

ANALYSIS OF THE CONCEPT OF REGIONAL AUTONOMY BASED ON CONSTITUTIONAL DEVELOPMENT IN INDONESIA**ANALISIS KONSEP OTONOMI DAERAH BERDASARKAN PERKEMBANGAN KONSTITUSI DI INDONESIA****Syahrul Ibad**

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Abstrak

Penelitian ini membahas otonomi daerah di Indonesia akan berkaitan dengan Konsep dan teori pemerintahan local (*local government*) dan bagaimana aplikasinya dalam penyelenggaraan Pemerintahan Daerah di Indonesia. Oleh karena *local government* merupakan bagian Negara maka konsep *local government* tidak dapat dilepaskan dari konsep-konsep tentang kedaulatan Negara dalam sistem *unitary* dan *Federal* serta sentralisasi, desentralisasi, dekonsentrasi, dan tugas pembantuan. Penelitian ini dilakukan dengan melalui studi pustaka atau *library research*. Penelitian ini bersifat normatif atau doktrinal dimana data akan diperoleh dari membaca atau menganalisa bahan-bahan yang tertulis. Sehingga menghasilkan Pertama, otonomi daerah merupakan perwujudan menuju terciptanya demokrasi di Indonesia. Kedua, kekuasaan pemerintah pusat yang begitu mutlak dan sentralistik. Ketiga, Otonomi daerah sebagai perwujudan Local Government dimana otonomi daerah berhubungan dengan Pemerintahan Daerah otonom (Self Local Government). Keempat, sebagian konsep pemerintahan yang terdapat di Negara Federal dan pembagian kekuasaan dimana secara teoritis seharusnya di Negara Kesatuan seperti Indonesia baik kekuasaan asli dan kekuasaan sisa berada di pusat. Sehingga dapat dikatakan bahwa di Indonesia pemerintahan berjalan dengan tetap mengakomodir dua yakni antara sentralisasi dan desentralisasi.

Keywords: Otonomi daerah, Konstitusi, Kebijakan.**Abstract**

This study discusses regional autonomy in Indonesia, which is related to the concept and theory of local government and how it is applied in the implementation of regional government in Indonesia. Because local government is part of the state, the concept of local government cannot be separated from the concepts of state sovereignty in unitary and federal systems, as well as centralization, decentralization, deconcentration, and assistance tasks. This research was conducted through library research. This research is normative or doctrinal in nature, where data will be obtained from reading or analyzing written materials. Thus, it produces: First, regional autonomy is a manifestation of the creation of democracy in Indonesia. Second, the power of the central government is so absolute and centralistic. Third, regional autonomy as a manifestation of local

Analysis Of The Concept Of Regional Autonomy Based On Constitutional Development In Indonesia

government, where regional autonomy is related to autonomous regional government (Self-Local Government). Fourth, some concepts of government exist in the Federal State and the division of power where theoretically in a unitary state like Indonesia, both original and residual powers should be at the center. Therefore, it can be said that the government in Indonesia operates while still accommodating two, namely centralization and decentralization.

Keywords : *Regional autonomy, Constitution, Policy.*

A. INTRODUCTION

In principle, the policy regional autonomy is implemented with Decentralizing authority that had previously been centralized in the hands of the central government. In this decentralization process, central government power is transferred from the central level to regional governments, as appropriate, thus realizing a shift in power from the center to districts and cities throughout Indonesia.¹ While under the original conditions, the flow of government power moved from the regions to the central level, it is idealized that since the implementation of the regional autonomy policy, the flow of power dynamics will move in the opposite direction, namely from the center to the regions.

Talking about the concept of regional autonomy after the reformation, there are also different understandings, this can be seen in the development of laws that have been made, namely Law Number 22 of 1999 and Law Number 32 of 2004.² In the first law, it tends to be more Federalistic with the concept of division of authority between the government and the regions, where it has been determined what is the authority of the government and what is the authority of the province and what is the authority of the Regency/City is the authority that is not included in the authority of the government and the province. While in the second law, there is an assumption that the concept of autonomy used is "controlled autonomy" which has a centralistic spirit by aligning the concept of regional autonomy with the form of the Unitary State adopted by Indonesia.

