

LEGAL REDESIGNATION OF CENTRAL AND REGIONAL AUTHORITIES TO STRENGTHEN SINERGY IN PUBLIC SERVICES¹

Malicia Evendia & Ade Arif Firmansyah

Faculty of Law University of Lampung
Prof. Dr. Ir. Sumantri Brojonegoro Number 1 Bandar Lampung 35145
E-mail: maliciaevendia@gmail.com; Phone Number: (0721) 701609

Received: 24/09/2020; Reviewed: 07/02/2021; Accepted: 22/02/2021.

DOI: <https://doi.org/10.24815/kanun.v23i1.18086>

ABSTRACT

This study aims to analyze and find the ideal legal design of the relationship of authority between the central and regional governments in order to strengthen synergy in public services. In essence, the granting of autonomy to the regions is directed at accelerating the realization of public welfare, through the implementation of government affairs. Concurrent government affairs as stipulated in Law no. 23/2014, is a governmental affair that is divided between the central government, provincial government and district/city governments. In practice, when problems occur in the implementation of concurrent affairs which fall under the central authority, the regional government is in a powerless position. This research uses normative legal research methods with statutory, case, and conceptual approaches. The results of this study indicate that: the absence of a legal instrument that accommodates and bridges central and regional authorities causes problems that occur in the community to continue and do not immediately find solutions. It is necessary to have legal instruments in the form of government regulations in bridging the authority of the central and regional governments to build synergy in public services, especially to resolve conflicts that occur in society so that government administration can run effectively.

Key Words: synergy; central-regional relations; local government; mesuji conflict.

INTRODUCTION

The State of Indonesia is a unitary state in the form of a republic, this is expressly regulated in Article 1 Paragraph (1) of the 1945 Constitution of the Republic of Indonesia (hereinafter abbreviated to the 1945 Constitution). The logical consequence is that as a unitary state, the government then forms regions in accordance with statutory provisions. One of the reasons for this is the vastness of the regions in Indonesia. The regions are divided into several provinces, districts and

¹ The results of this study were funded by LPPM University of Lampung in 2020. The research was carried out in the context of a beginner research grant competition.

cities, where each region has a regional government. This is to facilitate the performance of the central government.

Regional government in carrying out its duties is based on the principle of autonomy in accordance with Article 18 Paragraph (2) of the 1945 Constitution. The basis for the implementation of regional autonomy in Indonesia according to the 1945 Constitution there are two basic values developed, namely, the unitary value and the value of decentralization. The basic values of the unitary are manifested in the view that Indonesia will not have another governmental unit within it which is a State, meaning that the sovereignty inherent in the people, nation and State of the Republic of Indonesia will not be divided among regional or local government units. Meanwhile, the basic value of decentralization is manifested by the formation of an autonomous region and the transfer of authority to carry out government affairs that have been assigned or recognized as the domain of the households of the autonomous region (Tim, 2011).

Mohammad Hatta said that the formation of regional government (autonomous government) is one aspect of the implementation of people's sovereignty (democracy), namely the people's right to determine their fate does not only exist at the top of the country leadership, but also at every place in the city, village and region. This idea is understandable, given the vast geographical conditions of Indonesia with its plurality, causing demands for the need to accommodate it in the application of decentralization and regional autonomy (Sukriono, 2013).

Conceptually, the granting of autonomy to the regions in carrying out various government affairs aims to increase efficiency, foster democracy, equity and justice in the administration of various government affairs which become the authority of the regions. This expectation is not excessive, because it is the region that really understands the potential and uniqueness of the region (Rudy, 2012). Soepomo said that regional autonomy as a principle means respecting regional life according to history, customs, and its own characteristics within the framework of a unitary state.

Each region has a special history and characteristics that differ from the history and characteristics of other regions (Abdullah, 2000).

However, in practice, the implementation of regional government always experiences ups and downs, this is indicated by various problems of autonomy and institutional work relations between the center and the regions that are less harmonious. There is a tug of war between the center and the regions, and the fact is that there are regions that have conflicts of interest with the center is a common thing.

Basically, our constitution has stipulated that "regional governments carry out the widest possible autonomy, except for governmental affairs which are determined by law as the affairs of the Central Government", this is as regulated in Article 18 paragraph (5) of the 1945 Constitution. - The law as a derivative rule that regulates the authority of the regional government in the context of implementing this autonomy is always changing. The regulation then determines how regional government is run, whether it tends to be centralized or decentralized.

Changing laws regarding regional governance has an impact on the powers that regions have in implementing regional autonomy. This portion of regional authority is highly dependent on the policies and political decisions of the legislators, in this case the House of Representatives and the President. Every time the laws and regulations on regional government change, the pattern of relationships that are built between the Central and Regional Governments will also change (Ariyanto, 2020). The dilemma of the relationship between the Central and Regional Governments, on one hand, causes various problems that occur in the regions not to be handled properly. This disharmony of the relationship between central and regional authorities will directly and indirectly affect public services to the community.

Regulations regarding regional government have also gone back and forth, most recently with the passing of Law Number 23 of 2014 concerning Regional Government. The presence of Law Number 23 Year 2014 has apparently not been able to solve the synergy problem between the

central and regional governments, but instead adds to the complexity of the relationship between central and regional authorities. This is not in accordance with the expectations of the purpose of making laws and regulations, namely to create order and legitimacy that takes competence into account.

