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Implementation of Regional Government for Future Indonesia

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Abstract

Indonesia is a unitary state in organizing regional governance systems based on decentralization and regional autonomy policies. The existence of turmoil and demands from the regions and the imbalance of development between Java and outside Java caused people to lose patience because they felt they were treated unfairly and arbitrarily. The purpose of this research is to understand and analyze and develop a decentralized policy model for Indonesia in the future so that the ideals of prosperous and just Indonesia can be realized. Research methods; a type of normative research with a regulatory approach, conceptual approaches, philosophical approaches, comparative approaches, and historical approaches. Conclusion: The decentralization policy for Indonesia in the future needs to be continuously refined by adopting asymmetric decentralization which can make regional development implementation more effective, because it is adapted to the social conditions of the community and the economic and geographical potential of the area concerned.

Keywords: Regional Government, Indonesia's Future

1. Introduction 18

The opening of the Constitution of the Republic of Indonesia in 1945 in the fourth paragraph states that, the establishment of the Republic of Indonesia was to protect the entire Indonesian nation and the entire Indonesian bloodshed and to promote the general welfare. Protecting the entire Indonesian nation and all of Indonesia's bloodshed means that every region that is part of the territory of Indonesia has the same right to develop and develop its regional potential with guidance, direction and guidance from the central government. Public welfare will be achieved if all regions receive attention and facilities from the central government by taking into account the potential and characteristics possessed, so that there is no development imbalance between regions.

The policy of decentralization and regional autonomy in a unitary state is the best choice. The meaning of the principle of decentralization among experts is often debated due to the perspective of participating in decentralization in the implementation of regional governance, which can be classified into:¹

1. Decentralization as the transfer of authority and power.
2. Decentralization as a delegation of power and authority.
3. Decentralization as distribution, distribution, dispersal and granting of power and authority.
4. Decentralization as a means in the division and formation of government areas.

Decentralization as the handover of authority and power considers that decentralization as the transfer of authority (affairs) to the central or regional governments to the regions becomes their household affairs. The view that considers decentralization as a delegation of power and authority as stated by The Liang Gie² that decentralization is the delegation of the authority of the central government to units of governmental organizations to hold all the local interests of groups that inhabit an area.

If you look at the history of the Indonesian nation's journey, especially at the time the BPUPKI sessions prepare the Basic Law for an independent Indonesia, there have been opinions about organizing regional governments with regard to the diversity and origin of the region. Mohammed Yamin at the BPUPKI session on May 29, 1945, attached a provisional draft for the formulation of the Basic Law, among others regulating: "The division of the Indonesian territory over large and small regions with the form of government structure is stipulated in the law, with regard to special area".³

Soepomo as the chairman of the small committee who drafted the constitution in the BPUPKI session on 18 August 1945 gave the following explanation:⁴

"Under the Central Government there is a Regional Government: About the Regional Government here there is only one article, which reads: Regional Governments are regulated in law, only the basics that have been used for that country must also be used for Local Governments, meaning The Regional Government must also consult with other words that there must be a House of Representatives, where Kooti-kooti, sultanat-sultanat remain and respected their original structure, but the situation is regional,

¹ Agus Salim, Andi Gadjong, *Pemerintahan Daerah Kajian Politik dan Hukum*, Ghalia Indonesia, Bogor, 2007, p.79

² *Ibid*, p.81

³ Nirmatul Huda, *Otonomi Daerah, Pustaka Pelajar*, Yogyakarta, 2005, p. 2

⁴ *Ibid*, p. 3

not state, do not let there is a misunderstanding in respect of the area”.

Based on the opinion of the two figures who drafted the 1945 Constitution, it was known that one of the essences contained in it was that the regulation in the regions was carried out asymmetrically, where the regional level government must be prepared and organized by “looking at and respecting the rights of origin in special regions.” This suggests that the founders of the nation at that time were aware of the diversity of cultures and the vastness of the territory of Indonesia which is almost the same as the width of European or Australian land, where geographically one region has a different nature and potential.

In the field of governance, each region / ethnic group also has a different background and history. There are those which are the Sultanate, Kingdom, Nagari and others, where at the time of its heyday it was an independent region and managed its own household. Based on this, a problem can be formulated: “What is the decentralization policy for Indonesia in the future so that the ideals of prosperous and just Indonesia can be realized soon?”

2. Method

This type of research is normative with the approach of legislation, conceptual approaches, philosophical approaches, comparative approaches, and historical approaches. Using primary, secondary and tertiary legal materials. The legal material obtained is processed and analyzed in a prescriptive normative manner.