¹ Alim Cahyono et al., "Implementasi Konstitusionalisme Dalam Pemerintahan Daerah (Suatu Analisis Evaluatif)," *Sosio Yustisia: Jurnal Hukum Dan Perubahan Sosial* 2, no. 2 (2022), <https://doi.org/10.15642/sosyus.v2i2.194>.

² Cecep Cahya Supena and Diwan Pramulya, "Tinjauan Yuridis Tentang Persamaan Dan Perbedaan Sistem Pemerintahan Daerah Otonom Dengan Sistem Pemerintahan Negara Bagian," *Moderat : Jurnal Ilmiah Ilmu Pemerintahan* 8, no. 4 (2022), <https://doi.org/10.25157/moderat.v8i4.2861>.

The concept of regional autonomy for most people (especially bureaucratic apparatus) is considered as the transfer of "political power" from the central government (in this case the State) to "regional government" (the community); "*a transfer of political power from the state to society*" (Rondinelli, 1998). In this concept, it cannot be denied that political power transferred from the State to the community can be interpreted as a vehicle to escape the influence of the central government, or if possible, to free oneself from the central state. *A transfer of political power from the state to society* is often understood as the nullification of the central government in determining regional regulations, so that what then occurs is the birth of problematic regional regulations.³

The appropriate concept in the context of a unitary state like Indonesia is not autonomy but decentralization, which is the transfer of "management functions" from the central government to local governments: "*a transfer of management from the central to local governments.*" In the context of decentralization, local governments inevitably remain an inseparable part of the central government, especially in the context of the Unitary State of the Republic of Indonesia (NKRI). Nevertheless, regions still have significant authority to govern their (respective) regions without fear of intervention from the central government. Therefore, the discourse of separation, as in the concept of regional autonomy, becomes difficult.⁴

In the 1945 Constitution, Article 1 paragraph (1) of the amendment clearly and firmly states that "The State of Indonesia is a Unitary State in the form of a Republic". Therefore, the State of Indonesia does not have regions within its environment that are also "State". The Indonesian region will be divided into provincial regions and provincial regions will also be divided into smaller regions. These regions are autonomous (*streek* and *localiarechtsgemeenschappen*) or merely administrative, all according to the rules stipulated by law.

³R Agus Abikusna, "Kewenangan Pemerintah Daerah Dalam Perspektif Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah," *SOSFILKOM : Jurnal Sosial, Filsafat Dan Komunikasi* 13, no. 01 (2019), <https://doi.org/10.32534/jsfk.v13i01.1453>.

⁴Abdur Rahim et al., "Analisis Yuridis Perkembangan Kewenangan Pengawasan Pemerintah Pusat Terhadap Pemerintah Daerah Berdasarkan Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah," *JiIP - Jurnal Ilmiah Ilmu Pendidikan* 6, no. 4 (2023), <https://doi.org/10.54371/jiip.v6i4.1839>; Cecep Cahya Supena and Diwan Pramulya, "Tinjauan Yuridis Tentang Persamaan Dan Perbedaan Sistem Pemerintahan Daerah Otonom Dengan Sistem Pemerintahan Negara Bagian."

Analysis Of The Concept Of Regional Autonomy Based On Constitutional Development In Indonesia

The multitude of principles adopted by this country, when measured theoretically, creates a dichotomy, primarily between the concepts of centralization and decentralization, although there has been a national consensus that there is no dichotomy between these principles. However, an oddity remains, as the many interpretations sometimes lead to differences. There should be a clear understanding of the concept of regional autonomy in Indonesia. Furthermore, there needs to be an update on the public's current understanding of true regional autonomy, ensuring that regional autonomy in Indonesia remains based on the principle of decentralization as stipulated in regulations. This study answers the crucial question: What is the theoretical view on the concept of regional autonomy and regional autonomy policy in Regional Government based on the development of the Constitution of the Republic of Indonesia .

Methods

This research is a type of basic research *and* is classified as descriptive. Basic research is research that reaffirms or proves an existing statement or theory, thereby strengthening the original statement or theory.⁵ This research was conducted through library *research*. This research is normative or doctrinal in nature, where data is obtained by reading or analyzing written materials and does not require face-to-face contact with informants or respondents.⁶

DISCUSSION

The Relationship between Central and Regional Governments in Indonesia

In the context of a Unitary State, the relationship of authority The relationship between the central and regional governments in Indonesia is based on three patterns: decentralization, deconcentration, and *medebewind* (assistance tasks).⁷ Regional autonomy, as a realization of the decentralization system, is not only the distribution of authority or the transfer of government affairs, but also means the division *of power* to

⁵Juhnny Ibrahim Jonandi Effendi, "Metode Penelitian Hukum: Normatif Dan Empiris," *Depok: Prenandamedia Goup*, 2018.