The issue of disharmony between the central and regional governments, since the reform era until now, is still a constant topic. This also has an impact on society. One example is the conflict in the Mesuji Register 45 Area of Lampung. The problem that becomes the author's question is: How to redesign the law in building the ideal synergy between the central government and local governments in strengthening synergy in public services?

RESEARCH METHODS

This research is normative legal research, which examines various laws and regulations that are used as the basis for legal provisions to analyze the relationship between Central and Regional authorities. The legal research model used is a comprehensive and analytical study of primary and secondary legal materials. Considering that this research includes normative legal research, the approach in this study uses a statute approach, a case approach and a conceptual approach (Marzuki, 2005). This approach is used, namely by examining statutory regulations related to legal issues, examining concrete cases related to legal issues, and providing analysis of the settlement of legal problems from the aspect of the legal concept behind them. The data were analyzed qualitatively by describing the data generated from the research into a systematic explanation so that a clear picture of the problem under study can be obtained, the results of the data analysis were concluded deductively.

DISCUSSIONS AND ANALYSIS OF RESULTS

To understand and find a bright spot for the problems that will be answered by the author, the following will be presented in a stepwise description and analysis:

1) The Position of the Central Government and Local Government Based on Legislation

The division of power based on the Trias Politika is the assumption that state power consists of three types of power, namely legislative, executive and judicial power. One of the main characteristics of the presidential system of government is that the president has a dual function, namely as the head of state as well as the head of government. In executive power, as head of government, the President holds the sole and highest power.

According to Jimly Asshiddiqie, there are more than 34 organs, positions, or institutions that are explicitly mentioned and regulated in the 1945 Constitution. These organs can be distinguished from two criteria, namely (i) hierarchical criteria of normative sources that determine their authority, and (ii) the quality of its functions which are primary or supporting in the state power system. In terms of hierarchy, state institutions or organs can be differentiated into three layers, namely first-tier organs (high-level state institutions) which have the authority of the 1945 Constitution, second-tier organs (state institutions) which obtain their authority from the Constitution and some from law, and third-layer organs whose source of authority comes from regulators or regulators under the law. As for its function, state institutions or organs can be divided into two, namely some that are primary or primary, and some are secondary or auxiliary (Asshiddiqie, 2007).

Whereas in terms of the aspect of power distribution, government organizations can be divided into two, namely: horizontal division of power based on the nature of the tasks of different types which give rise to various kinds of institutions in a country, and the division of power vertically according to the level of government, giving birth to a relationship between central and regional in a decentralized and deconcentrated system (Kusnardi & Ibrahim, 1983).

In a unitary state, the responsibility for carrying out governmental tasks basically remains with the central government. However, because the Indonesian government system adheres to the principle of a decentralized unitary state, certain tasks are taken care of by the local government

itself. This means that all policies made and implemented by the regions are an integral part of national policies. The unitary state is a single country organized under a central government. Power and authority that lie in the subnational (region or region), are exercised at the discretion of the central government as the granting of special powers to parts of the government in the unitary state (Gadjong, 2007). Thus the formation of autonomous regions in the context of decentralization in Indonesia has characteristics (Tim, 2011): (a) autonomous regions do not have sovereignty or semi-sovereignty as in federal States; (b) decentralization is manifested in the form of handing over government affairs; (c) handover of government affairs as referred to in point b, above is mainly related to the arrangement and management of the interests of the local community (locality) according to one's own initiative based on the aspirations of the community.

Based on the described concepts and characteristics of decentralization in Indonesia, it can be understood that the position and position of regional governments are subordinate to the central government, so that the extent and limitations of the duties and powers of regional governments are highly dependent on central government policies. This is in line with Ni'matul Huda who argues that, in a unitary state there is a principle that all state affairs are not divided between the central government and the local government in such a way, so that state affairs are in a unitary state. remains an unanimity (eenheid) and that the highest holder of power in the country is the Central Government (Huda, 2014). This is explicitly regulated in Article 18 paragraph (5) of the 1945 Constitution, that regional governments carry out the widest possible autonomy, except for governmental affairs which are determined by law as the affairs of the Central Government.

Therefore, the position between the central government and regional governments is subordinate, where the regional government is under the scope of executive authority, namely the president and his cabinet ranks.

2) Concept and Types of Central Government and Local Government Relationships

Etymologically, autonomy is defined as self-government (auto = self; nomos = government), in Greek autonomy comes from the words *autos* = own and *nemein* = to surrender or give, which means the power to govern itself, so that in a meaningful way (s) autonomy contains the meaning of independence and freedom to organize and take care of themselves (their own regional households) (Astawa, 2008).

Another view, the concept of regional autonomy comes from the fragment of two Greek words, namely *autos* and *nomos*, *autos* means itself and *nomos* means law, autonomy means making one's own laws (*zelwetgeving*), but in its development the conception of regional autonomy also contains *zelwetgeving*. (make local regulations), also mainly covers *zelfbestuur* (self-government). C.W. Van der Pot understands the concept of regional autonomy as *eigenhuishouding* (running his own household) (Marzuki, 2005). As for juridically, the meaning of regional autonomy as stated in Law no. 23/2014 are the rights, authorities and obligations of the autonomous regions to regulate and manage their own Government Affairs and interests of the local community in the system of the Unitary State of the Republic of Indonesia.