3. Result and Discussion

3.1 Concept review

As a concept of decentralization, it has grown and developed along with the demands and needs of democratic countries for a long time. Decentralization is the principle of governance which is opposed to centralization. Decentralization produces local government there: ¹ a superior government - one encompassing a large jurisdiction-assigns responsibility, authority or function to lower government unit - one encompassing a smaller jurisdiction - that is assumed to have some degree of autonomy.

The division of authority and the availability of adequate space to interpret the authority given to lower government units (local government) is the most important difference between the concept of decentralization and centralization.² From a political aspect, Parson defines decentralization as sharing of the governmental power by a central ruling group with other groups, each having authority within a specific area of the state.³ (The division of government power from the center with other groups which each have authority in a particular area of a country), while the Mawhood defines decentralization is devolution of power from central to local governments.⁴ (Devolution of power from the central government to the local government).

Autonomy comes from the Greek “auto” which means itself and “nomous” which means law or regulation so that autonomy is a government that is capable of carrying out government in its own regulations in accordance with the aspirations of its people.⁵ According to Law No. 23 of 2014 Article 1 paragraph (6) regional autonomy is: “the rights, authorities and obligations of autonomous regions to regulate and manage their own affairs and the interests of the local community in the system of the Unitary State of the Republic of Indonesia”. There are two important elements contained in the definition of regional autonomy, namely: the right of authority to regulate/manage the area and the responsibility for failure to regulate/manage the area. In its development both theoretically and practically, the term asymmetric decentralization became known. The first expert to begin the debate around asymmetric decentralization was Charles Tarlton of the University of California, USA who wrote asymmetric themes within the framework of the federal state. According to Tarlton:⁶

“The core differentiator between ordinary decentralization (symmetric) and asymmetric decentralization lies in the level of conformity (conformity) and commonality in the relationship of a level of government (state/region) with the political system, with the central government and between states/regions. The system is characterized by “the level of conformity and commonality in the relation of each political unit of the system as a whole and to the component unit. Here the symmetrical relationship between each local unit and the central government is based on the same number and weight of authority”.

Furthermore, Tarlton divides the concept of asymmetric decentralization into two types of asymmetrical federation, namely de jure asymmetry and de facto asymmetry which are characterized by differences in the level of autonomy. The term asymmetric de jure refers to conditions in which there is an asymmetric confirmation of practice in the constitution. Each region has been determined to be treated differently from the

¹ Hard Friedman, *Decentralized Development in Asia*, dalam G.S.Cheema dan D.A.Rondinelli (editor), p. 35

² Riswanda Himawa, *Desentralisasi, Demokrasi dan Pembentukan Good Governance*, Lippi Press, Jakarta 2004, p. 40

³ Cited by Syarif Hidayat dan Benyamin Hussen, *Desentralisasi*, p.23

⁴ Philip Mawhood, *Local Government in Third World The Experience Of Tropical Africa*, London, Wileye Chicester Hard Friedman, *Decentralized Development in Asia*, UK, 1983.

⁵ Utang Rosidin, *Otonomi Daerah dan Desentralisasi*, Pustaka Setia, Bandung, 2010, p. 84

⁶ Robert Endi Jaweng, “Kritik Terhadap Desentralisasi Asimetris di Indonesia”, *Jurnal Analisis CSIS*, Vol.40, No. 2, 2011, p. 162

policies and some requirements set by the center. The term de facto asymmetry federation refers to differences in real practices or relations between regions that arise due to differences in social, cultural and economic conditions. In the de facto asymmetric federation there is no relevant legal or standard guarantee but in practice it is common and accepted.¹

3.2 Current Regional Government Implementation Policies

With regard to the implementation of regional governance in Indonesia regulated in the 1945 Constitution Article 18 A paragraph (1), Article 18 B paragraph (1) and (2) affirmed:

- 1) Article 18 A (1) Central government relations with regional governments are regulated by taking into account the specificity and diversity of the region.
- 2) Article 18 B (1) The State recognizes and respects the unity of customary law communities and their traditional rights.
- 3) Article 18 B (2) The State respects and recognizes special regional government units.

If we look closely at the above provisions, it shows that the Constitution actually mandates that every regulation made within the Unitary State of the Republic of Indonesia must always pay attention to the specificity and diversity of the region, respect for the customary law community and their rights and respect and recognize government units special area. Article 18 of the 1945 Constitution also implies that the implementation of regional governance in Indonesia is carried out by applying the principle of asymmetric decentralization. Even since the beginning of independence the provisions in the 1945 Constitution (before the amendment) also mandated the same thing.

The development of the implementation of governance in Indonesia which regulates regional government such as Law No. 22 of 1948, Law No. 1 of 1957 and the Presidential Decree Number 6 of 1959, that the regions were given the freedom to regulate and manage their own households with the broadest principle of regional autonomy. In Law No.5 of 1974 the term real and broad autonomy was replaced by the term real and responsible autonomy. In this era the domination of the center over the regions was very strong, among others seen in the provisions that gave the center the freedom to determine the head of the region/region. Central control over the regions is carried out with preventive, repressive and general supervision mechanisms.