⁶Abraham Ethan Martupa Sahat Marune, "Metamorfosis Metode Penelitian Hukum," *Civilia: Jurnal Kajian Hukum Dan Pendidikan Kewarganegaraan* 2, no. 4 (2023).

⁷Vebrina Hania Cholily, "Analisis Otonomi Daerah Dan Disparitas Regional Antara Kabupaten Semarang Dengan Kabupaten Kebumen Tahun 2014-2018," *COMSERVA: Jurnal Penelitian Dan Pengabdian Masyarakat* 3, no. 10 (2024), <https://doi.org/10.59141/comserva.v3i10.1203>.

regulate the implementation of state governance in the relationship between the center and the regions.⁸ This allows for the participation of local communities in determining their own interests, and regional governments can proactively take creative initiatives in the implementation of their own governance. Only then can regional autonomy be created without deceptive manipulation by the central government.

This is what differentiates Law No. 5/1974 from Law No. 22/1999. Evidence that regional autonomy in its substantive meaning lacks strong political commitment at the conceptual and implementation levels can be seen in the interpretation provided through the Explanation of Law No. 5/1974 which states that "The essence of autonomy is more of an obligation than a right" (Article 1 letter f). This view has left regional governments completely powerless to take initiatives for the development of their regions.

In contrast to Law No. 22/1999 which states: "The granting of regional autonomy authority is based on the principle of decentralization alone in the form of broad, real, and responsible autonomy" (Explanation of Law No. 22/1999, rationale, letter h); and also the explanation which states that with the formation of Law No. 22/1999 basically all authority is already in the Regency and City Regions as autonomous regions, meaning that the transfer of authority is not something that absolutely must be done actively by the center but is sufficient with recognition.

In the current era, the relationship between regional and central governments can be seen in Law No. 32 of 2004. Of all types of relationships outlined in the law, which include relationships of authority, finance, public services, utilization of natural resources, and other resources, there are two types of relationships, namely administrative relationships and territorial relationships.⁹ What is meant by administrative relationships is the relationship that occurs as a consequence of the policy of organizing regional governments which is a single unit in the implementation of the state administration system. Meanwhile, territorial relationships are relationships that occur as a consequence of the formation and arrangement of

⁸Firman Freaddy Busroh, Fatria Khairo, and Putri Difa Zhafirah, "Harmonisasi Regulasi Di Indonesia: Simplikasi Dan Sinkronisasi Untuk Peningkatan Efektivitas Hukum," *Jurnal Interpretasi Hukum* 4, no. 3 (2023).

⁹Kiki Endah, "Pelaksanaan Otonomi Daerah Di Indonesia," *Jurnal Ilmiah Ilmu Pemerintahan MODERAT* 2, no. 2 (2016).

Analysis Of The Concept Of Regional Autonomy Based On Constitutional Development In Indonesia

autonomous regions organized within the territory of the Unitary State of the Republic of Indonesia. Thus, regional areas constitute a unified and complete state territory.

Regional Government Authority and Regional Autonomy: Democracy or Disintegration Process

The Republic of Indonesia is a unitary state. The original power rests with the central government, but the central government's authority is defined by its limits in the Constitution and laws. Any authority not mentioned in the Constitution and laws is defined as the authority held by regional governments.¹⁰ With these constitutional provisions, the Republic of Indonesia is governed by a federal arrangement¹¹. The existence of decentralization and regional autonomy was believed by the founding fathers of the Republic of Indonesia as part of the implementation of democracy, which can be understood from Hatta's statement that:

"According to the basis of popular sovereignty, the people's right to determine their fate is not only at the top of the state government, but also in each place, in the city, in the village and in the region... under such conditions, each part or group of the people gets autonomy (making and implementing their own regulations) and zelfgbestuur (carrying out regulations made by a higher council)... Such a situation is very important, because the needs of each place in a country are not the same, but different." (Hatta, 1976: 103)".