The relationship between the Central Government and Local Government is something that is widely discussed, because in practice this problem often creates a spanning of interest between the two government units (Arliman, 2015). The problem of the relationship between the center and the regions in the country and the decentralized organizational structure arises because the implementation of the powers, duties and responsibilities of the state government is not only carried out by (from) one central government. Apart from the central government, there are lower government units that also carry out the authority, duties and responsibilities of carrying out part of the governmental affairs that are handed over or that are left or recognized as regional affairs (Manan, 1994). Although the central government and regional governments are a single composition, in practice they do not rule out a tug of war, or shifting of responsibilities, or even spanning the

relationship between the two. This is very likely because both the central and local governments have different powers, duties and responsibilities.

According to Bagir Manan, one of the difficulties in fostering a harmonious relationship between the center and the regions is due to differences in trends. In this case, the center which is responsible for ensuring the integrity of the unitary state, guarantees the same services for all the people of the state (equal treatment principle), guarantees the uniformity of actions and arrangements in certain fields (the principle of uniformity), sometimes tends to be more inclined towards governance. centralistic. On the other hand, efforts to achieve justice and social welfare are greatly influenced, for example, by the composition of society. ways of realizing justice and social welfare in a (relatively) homogeneous society structure will be different from that of a plural society. In a pluralistic society, efforts to achieve justice and social welfare must pay attention to local (local) features, differences in cultural and belief systems, differences in geographic nature and location, differences in historical backgrounds, and so on. Attention to these differences and specificities in turn necessitates differences in services and ways of administering government. This kind of demand for governance is only possible in one desentralistic government (Manan, 1994).

The relationship of authority between levels of government has been regulated in Article 18A of the 1945 Constitution that the relationship between the Central and Regional Government will be regulated by a special law. Article 18A of the 1945 Constitution provides that: (1) The relationship of authority between the central government and provincial, regency and municipal governments, or between provinces and regencies and cities, shall be regulated by law by taking into account the specificity and diversity of the regions; (2) The relationship between the central government and regional governments in finance, public services, utilization of other natural resources is regulated and implemented in a fair and balanced manner based on law.

In addition, Article 18 paragraph (1) of the 1945 Constitution states that "the Unitary State of the Republic of Indonesia is divided into provincial areas and provincial areas are divided into

regencies and cities, each of which has a government. region, which is regulated by law. " It should be noted that until now there are no laws and regulations that specifically regulate all aspects of the relationship between the central government and the regions. The only thing that is customarily specifically regulated is the financial relationship. In fact, the relationship between the center and the regions is not limited to financial relations.

The use of the term "divided into" is intended to emphasize the hierarchical and vertical relationship between the central government and the regions. The principle of regional government is then emphasized in Article 18 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia that the provincial and regency / city regional governments regulate and manage government affairs themselves according to the principles of autonomy and assistance tasks. Decentralization provides room for the transfer of authority (functions) from the central government to regional governments (from upper level regions to lower level regions). The definition of decentralization here is only about the handover of government affairs to the regions. So there is only one form of autonomy, namely autonomy. Autonomy only exists if there is an overdragen of government affairs to the regions (Gadjong, 2007).

The tensions over the tug-of-war that have emerged to date all refer to the distribution of power or authority, and who has the most authority to manage or regulate these matters. Bagir Manan is of the view that decentralization is seen from the relationship between the center and the regions which refers to the 1945 Constitution, then: first, the form of the relationship between the center and the regions must not reduce the rights of the regional people to participate (freely) in the administration of governance in the regions. Second, the form of the relationship between the center and the regions must not reduce the rights of the (people) of the regions to take the initiative or take the initiative. Third, the form of the relationship between the center and the regions can vary from one region to another. Fourth, the form of central and regional relations is in the context of realizing justice and social welfare in the regions (Gadjong, 2007).

3) The Urgency of Central and Local Government Synergy

After knowing the position and relations between the central and local governments. The next step, it is necessary to examine why the central government and regional governments must work together in order to achieve the effectiveness of state administration and the welfare of the community. Synergy is the process of combining several activities in order to achieve one multiple result. Synergizing means complementing and complementing differences to achieve results greater than the sum of parts per part. The key to achieving synergy is coordination and cooperation, because without coordination and cooperation it will be difficult to achieve the set goals.

The importance of decentralization is essentially so that complex problems that are motivated by various heterogeneous factors and regional specificities such as culture, religion, customs and area, which if handled entirely by the central government, are impossible due to limitations and deficiencies in almost all aspects. On the contrary, it is unrealistic if everything is decentralized to the regions on the grounds that it reflects democratic principles (Ridwansyah, 2017). The synergy between the central government and local governments in this matter is very important, according to the authors, for several reasons, among others: first, have the same final goal; Both local and central governments share the same ultimate goal, namely the welfare of the community. This also cannot be separated from the fact that the regional government is under the auspices of the cabinet or the central government as the executing power holder. Like it or not, both the central and local governments should realize that the two must strengthen each other, not bring down each other. Second, filling each other's shortcomings; The existence of decentralization is none other than due to the shortcomings of the centralized system. The administration of government will not run well if the central government alone does it, for this reason the decentralization system is here to overcome the problems faced in the centralized system. Therefore, it is fitting for the central government and local governments to understand each other's limitations, so it is necessary to fill each other's shortcomings.

