fact, it is not uncommon for regions to fight over land or natural resources which are a source of the economy. Sometimes the ambition to increase PAD creates a "greedy" attitude in the regions. Regions with very minimal natural resources are encouraged to look more closely at opportunities in the small-scale economic sector or what is often referred to as the people's economy (small and medium enterprises).

From the experience of the economic crisis experienced by Indonesia in 1997, the people's economy and the informal sector were able to survive and even become a buffer (buffer) regional economy, so as to be able to save people's lives (Mubyarto, 2001: 196). Some examples of areas that have been able to adapt to the aftermath of the economic crisis and still survive and increase their economic growth are Sukoharjo District and Banyuraden Village, Gamping District, Sleman District. Sukoharjo Regency during the economic crisis was not significantly affected because the small industry and informal sector developed in the area were not dependent on imported raw materials and served a fairly wide local market. In contrast to Sukoharjo Regency, Banyuraden Village, Sleman Regency has succeeded in empowering the community's economy through waste management and processing, which was originally a source of environmental problems in the village. Banyuraden Village has succeeded in utilizing waste as a source of the community's economy by processing waste into compost or organic fertilizer and handicrafts.

We cannot deny that not all regions have succeeded in overcoming the economic crisis through empowering the people's economy. Many regions, especially outside Java, which do not have adequate economic and human resources deserve greater attention from the Central Government and Regional Governments to improve their welfare.

## D. CLOSING

Legal Politics is a policy regarding law that determines the direction, form and content of law which includes the formation, application and enforcement of law in order to achieve legal political goals, namely certain social goals/state goals. Stepping on the XXI century there is a very urgent need to implement regional autonomy. It is hoped that past experiences that were not encouraging in the implementation of regional autonomy will become a strong guideline for realizing regional autonomy in accordance with its noble nature and goals. The implementation of regional autonomy is not a scary thing if understood properly and proportionally. Many areas have shown encouraging prospects.

The main capital for realizing the implementation of regional autonomy properly and correctly is great self-confidence and high commitment from the Central Government, Regional Governments and the community to consistently implement regional autonomy because regional autonomy is expected to bring equity and justice. The system of decentralization and regional autonomy guarantees open community participation in regional development.

Through regional autonomy, the opportunity to implement economic democracy is wide open, so that the people's economy, which so far has received no attention, will receive protection. The growth and development of the people's economy must motivate the community to be creative and innovate so that the region has resilience and competitiveness in this era of globalization.

The culture and behavior that emerged as a result of the reform euphoria that could lead to "counter-productivity" must be directed into a productive and constructive culture and behavior in order to realize healthy and balanced regional autonomy.

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