From what Hatta put forward, it becomes clear that the principle of autonomy must be one of the pillars of a democratic government structure to guarantee the freedom for its citizens to express their political aspirations. Because regional autonomy is a reflection of the application of the principle of decentralization, it is this principle of decentralization that is the basis for the realization of democracy. In terms of its relationship to democracy, namely placing decentralization as a prerequisite for democracy because the Constitution is drafted within the framework of a Unitary State, which must reflect regional interests, through rules on the division of power between central and regional bodies in a fair and wise manner so that regions maintain their

¹⁰Abikusna, "Kewenangan Pemerintah Daerah Dalam Perspektif Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah."

¹¹Irham Bashori Hasba, "Demokrasi Dan Integrasi NKRI Sistem Otonomi Daerah," *Jurnal Agama Dan Hak Azazi Manusia* 6, no. 2 (2017).

interests within the framework of the Unitary State.¹² A democratic structure requires the division of government power at the central level and the division of power between the center and the regions. Here, the principles of decentralization and deconcentration are put forward, which can stem the flow of power. centralization.

Bagir Manan (1994) in this context said that there are three factors that show a close relationship between democracy and regional autonomy: *first*, to realize the principle of freedom (liberty); *second*, to accustom people to try to be able to decide for themselves various interests that are directly related to themselves; third, to provide maximum service to the community who have diverse demands and needs. Even so, it cannot be denied that the fact that in a country that adheres to a centralized system, democracy may grow, but the existence of regional autonomy and decentralization will far better guarantee the growth of democracy in the administration of its government.¹³

It has been explained above about regional autonomy as a democratic process, but what about integration in the State of Indonesia? Isn't Indonesia a pluralistic country, while with democracy it can be said to provide the widest possible freedom to this plurality, meaning there are equal opportunities and the widest possible freedom for all interests to enter, especially primordial interests, isn't it true that with this, the gap for disintegration will widen?

Every nation-state requires both democracy and integration, even though both have contradictory characteristics. Democracy is necessary so that each group can freely pursue its aspirations through free competition, but at the same time, integration is necessary to ensure the state's sovereignty remains intact (integration).¹⁴ Because of the different characteristics of each, new nations often face a dilemma: if they want democracy, they must abandon the idea of integration, while if they want integration, they must embrace democracy. Why is this dilemma so? Because building democracy means opening up the freedom and autonomy of primordial groups within society, which must be restrained to prevent division. There seems to be an irony. Efforts to integrate the nation usually face a dilemma because each process of creating a sovereign nation-state increases primordial sentiment. This is because new nations

¹²Obsatar Sinaga, "Efektivitas Implementasi Kebijakan Otonomi Daerah," *Administratur* 1, no. 3 (2007).

¹³Surianah Syarifudin, "Konsep Desentralisasi, Dekonsentrasi, Dan Otonomi Daerah," *Jurnal Desentralisasi, Dekonsentrasi, Dan Otonomi Daerah* 1, no. 1 (2022).

¹⁴Ibid.

Analysis Of The Concept Of Regional Autonomy Based On Constitutional Development In Indonesia

often bring new elements that can be contested by various primordial groups. Therefore, it must be understood that every new nation needs to be vigilant against the emergence of SARA issues, because primordial dissatisfaction usually results in demands to reformulate the sovereignty of the nation-state. And the threat of disintegration is not only a victim of one regime, but also of the nation. That is Geerts' explanation of the dilemma between democracy and integration, which seems to have to be chosen because one cannot be developed simultaneously. But actually the dilemma between democracy and integration is not something that every country absolutely has to face. This is actually a call for every country to organize itself in such a way that the demands for integration and democracy can be fulfilled in harmony, not one or the other.

Ultimately, from the various descriptions and views above, it can be concluded that regional autonomy in Indonesia is a process toward realizing a democratic society, in accordance with the mandate of the Constitution. Regional autonomy represents a tolerance of the central government towards regions in managing their affairs. The democratic aspect referred to here is the optimization of community participation in developing or managing their regions according to community initiative and creativity, without everything having to be managed by the central government. Because the tendency that occurs when everything must be centralized at the center, the consequence is uniformity and the denial of diversity that exists in the regions. However, the state must also pay attention to always placing integration alongside democracy. This means that the state should not only emphasize democracy or vice versa, only integration. Both must go hand in hand.