The harmonization of the relationship between the central and local governments is currently being tested through a relationship crisis that has led to local government resistance to the central government, for example the unclear commitment of Jakarta's transportation development by the DKI Jakarta regional government for 10 years, causing disappointment to the central government, the problem of limited fuel quota in West Kalimantan so that the governor of West Kalimantan has threatened to close down oil mining, the problem of shooting of people in Papua that is not immediately resolved has led to the disintegration of the Papuan people against the Republic of Indonesia and others (Bppt, 2013).

Disharmonization of the relationship between the central government and the regional government should not be allowed to prolong because it has the potential to create political conflicts that will lead to disruption of the realization of the Republic of Indonesia in the future. The implementation of regional autonomy is not aimed at dividing the Republic of Indonesia, but regional autonomy is a smart solution to further strengthen the Republic of Indonesia by seeing and understanding some of the differences between regions towards accelerating the welfare of the people in the regions that are more evenly distributed. In this case the relationship between the cabinet or the central government and the provincial government as well as the district and city governments should be on one line.

4) Case Review: The Mesuji Land Conflict

Register 45 is the name of an area that used to be customary land, belonging to a number of clans, in Tulangbawang Regency. In 1940, six village heads handed over an area of 33,500 hectares to the Dutch East Indies government to make it a forbidden forest. This was regulated in Besluit Resident Lampongsche District Number 249. In the course of time, part of the Register 45 area in Sungai Buaya was utilized for oil palm plantations with the concept of a plasma nucleus. There was competition among the cultivators.

The Mesuji 45 Register area is not under the authority of the provincial government or the Mesuji Regency Government. The area is under the central authority, namely the Ministry of Environment and Forestry. Licensing is still part of forest management, where strategic licensing authority (landscape change) is still in the hands of the central government, namely the Ministry of Environment and Forestry. Meanwhile, the provincial government only has the authority for other permits that do not change the landscape.

Local governments in resolving these conflicts have limited powers. Both the provincial and district governments are in a "summary" position. The prolonged conflict, until now, has not yet found a bright spot, it has even become "opaque" for the local community in obtaining legal certainty and justice. The conflict that recently occurred in the area was the clash of two groups of residents in Mesuji, namely the Mekar Jaya Abadi KHP Register 45 SBM group and the Pematang Panggang Mesuji Raya group which was involved in the clash on Wednesday, July 18 2019. As a result of the dispute, it caused casualties and several injured people.

The 'disputed' land of thousands of hectares (ha) continues to be contested between the claims of customary land owners, encroachers, and also plantation companies. After a case of physical clashes that resulted in human fatalities in 2011, the horizontal conflict there continues. The Mandiri Guidance Foundation (Yabima) has dedicated social activities to assist residents of the Register 45 area since 1994. At that time, only a few hundred family heads (KK) lived in the forest. Since the Mesuji case surfaced nationally in 2012, Yabima noted that 10 thousand migrant families had entered Register 45. The residents were scattered in several villages, namely Moro Moro, Tugu Roda, Brabasan, and Pekat Jaya. This number is increasing until now, because there are no barriers to entry (Yaslan, 2019).

The complexity of the problems that occurred in Mesuji is one example and the result of the lack of synergy between the central and regional governments. So that in the end, people who experience and become victims of these conflicts and problems. Local governments are in a

"difficult" and "powerless" position to take action and attempt to resolve the conflict. Even though the local government is the party closest to the community, on the basis that it is not a matter for the authority of the regional government, the community is very dependent on the central government.

Problems with the register area also have an impact on the constitutional rights of the local community. Like the right to education, the right to a place to live, political rights, and other rights as stipulated in the 1945 Constitution. In particular with regard to these political rights, at least 1,500 residents in Moro-Moro, Mesuji District who live in the Sungai Buaya Register 45 area are threatened with losing their rights. voted in the 2019 elections last time. This is because, until now, these people do not have E-KTP and other population documents so that they have not obtained certainty to be registered as permanent voters. The argument is that these residents live in a forbidden area, which then neglects the community's existence. This issue should be an evaluation and a reflection that the central and regional governments have not synergized and complemented each other to achieve the goals of the state.

5) Redesign of the Regional Center Authority Relations Law

The implementation of regional governance is a process of government administration that is oriented towards accelerating the realization of community welfare through improving services, empowerment and community participation, as well as increasing regional competitiveness by taking into account the principles of democracy, equity, justice, privileges and specialties of a region in the system of the Unitary State of the Republic of Indonesia (General explanation of Law No. 23 of 2014). Amendments to the Regional Government Law through Law no. 23 of 2014 concerning Regional Government as lastly amended by Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014 concerning Regional Government giving room to regions to develop their own territories. Regional autonomy provides rights, powers and obligations to autonomous regions to regulate and manage their own households.