After the reform era several laws on regional government were issued such as Law No. 22 of 1999, Law No. 32 of 2004 and Law No.23 of 2014. All the laws referred to adhere to the principle of autonomy that is as broad, real and responsible. The autonomy principle gives the region the freedom to administer a government that covers its authority except those which are the authority of the central government as stipulated in the law. There are several laws that specifically apply to certain regions such as: Law No. 44 of 1999 concerning the Privileges of the Special Province of Aceh which was stipulated on October 4, 1999. This law emphasizes the specialty of Aceh, where the public has wide flexibility to take care of their own religious life, education and customs which have long been coveted. Regulation on the Specialties of Yogyakarta can be seen in the elucidation of Article 122 of Law No. 22 of 1999: Yogyakarta and deputy governor by considering candidates from Paku Alam descendants who fulfill the requirements in accordance with this law. DIY privileges were later confirmed by the enactment of Law No. 13 of 1912 concerning the Specialties of DIY by President Susilo Bambang Yudoyono on August 31, 2012, while the specificity of DKI Jakarta as the capital of the country's last policy can be seen in Article 227 of Law No. 32 of 2004, as follows:

- (1) Specificity for DKI Jakarta province because its position as the Capital City of the Republic of Indonesia is regulated by a separate law.
- (2) DKI Jakarta Province as the capital city of the status of an autonomous region and in the administrative area is not an autonomous region.
- (3) The law referred to in paragraph (1) contains the following settings:
 - (a) The specificity of duties, rights, obligations and responsibilities as the capital of the country.
 - (b) Place of residence of representatives of friendly countries.
 - (c) Integration of the general plan of the Jakarta spatial plan with the general plan for spatial planning in the surrounding area.
 - (d) Special zones for organizing certain government functions that are managed directly by the government.

From the above provisions, it can be seen that DKI Jakarta Province is single, meaning that the city and regency areas in DKI Jakarta are not autonomous. DKI Jakarta Province in its position as the capital city of the country has certain duties, rights, obligations and responsibilities that are different from other regions. Furthermore, the specificity of Jakarta as the capital of the country was perfected by Law No. 29 of 2007 concerning the Government of DKI Jakarta Province as the capital of the Unitary State of the Republic of

¹ Krismiati Tasrin dkk, Kajian Pengembangan desentralisasi Asimetris di Indonesia, Pusat Kajian Pendidikan dan Pelatihan aparatur I LAN, Bandung, 2012, p.12

Indonesia.

Finally, the policy on Papuan special autonomy contained in Law No. 35 of 2008 concerning the Decree of Perpu No. 1 of 2008 concerning Amendments to Law No. 21 of 2001 concerning Special Autonomy for Papua Province. Specificity for Papua can be seen from the formation of the Papuan People's Assembly (MRP) which has the following duties and authorities:

1. Provide consideration and approval of the prospective Governor and deputy governor proposed by the DPRP.
2. Provide consideration and approval of candidates for the Indonesian MPR delegation from the Papua Province region proposed by the DPRP.
3. Give consideration and approval to the Special Raperda submitted by the DPRP together with the Governor.
4. Providing advice, consideration and approval of planned cooperation agreements made by the Government and in the Papua Province specifically concerning the protection of the rights of indigenous Papuans.
5. Paying attention to and channeling aspirations for complaints from indigenous peoples, religious communities, women and society in general concerning the rights of indigenous Papuans and facilitating the follow-up to the settlement.
6. Give consideration to DPRP, Governor, Regency/City DPRP and Regent/Mayor regarding matters related to the protection of the rights of indigenous Papuans.

From the historical journey of implementing governance in Indonesia, especially the implementation of regional government, the special autonomy policy that has been carried out in Aceh, Yogyakarta, Jakarta and Papua has provided valuable lessons, especially in the relationship between the central government and the regions, for example special autonomy to Papua has provided a fundamental change in the making of regional autonomy policies both concerning the content/substance of policies that are more accommodating to local aspirations and culture as well as its more participatory manufacturing process by involving not only local governments but also local communities.

3.3 Government Implementation Policy for Future Indonesia

After the collapse of the Suharto regime with its new order, some regions that felt that they possessed special characteristics and original rights demanded to separate or obtain status as "Special or Special" regions, such as the Province of Bali wanting special autonomy, some regions also filed similar demands, such as Surakarta, which requested the return of the Surakarta features, the Sultan of Ternate Mudaffar Syah in 1999 demanded North Maluku to become its own province which was separated from Maluku Province. The Sultan not only wants to be a symbol but also wants real power in the province that was formed like the one in Jogjakarta. In Riau through the Riau II People's Congress held in January 2000 agreed on 3 (three) options, namely Riau Merdeka, special autonomy or federal state. Riau is said to be rich in natural resources but its development is too far behind.