Regional Autonomy: A Response to Centralized Power in the New Order Era

Centralized power at the center has a negative impact on the sustainability of democracy and hampers regional independence, initiative, and initiative in managing and developing their regions. This is because the central government's will is so dominant in determining all policies, even down to the realm of domestic affairs in the regions.¹⁵ Experience with regional government and the continuation of democracy during the New Order era, for example, shows that community participation in this area

¹⁵Sani Safitri, "Sejarah Perkembangan Otonomi Daerah Di Indonesia," *Jurnal Pendidikan Sejarah* 5, no. 9 (2016).

was severely limited, with everything determined by the center. Under the pretext of maintaining national stability for effective development, this was at the expense of community participation in contributing and contributing ideas to alleviating problems in Indonesia. Therefore, it is understandable when the public perceives the central government as closed and uninspired. Although it seems that national stability is maintained, this is because all opportunities for the public, even simply to express their opinions, are severely restricted and covered up.

The New Order government under Suharto successfully won the political struggle to make economic development the primary option in resolving the crisis. This policy was won through the decision of the Army Seminar in Bandung in 1966, which stipulated that "economic development must be carried out seriously whatever the cost" and to secure the economic development program, "political stability must be seen as a prerequisite." To build this stability, the political line that must be emphasized is strengthening integration (unity and unity), which needs to be built through a non-democratic political format.¹⁶

The New Order was trapped in the idea that building integration required neglecting democracy. Democracy would only be established once the economy was strong. This was the basis for the emergence of a highly authoritarian government under Suharto. The democracy that was established was merely a formality, lacking in substance. Democratic institutions such as the People's Consultative Assembly (MPR), the House of Representatives (DPR), political parties, mass organizations, and the press existed, but all were tightly controlled to avoid diverging from the government's views. Elections are held every five years, but the process is riddled with manipulation and fraud. Executive influence has been implanted in the People's Consultative Assembly (MPR) and the House of Representatives (DPR), rendering these platforms for public political aspirations largely ineffective and unable to exert effective control over the government. All of this is built on the premise of "economic development."

During the New Order government, with Law No. 5 of 1974 as the basis for the relationship between the Central Government and the Regions, injustice occurred in the relationship between the Center and the Regions, both politically and economically.

¹⁶Ibid.

Analysis Of The Concept Of Regional Autonomy Based On Constitutional Development In Indonesia

Politically, it was apparent that the Regional Government was more of a tool of the center than a tool for regional autonomy and decentralization. The Regional People's Representative Council (DPRD), which should be the holder and responsible for regional autonomy, was made part of the regional government, which was more accountable to the Central Government. Regional Heads were practically not determined by the DPRD because candidates to be selected by the DPRD had to first obtain approval from the Center. From the candidates selected by the DPRD, the Center could choose one without being tied to the election results ranking. Regional views on the desired Regional Head figure were ignored. In the economic sector, the same thing happened because the Central Government drained almost all regional resources. For example, in Irian Jaya, which is rich in gold, many residents died of starvation. In Buton, which is the largest asphalt producer, many roads lacked asphalt, at least when compared to roads in Java. This shows that the central government has caused a low proportion of regional income consumption in wealthy regions, far from reasonable. Not to mention the cases of human rights violations, all of which use the pretext of maintaining national stability to achieve economic development.

In this regard, if examined theoretically, the government's role during the New Order era, which was so closed and less aspirational, was contrary to the principles of democracy, even though Indonesia was built on a democratic foundation as mandated by the Constitution. Democracy here means freedom and justice for the people.¹⁷ The distribution of power and the division of affairs did not run as it should, even though it is generally known that in the context of democratization and limitation of power, the principle of separation of powers is known. The most popular theory on this issue is the idea of the separation of state powers (*Separation of Power*), where state power must be separated into legislative, executive, and judicial functions. The legislative function is usually associated with the role of parliament or *the legislature*, the executive function is associated with the role of the government, and the judicial function with the judiciary. This is different from the New Order era, because it can be said that everything is centered on the will of the central government (executive), the legislative function (MPR, DPR) does not function as it should.

¹⁷Putri Amalia Zubaedah and Royyan Hafizi, "Sentralisasi Atau Desentralisasi: Pelaksanaan Otonomi Daerah Di Indonesia," *Jurnal Cahaya Mandalika* 3, no. 3 (2022).