The implementation of decentralization requires the division of government affairs between the government and local governments (Muin, 2014). The division of authority in the administration of the central and regional governments indicates the existence of a relationship between the central and regional governments. The relationship between the central and local governments has gone through various models and forms according to regulations set by the government as the basis for implementing governance in the regions (Abdullah, 2016). The broad scope of governance divided into the affairs of the central government, provincial governments and district/city governments requires the principles of efficiency and effectiveness in order to achieve optimal results for the welfare of the people. The division of functions between the central, provincial and district/city governments has been regulated in Law no. 23 of 2014. Article 9 regulates that: (1) Governmental affairs consist of absolute government affairs, concurrent government affairs and general government affairs. (2) Absolute governmental affairs as referred to in paragraph (1) are Government Affairs which fully fall under the authority of the Central Government. (3) Concurrent governmental affairs as referred to in paragraph (1) are Government Affairs which are divided between the Central Government and Provincial Governments and Regency/Municipal Regions. (4) Concurrent governmental affairs transferred to the regions shall become the basis for the implementation of regional autonomy. (5) General governmental affairs as referred to in paragraph (1) are Government Affairs which become the authority of the President as head of government. (6) Furthermore, in the provisions of Article 17 paragraph (1) stipulates that, "Regions have the right to determine Regional policies to carry out Government Affairs which become the authority of the Region." Based on the division of governmental affairs, only concurrent government affairs are the rights and obligations of the regions in carrying out regional autonomy.

To understand the division of functions of authority, the following will discuss one of the concurrent affairs, namely regarding the division of concurrent functions in the forestry sector, to

also examine the legal basis for the Mesuji case problem contained in the attachment to BB Law No. 23 of 2014 concerning the Division of Government Affairs in the Forestry Sector.

Based on the attachment table BB Law no. 23/2014 concerning the Division of Government Affairs in the Forestry Sector, there are 6 sub-functions consisting of Forest Planning; Forest Management; Conservation of Living Natural Resources and Their Ecosystems; Education and training; Community Counseling and Empowerment in the forestry sector; Watershed Management (DAS); and Forestry Supervision. The following is a breakdown of the authorities of the Central Government, Provincial Governments, and Regency/City Governments: first, Sub-Department of Forest Planning. The authority of the central government, namely the implementation of forest inventory; Implementation of gazettelement of forest areas; Implementation of forest area stewardship; Implementation of the establishment of forest management areas; and Implementation of national forestry plans. Meanwhile, the provincial and district / city governments do not have the authority.

Second, forest management. Central Authority, namely Administration of forest governance; Implementation of forest management plans; Implementation of forest utilization and forest area use; Implementation of forest rehabilitation and reclamation; Implementation of forest protection; Implementation of processing and administration of forest products; and Implementation of forest area management with special objectives (KHDTK). As for the provincial authority, namely the implementation of forest management in forest management units, except for the conservation forest management unit (KPHK); Implementation of forest management unit management plans except for conservation forest management units (KPHK); The implementation of forest utilization in production forest areas and protected forests, including utilization of forest areas, utilization of non-timber forest products, collection of forest products, and utilization of environmental services, except for the use of carbon storage and / or absorption; Implementation of rehabilitation outside state forest areas; Implementation of forest protection in protection forests and production forests;

Processing of non-wood forest products; Implementation of processing timber forest products with a production capacity of <6000 m³/year; and the implementation of KHDTK management for religious purposes. Meanwhile, regencies / cities do not have the authority.

Third, conservation of Living Natural Resources and Their Ecosystems. Central Authority, namely the management of nature reserve areas and nature conservation areas; Carrying out the conservation of wild plants and animals; The implementation of sustainable use of environmental conditions in the area of natural preservation; as well as the implementation of utilization of wild flora and fauna species. As for the authority of the Province, namely the implementation of protection, preservation and sustainable use of the Grand Forest Park (TAHURA) across municipal districts; Implementation of protection of wild flora and fauna that are not protected and / or not included in the CITES Appendix; as well as the management of areas with important ecosystem values and buffer zones for nature reserves and conservation areas. Regency/City Government in this case only has the authority "Implementation of regency / city TAHURA management".

Fourth, education and training; Community extension and empowerment in the forestry sector. Central authorities include, among other things, the provision of forestry education and training as well as secondary education; and Implementation of national forestry counseling. The province has the authority to implement provincial forestry counseling; and Community empowerment in the forestry sector. Meanwhile, districts / cities do not have the authority.

Fifth, watershed management (DAS). Central authority is the implementation of watershed management. The provincial authority is the implementation of watershed management across districts/cities and within regencies/cities within one provincial region. Meanwhile, regencies/cities do not have the authority.

Sixth, forestry supervision. Only the Center has the authority, namely in the implementation of supervision of forest administration.

Based on this description, we can analyze that in every sub-affair that is a concurrent affair in the forestry sector, not all matters, local governments, especially district / city governments, have the authority to take part in the implementation of these functions. As in the sub-affairs of forest planning, only the central government has the authority and legitimacy in the implementation of these functions.

If we refer to the theoretical model of the relationship between the Central Government and Local Government theoretically according to Clarke and Steward, this kind of decentralization includes The Agency Model. A model in which the local government does not have significant power so that its existence is seen more as an agent of the central government in charge of carrying out the policies of the central government (Wijayanti, 2016). The distribution of government affairs has two main principles (Tim, 2011): (a) There are always governmental affairs that generally cannot be left to the regions because they are related to the survival of the nation and the State, such as defense and security affairs, foreign policy, monetary affairs and justice; (b) There are no governmental affairs that can be fully delegated to the regions. For government affairs related to local, regional and national interests, it is carried out concurrently. This means that there are sections of certain Government affairs that are carried out by the regency/city, some are organized by the Province and some are even organized by the Government. There is a need for a coordination relationship between levels of government so that concurrent government affairs can be optimally organized.