During the previous administration, there were demands from 7 (seven) island provinces that had a wider sea area than the mainland, namely Maluku, Riau, North Maluku, East Nusa Tenggara, North Sulawesi, Bangka Belitung, and West Nusa Tenggara. The seven island provinces were promised by Gumawan Fauzi (the Minister of Home Affairs at the time) to receive special treatment in the determination of the DAU on the grounds that the costs of administering the islands in the archipelago were higher than those in most parts of the land.

According to Djohermansyah Djohan:¹

"Asymmetric decentralization is not a delegation of ordinary authority. He is in the form of transfer of special authority which is only given to certain regions. Imperially, it is a comprehensive strategy of the central government to involve returning regions that want to separate themselves from the motherland's lap. He tried to accommodate local demands and identities into a typical local government system. It is hoped that resistance to the national government and the desire for independence can be implemented through a specific local government system as practiced in several countries including the Quibek region in Canada, Mindanao in the Philippines, Bougainville in Papua New Guinea, and the Basque Country in Spain, for example. Flags, language, local political parties and greater revenue sharing sources.

According to Hannum, there are two benefits obtained based on the approach and implementation of asymmetric decentralization / special autonomy (territorial autonomy), namely:²

1. As a solution to the possibility of ethnic conflict or other physical conflicts, examples of Hong Kong and Chinese relations, where Hong Kong is clearly part of China's sovereignty as a country, but Hong Kong is given a number of important authorities in terms of politics, law and economics.

¹ Djohermansyah Djohan, "Desentralisasi Asimetris dan Masa Depan di Indonesia", Paper presented at the AIPI National Seminar in Manado, August 15, 2007

² Iacobus Parvidya Holossa, *Otonomi Khusus Papua Menyangkut Martabat Rakyat Papua di dalam NKRI*, Sinar Harapan, Jakarta, 2005, p. 55

2. As a democratic and peaceful response to complaints/problems of minorities whose rights have so far been violated/underestimated, for example as stated in the CSCE Copenhagen Document in 1990.

Asymmetric decentralization can also provide many benefits especially in the Indonesian context which has long been known for its diversity and diversity. The application of asymmetric decentralization can make the implementation of regional development more effective because the policies taken by local governments will be adjusted to the social conditions of the community and the economic and geographical potential of the region concerned.

Asymmetric decentralization policy is intended to overcome some fundamental challenges and achieve several objectives such as:¹

1. Political challenges especially those related to "regional questions". Asymmetric arrangements are taken as a policy strategy to maintain basic boundaries of a country's political unit. This design of asymmetric decentralization - asymmetric federation with political motivation is the most widely found in the experiences of countries from various parts of the world.
2. As a policy instrument to accommodate cultural uniqueness and differences in historical flow, including within the framework of minority protection and conflict management.
3. Policies to bridge the challenges of managerial technocratic patterns, namely the limited capacity of an area or a region in carrying out government functions. This arises when the region is unable to deliver or provide adequate and efficient public services as other regions are at the same level.
4. Policies designed to strengthen the competitiveness capacity of a nation state within the framework of increasingly strong global and regional competition.
5. Policies designed as an instrument to minimize risks, for example in border areas that pose a risk to the security of the country and territorial integrity of nation states, regions with high risk of disaster management or areas with a fixed cycle of food insecurity.

The implementation of asymmetric decentralization can provide benefits to the Indonesian nation which is famous for its pluralism. In fact, the asymmetric decentralization policy applied was truly based on in-depth consideration and study so that it was in line with the real conditions and needs of the region concerned. According to Ni'matul Huda, in the case of Indonesia, existing asymmetric decentralization is more of a sporadic demand based on the bad experience of the new structuring mechanism in accordance with the spirit of regional autonomy. Papua and Aceh get special autonomy because of the strong demands for secession from Indonesia.²

The ideals of the implementation of asymmetric decentralization in Indonesia are not based on sporadic demands from the regions, but are designs that have been prepared taking into account all aspects based on regional uniqueness. Thus the choice of asymmetric decentralization is the most rational choice for Indonesia.

4. Conclusion

Decentralization policy for Indonesia in the future needs to be prepared given that Indonesia has diversity in the Religion and Race Tribe (SARA) and geographical diversity. The adoption of asymmetric decentralization can make the implementation of regional development more effective, because the policies taken by the regional government will be adjusted to the social conditions of the community and the economic and geographical potential of the region in question.

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¹ Ni'matul Huda, *Desentralisasi Asimetris Op.Cit.*, p. 62

² Ni'matul Huda, *Op.Cit.*, p. 69

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