Regional autonomy here is a mechanism for regulating state power, which is distributed vertically in a top-down relationship. As is known in various literature, the separation of powers and the distribution of powers are both concepts concerning the separation of powers, *which*, academically, can be distinguished between a narrow and a broad sense. In a broad sense, the concept of separation of powers *also* includes the concept of the division of power, commonly referred to as the "*division of power*." (*'distribution of power'*). Separation of powers is a concept of horizontal power relations, while the concept of division of power is vertical. Horizontally, state power can be divided into several branches of power associated with the functions of certain state institutions, namely the legislative, executive, and judiciary. Meanwhile, in the concept of distribution of power (*distribution of power* or *division of power*), state power is distributed vertically in a 'top-down' relationship.¹⁸

From the various descriptions above, it can be concluded that the absolute and centralized power of the central government actually brings various positive impacts when the government is able to act fairly. This kind of centralized government may be good from the perspective of national stability (unity) because it is able to maintain integration where all must submit and obey the will of the center, all gaps for opposition and "left" movements must be eliminated and crushed. However, it will have a negative impact when the government is unable to act fairly. The ending can be seen that arbitrariness will be the end, and the impact and consequence is the community itself, where the lack of regional independence, pressure/oppression, and the failure to absorb community aspirations occur in society. Therefore, post-reform regional autonomy is expected to be able to answer and alleviate these problems. It is hoped that with regional autonomy, it is hoped that it can foster independence and the growth of a democratic climate in society, especially in the regions.

Regional Autonomy as a Manifestation of *Local Government*

The emergence of local government and regional autonomy is actually based on the hope that power will not be concentrated in one person or one institution. This concentration of power will tend to result in... arbitrary power. Speaking of *Local Government* can have three meanings. First, it means local government (in terms of

¹⁸Ibid.

Analysis Of The Concept Of Regional Autonomy Based On Constitutional Development In Indonesia

institutions/agencies/organs at the regional level or bodies that organize government activities in the region). Second, local government carried out by local governments (in terms of functions where the functions of *Local Government* are very limited in contrast to the central government). Third, it means autonomous regions (in terms of the authority to make policies, and regulate household affairs on their own initiative).

In terms of institutions/agencies/organs of regional government in Indonesia, it will refer to the regional head and the DPRD, each of which is filled by being directly elected, not appointed. In terms of function, *Local Government* has the following functions: *policy formation making function*) and policy implementation function (*policy*) *executing function*). The policy-making function is carried out by officials elected through elections, while the policy-implementing function is carried out by appointed officials/local bureaucrats. However, this function is very limited and only covers predetermined regional household affairs outside of the excluded affairs.

Local government, in terms of its organs and functions, is not the same as the central government, which encompasses legislative, executive, and judicial functions. Local government has virtually no judicial branch or function. This is related to the delegation of authority received by local governments. The authority delegated to local governments is solely governmental authority.

Legislative and judicial authority is not delegated to local governments. Legislative authority remains vested in the legislative bodies (the People's Consultative Assembly, the House of Representatives, and the Regional Consultative Body) at the central level, while judicial authority remains vested in the judicial bodies (the Supreme Court, high courts, district courts, and others). While regional courts do exist, such as high courts in provinces and district courts in districts/cities, they are not part of the local government. These judicial bodies are independent and autonomous bodies under the central judiciary.

In terms of the authority to make policies and regulate its own household affairs, *the Local Government* has autonomy (local, in the sense of *self-government*). That is, it has the authority to regulate (*rule-making = regeling*) and manage (*rule application = bestuur*) the interests of the local community according to its own initiative. In public administration terms, each of these authorities is commonly called the authority to form policies (*policy*). *making*) and the authority to implement policies (*policy*) *Executing*).

Regulating is the act of creating generally applicable legal norms. In the context of regional autonomy, legal norms are contained in regional regulations and regulatory decisions of the regional head. Meanwhile, administering is the act of applying generally applicable legal norms to concrete and individual situations (*beschikking*) or material actions in the form of services and the construction of certain objects.