From the legal aspect, the arrangement of concurrent affairs in the administration of both mandatory and optional governmental affairs allows for a gap that makes local governments in a “stagnant” position in dealing with various problems that arise in society, especially regarding some concurrent affairs where the regional government does not have the authority to the sub-affair. In fact, if we look at the meaning of "concurrent" which means together, then there needs to be participation and a portion from each level to jointly carry out these concurrent affairs.

Since the reformation, there have been several changes to the format of regional autonomy through a review of Law no. 23 of 2014 concerning Regional Government, several points are known, including (Yusdianto, 2015): (1) the drafters and implementers of laws try to balance the contextuality and existence of local governments so that they are more prudent or return to the shadow centralized scheme. This is supported by Article 9 which states that government affairs are divided into 3 (three) consisting of absolute, concurrent and general government affairs. The form of a unitary state (unitary state) is directed as uniformity rather than difference. (2) prioritizing the concept of regional autonomy through a material household system rather than a formal and real system, so that through deconcentration a government system has broad authority in implementing strategic issues in the regions. (3) central and provincial governments are given great authority to supervise cities or regencies. Provinces that previously had weak and limited bargaining power were strengthened by the addition of functions and powers to the governor. (4) efficiency and effectiveness are prioritized by eroding broad, real and responsible regional autonomy. The principles of democracy, community participation, equity and justice, as well as paying attention to regional potential and diversity are neglected.

At the end of 2014, the government issued Law Number 23 Year 2014. The presence of this law actually ignores the will of regional autonomy and prioritizes the spirit of efficiency and effectiveness of regional government administration, by paying more attention to aspects of the relationship between the center-regions and between regions, the potential and regional diversity, as well as the opportunities and challenges of global competition in the state administration system. Here, it can be seen that the character of decentralization wrapped in regional autonomy has been replaced by centralization with a deconcentration bandage (Yusdianto, 2015). Then, Law Number 23 of 2014 emphasizes autonomy in the provincial government, there is a transfer of authority from the district/city government to the provincial government, this makes regional autonomy inflexible, effective and efficient (Budiyono, 2015).

The current arrangements have not met the needs and answered problems that occur in society. The problems that occur in society are increasingly complex and complicated so that handling cannot be monopolized and resolved autonomously by the cabinet or the central government, but there is a need for cooperation between the cabinet and the existing regional governments. In this case, it is necessary to have synergy between the central government and regional governments so that the goals and ideals of the nation can be achieved immediately.

Concurrent governmental affairs, which are divided between the central, provincial and regency/municipalities have been clearly regulated and detailed in the appendix in Law No.23 of 2014. This division, although the scope of their respective powers has been outlined, it should be necessary the mechanisms that make the exercise of these powers do not work separately. Configuration and reciprocal relationships are needed so that the implementation of concurrent government affairs runs as it should and does not stop. The following is a demonstration of the configuration of synergy between the central and local governments:



Ragaan 1. Configuration of Central Relations Synergy with Local Government

Based on this design, we can see that the wheels of concurrent government affairs as stated in the law will run smoothly and without obstacles if the central and regional governments have good relations and closeness. The success or failure of the implementation of regional autonomy will also greatly depend on efforts to synergize with the central government.

The author offers, an effort to overcome the problem of the relationship between the cabinet and local government is through legal efforts. Every community always has a *rechtsidee*, namely what society expects from the law, for example, the law is expected to guarantee justice, benefit and order as well as prosperity. Law is expected to reflect a value system both as a means of protecting values and as a means of realizing them in people's behavior (Manan, 1992).

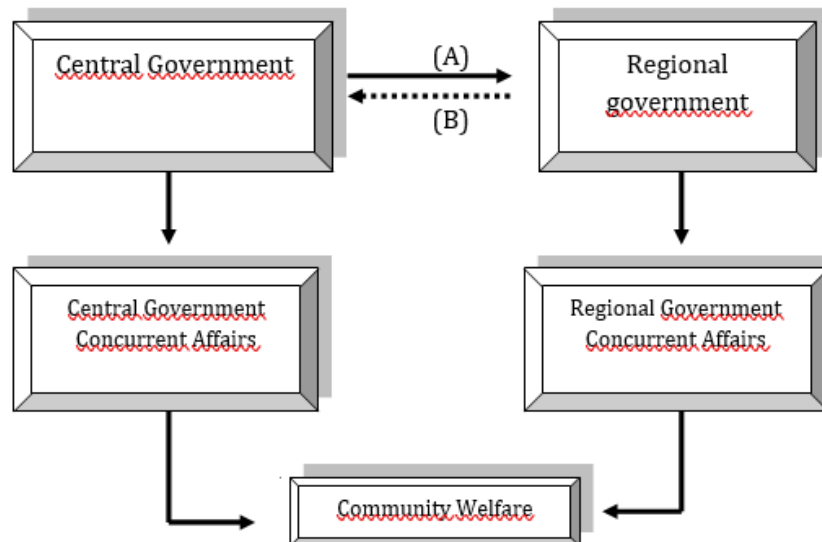
As is well known, the purpose of regional autonomy is none other than to bring services closer and create welfare. The community needs a connecting bridge in various problems currently being faced related to concurrent affairs which only become the central authority. If we look at the attachment to Law no. 23 of 2014, many concurrent affairs are only part of the authority of the central government, not just one or two sub-affairs. Especially in the implementation of various concurrent affairs outlined in Law No.23 of 2014, local governments do not only deal with the ministry of home affairs. The regional government in carrying out the implementation of regional autonomy also deals with other ministries that are directly related to the sub-affairs carried out. To accommodate and anticipate problems that may arise in the relationship between the implementation of concurrent affairs between the regional government and the related cabinet, there should be a legal umbrella that bridges in regulating the relationship between the cabinet and the local government.