By referring to the description, it can be concluded that regional autonomy is related to autonomous regional government (*Self-Government*). *Local Government*). Autonomous Regional Government is a Regional Government whose governing bodies are elected by local residents and have the authority to regulate and manage their own affairs based on laws and regulations while still recognizing national supremacy and sovereignty. However, it is important to understand that in terms of organs, functions, and authorities in regional autonomy in Indonesia, there are actually still limitations due to their status as the embodiment of *Local Government* . In terms of organs and functions, it only refers to the regional head and the Regional People's Representative Council (DPRD), while judicial organs such as the judiciary are autonomous institutions. The role of legislation here is replaced only with the authority to form policies and implement policies that only cover household affairs that have been determined by law. So it is actually clear here that the position and existence of regional autonomy is subordinate and dependent on the central government.

Regional Autonomy: Implementation of the Concept of Federalism in Indonesia

Indonesia adheres to a unitary state, as stipulated in the Constitution. Therefore, the implementation of regional autonomy in Indonesia essentially accommodates some of the concepts of government within a federal state.¹⁹ Jimly Asshiddiqie thus refers to this as a "*federal arrangement*" within the Unitary State of the Republic of Indonesia.

Autonomous Regional Government in the concept of a Unitary State can be interpreted as a government elected by local residents and has the authority to regulate and manage its own affairs based on statutory regulations and still recognizes national supremacy and sovereignty.²⁰ Thus autonomy in a Unitary State has certain limits and is bound by the main principle, namely not to threaten the integrity of the Unitary State

¹⁹Abikusna, "Kewenangan Pemerintah Daerah Dalam Perspektif Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah."

²⁰Ibid.

Analysis Of The Concept Of Regional Autonomy Based On Constitutional Development In Indonesia

itself. Although regional governments as part of the national government are given the right of autonomy to regulate and manage the interests of their communities within their own regions, this autonomy remains bound by the limits of authority they have received based on the regulations and laws established by the central government.

If we look at the Constitution (amended Constitution) and existing laws, especially after the reform in Law No. 22 of 1999 up to the current Law in force, Law No. 32 of 2004 until its amendment (Law No. 12 of 2004), there is an application of the principles of Federalism. Although it is emphasized that the government organization of the Republic of Indonesia is in the form of a Unitary State, the basic concept of the system of division of power between the center and the regions is regulated according to the principles of Federalism. In the provisions of the Law, only the central authority is determined which includes matters of foreign relations, defense and security, justice, monetary and fiscal, justice and religious affairs, while the authority regarding the remaining affairs (others) is determined to be in the regions (districts/cities). In fact, in the text of the Second Amendment to the 1945 Constitution, namely Article 18 paragraph (5) it is stated: "Regional governments exercise autonomy as widely as possible, except for government affairs which are determined by law as the affairs of the Central Government. If interpreted, this can be said to be a form of implementing the principles of Federalism. Because in general it is understood that in a Federal system, the concept of original power or residual power *is* in the regions or parts, whereas in a Unitary State system, original power or residual power is in the center.

From the description mentioned above, it can be concluded that Indonesia has implemented some of the concepts of government found in the Federal State because in fact in the formal aspects that underlie the running of the government, especially after the reformation, there are provisions that regulate the division of original powers with residual powers where theoretically in a Unitary State like Indonesia, both original powers and residual powers are in the center, but with regional autonomy, it means slightly reducing or limiting the power of the center because even in the regions, powers are given as long as they do not include the affairs of the central government. However, this does not affect the sovereignty of the Unitary State because the regions here are in a position to respect and are under the sovereignty of the Unitary State, not on the basis of their own sovereignty.

CONCLUSION

First, regional autonomy represents the central government's tolerance of regional governments in managing their own affairs, thus embodying the path to democracy in Indonesia. Second, the absolute and centralized power of the central government actually brings various positive impacts when the government is able to act fairly. Third, regional autonomy embodies local government, where regional autonomy is linked to autonomous regional government (Self-Local Government). Fourth, Indonesia has implemented some of the governance concepts found in federal states. In fact, in the formal aspects underlying the running of government, especially post-reform, there are provisions governing the division of original and residual powers. In theory, in a unitary state like Indonesia, both original and residual powers should be centralized. Therefore, it can be said that the government in Indonesia operates while still accommodating both centralization and decentralization. On the one hand, regions are given autonomy to develop their households. On the other hand, the existence of regional autonomy remains subordinate and dependent on the central government. Regions cannot be separated from the center or the state. This is a consequence of Indonesia adopting a unitary state with a republican form of government based on democracy.

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Analysis Of The Concept Of Regional
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