The law plays an important role in harmonizing the relationship which sometimes even often makes the implementation of regional government not run optimally. In general, the function of laws and regulations is to regulate something substance to solve a problem that exists in society. Bagir Manan argues about the function of statutory regulations which can be divided into two main groups, namely (Hamidi & Mutik, 2011): (1) Internal function, is the function of regulating legislation as a legal sub-system (statutory law) to the rule of law system in general internally. Laws and regulations carry out the function of creating law, the function of legal reform, the function of integrating legal pluralism, the function of legal certainty. (2) External function, is the relationship

between laws and regulations and their place of effect. This external function can be referred to as a legal social function, which includes the function of change, the function of stabilization, the function of convenience.

Thus, the author thinks that the formation of statutory regulations is able to become a middle ground for various problems arising from the lack of synergy between the cabinet and the local government. Based on Article 7 paragraph 1 of Law No.12 of 2011, several definitions which constitute types of legislation include: (a) Laws are Legislative Regulations established by the House of Representatives with the mutual consent of the President. (b) Government Regulations Substituting for Laws are Legislative Regulations enacted by the President in the event of a compelling emergency. (c) Government Regulations are Legislative Regulations established by the President to carry out the Law as it should be. (d) Presidential Regulations are Legislative Regulations established by the President to carry out the orders of higher Legislative Regulations or in the exercise of governmental powers. (e) Provincial Regional Regulation is an invitational Legislative Regulation established by the Provincial Regional People's Representative Council with the joint approval of the Governor. (f) Regency/City Regional Regulations are Legislative Regulations established by the Regency/City Regional People's Representative Council with the mutual approval of the Regent/Mayor.

Therefore, the legal basis that regulates the implementation of regional government is contained in the form of a law. Thus, the right legal umbrella in regulating the technical relations between central authorities and regional governments needs to be regulated in government regulations. Government regulation is a type of statutory regulation in Indonesia. The function of government regulations is as an instrument in making further arrangements for implementing laws. To find out more clearly the need for a legal umbrella in regulating the relationship between the cabinet and the regional government so that it always synergizes according to the corridors. Then it can be seen in the following demonstration:



Ragaan 2. Roadmap of Ideal Relationship Center Relations with Local Government

The Indonesian government system, as a country that adheres to the principle of a decentralized unitary state, has certain tasks which are managed by the local government itself. This in turn will lead to reciprocity that creates a relationship of authority and supervision (Ni'matul Huda, 2013: 55). On the other hand, the central government is responsible nationally for ensuring that regional autonomy can run optimally. As a consequence, the Government is responsible for supervising, monitoring, evaluating and empowering the regions to be able to carry out their autonomy effectively, efficiently, economically and accountably (Tim, 2011).

Therefore, Government Regulation Number 12 of 2017 concerning Guidance and Supervision of the Implementation of Regional Government has been issued. The definition as stipulated in the general provisions of Article 1, Development of Regional Government Administration is the effort, action and activity aimed at realizing the achievement of the objectives of the administration of Regional Government within the framework of the Unitary State of the Republic of Indonesia. Meanwhile, the Supervision of the Implementation of Regional Government is an effort, action and activity aimed at ensuring that the administration of the Regional Government runs efficiently and effectively in accordance with the provisions of laws and regulations.

Article 2 paragraph (1) PP No. 12 of 2017, also regulates that "Guidance and Supervision of the Implementation of Regional Governments nationally are coordinated by the Minister." Furthermore, in Article 2 paragraph (2), "Guidance and Supervision of Regional Government Administration as referred to in paragraph (1) shall be carried out efficiently and effectively to increase regional capacity in order to support the implementation of concurrent government affairs in accordance with the provisions of laws and regulations."

Based on these two figures, that in carrying out government affairs, especially concurrent affairs, the central government has the authority to control and supervise the implementation of regional government authority in carrying out concurrent affairs (illustrated by arrow A). However, what needs to be understood is that there is no legal mechanism that regulates the reverse flow of relationships built so that local governments also take part in the implementation of central government authority in carrying out concurrent affairs.

According to the author, there is a need for a mechanism that bridges local governments to access and take part in filling and completing the implementation of concurrent functions which fall under the authority of the cabinet/central government (represented by dashed arrow B). This is none other than so that the cabinet and local government can work together well in achieving the goals of the state, especially so that the welfare of the community can be realized immediately. This legal space can be accommodated through the formation of a Government Regulation, as a further arrangement for implementing laws.

CONCLUSIONS

Based on the description that has been explained above, it can be concluded that the Central Government and Regional Government are one unit that cannot be separated as the exercise of executive power. The position of the regional government which is under the coordinates of the central government, makes the regional government in a powerless position when faced with

problems that are concurrent affairs which fall under the authority of the central government. We can examine this from the endless Mesuji Lampung conflict. The synergy between the central government and local governments in this case is very important, namely because both local and central government have the same ultimate goal, namely the welfare of the community, and the existence of decentralization is due to the lack of a centralized system. The success or failure of the implementation of regional autonomy will also greatly depend on efforts to synergize the regional government with the central government.

Concurrent governmental affairs, which are divided between the central, provincial and reGENCY / municipalities have been clearly regulated and detailed in the appendix in Law No.23 of 2014. This division, although the scope of their respective powers has been outlined, it should be necessary the mechanisms that make the exercise of these powers do not work separately. There needs to be a legal mechanism that regulates the reverse flow of relationships that are built so that local governments also take part in the implementation of the central government's authority in carrying out concurrent affairs. The ideal legal redesign of central and regional relations is through the construction of laws in the form of Government Regulations in regulating the relationship between central government and regional government authorities in a more effective state administration for public services.

REFERENCES

Books

- Abdullah, H. R. (2000). *Pelaksanaan Otonomi Luas dan Isu Federalisme sebagai Alternatif*, Jakarta: Raja Grafindo Persada.
- Asshiddiqie, J. (2007). *Pokok-Pokok Hukum Tata Negara Indonesia Pasca Reformasi*, Jakarta: Buana Ilmu.

- Astawa, I. G. P. (2008). *Problematika Hukum Otonomi Daerah di Indonesia*, Bandung: Alumni.
- Hamidi, J. & Mutik, K. (2011). *Legislative Drafting*, Yogyakarta: Total Media.
- Huda, N. (2013). *Otonomi Daerah: Filosofi, Sejarah Perkembangan dan Problematika*, Yogyakarta: Pustaka Pelajar.
- Huda, N. (2014). *Perkembangan Hukum Tata Negara Perdebatan dan Gagasan Penyempurnaan*, Yogyakarta: FH UII Press.
- Gadjong, A. A. (2007). *Pemerintahan Daerah: Kajian Politik dan Hukum*, Bogor: Ghalia Indonesia.
- Kusnardi, M. & Ibrahim, H. (1983). *Pengantar Hukum Tata Negara Indonesia*, Jakarta: Pusat Studi Hukum Tata Negara Fakultas Hukum Universitas Indonesia.
- Manan, B. (1992). *Dasar-dasar Perundang-undangan Indonesia*, Jakarta: IN-HILL-Co.
- Manan, B. (1994). *Hubungan Antara Pusat dan Daerah Menurut UUD 1945*, Jakarta: Pustaka Sinar Harapan.
- Marzuki, M. L. (2005). *Berjalan-jalan di Ranah Hukum: Pikiran-pikiran Lepas*, Jakarta: Konpres.
- Marzuki, P. M. (2005). *Penelitian Hukum*, Jakarta: Prenada Media.
- Rudy. (2012). *Hukum Pemerintahan Daerah Perspektif Konstitusionalisme Indonesia*, Bandar Lampung: Indept Publishing.
- Sukriono, D. (2013). *Hukum, Konstitusi dan Konsep Otonomi*, Malang: Setara Press.
- Tim. (2011). *Naskah Akademik Rancangan Undang-Undang tentang Hubungan Kewenangan Pemerintah Pusat dan Daerah*, Jakarta: BPHN.

Journal Article

- Abdullah, D. (2016). Hubungan Pemerintah Pusat dengan Pemerintah Daerah. *Jurnal Hukum Positum*, 1(1): 83-93.

- Ariyanto, B. (2020). Pengelolaan Hubungan Pusat dan Daerah dalam Penanganan Pandemi Covid-19. *Suloh Jurnal Program Studi Magister Hukum*, 8(2): 37-57.
- Arliman, L. (2015). Peran Pemerintah Daerah dalam Perlindungan Hak Anak Berdasarkan Undang-Undang Nomor 35 Tahun 2014 tentang Perlindungan Anak. *Jurnal Yustisia*, 22(1): 19-36.
- Budiyono. (2015). Dekonstruksi Urusan Pemerintahan Konkuren dalam Undang-Undang Pemerintahan Daerah. *Kanun Jurnal Ilmu Hukum*, 17(3): 419-432.
- Muin, F. (2014). Otonomi Daerah dalam Perspektif Pembagian Urusan Pemerintah-Pemerintah Daerah dan Keuangan Daerah. *Fiat Justisia*, 8(1): 69-79.
- Ridwansyah, M. (2017). Upaya Menemukan Konsep Ideal Hubungan Pusat-Daerah Menurut Undang-Undang Dasar Negara Republik Indonesia Tahun 1945. *Jurnal Konstitusi*, 14(4): 839-858.
- Wijayanti, S. N. (2016). Hubungan antara Pusat dan Daerah dalam Negara Kesatuan Republik Indonesia Berdasarkan Undang-Undang Nomor 23 Tahun 2014. *Jurnal Media Hukum*, 23(2): 186-199.
- Yusdianto. (2015). Hubungan Kewenangan Pusat dan Daerah Menurut Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah. *PADJADJARAN Jurnal Ilmu Hukum*, 2(3): 483-504.

Internet Resource

- Bppt. (2013). "Perekayasaan Teknologi Biofuel dan Peluang Penerapannya Melalui Konsep Kebun Energi", <https://www.bppt.go.id/index.php/profil/organisasi/1081-perekayasaan-teknologi-biofuel-dan-peluang-penerapannya-melalui-konsep-kebun-energi>. 5 January
- Yaslan, M. (2019). "Menengok Akar Konflik Lahan Berdarah di Mesuji", <https://nasional.republika.co.id/berita/puun5g377/menengok-akar-konflik-lahan-berdarah-di-mesuji>. 19 Juli.