

# Technium.

44/2023

2023  
A new decade for social changes

**Technium**  
**Social Sciences**

Powered by

**PLUS**  
**COMMUNICATION**



## **An ideal relationship between central and regional authorities in Indonesia: The 1945 constitution perspective**

**Demson Tiopan<sup>1</sup>, Shelly Kurniawan<sup>2</sup>, Stevie<sup>3</sup>**

<sup>123</sup>Universitas Kristen Maranatha, Bandung

[demson.tiopan@yahoo.co.id](mailto:demson.tiopan@yahoo.co.id); [shellyelvira@gmail.com](mailto:shellyelvira@gmail.com)

**Abstract.** Indonesian central and regional government relationship often changes along with domestic political development and people's needs. Law no. 1/1945 contained the concept of Indonesia's autonomy with people's sovereignty, and Law no. 22 of 1948 contained the concept of 'the broadest economy.' During the 1950 Provisional Constitution era, Law no. 1/1957 and Law no. 6/159 contained the concept of real and broadest autonomy. During the 1945 Constitution in New Order Era, presidential decree No. 6 of 1959 stipulated the real and broadest autonomy, in addition to Law no. 18/ 1965 with a similar concept and deconcentration principle, Law no. 5 /1974 on real and responsible autonomy, stipulating that decentralization is equally important to deconcentration, Law no. No. 22 of 1999 stipulated the real and broadest autonomy, in addition to Law no. 32/2004 on the amendment of real autonomy. Law no. 23 of 2014 tends to adhere to the deconcentration principle. This normative legal study employed secondary data sources, including the 1945 Constitution, Law no. 22/1999 on local government, Law no. 32/2004 on local government, Law no. 23/2014 on local government, Law no. 9/2015 on the second amendment of Law no. 23/2014 on local government, and relevant books, articles, and papers.

**Keywords.** Central Government, Ideal, Regional government

### **Introduction**

The Unitary State of The Republic of Indonesia basically aims to protect the entire Indonesian nation and its territory, advance the public welfare, educate the life of the nation, and participate in the execution of world order. To achieve these goals, the Indonesian government endeavors through community building and service, aiming ultimately to improve people's welfare. As a unitary state consisting of many provinces, regencies, and municipalities, the Indonesian central government implements development and public service by establishing a relationship with the local government to ensure equal development.

However, Indonesian central and regional government relationship often changes along with domestic political development and people's needs. Law no. 1/1945 contained the concept of Indonesia's autonomy with people's sovereignty, and Law no. 22 of 1948 contained the concept of 'the broadest economy.' During the 1950 Provisional Constitution era, Law no. 1/1957 and Law no. 6/159 contained the concept of real and broadest autonomy. During the 1945 Constitution in New Order Era, presidential decree No. 6 of 1959 stipulated the real and

broadest autonomy, in addition to Law no. 18/ 1965 with a similar concept and deconcentration principle, Law no. 5 /1974 on real and responsible autonomy, stipulating that decentralization is equally important to deconcentration, Law no. No. 22 of 1999 stipulated the real and broadest autonomy, in addition to Law no. No. 32 of 2004 stipulated the real and broadest autonomy, in addition to Law no. 23 of 2014, tends to adhere to the deconcentration principle.

The financial relationship between central and regional governments is one of the forms of relationships that have become a subject of heated debate due to issues of fiscal balance. In this regard, the regional government often feels that the central government pays less attention to the issues of fiscal division. Regions with abundant resources demand a huge budget proportionate to their contribution to the state revenue. This issue triggers accusations that the central government merely aims to exploit the regional government's wealth in an unfair manner.<sup>1</sup>

This dynamics demonstrate that Indonesia has not found an appropriate concept to accommodate the ideal relationship between regional and central governments.

### **Problem Statement**

1. How is the authority relation between central and local government after law no. 23/2014 on local government is in force?
2. What is the ideal authority relationship between central and local governments in the unitary state of the republic of Indonesia according to the 1945 Constitution?

### **Theoretical Framework**

Article 1 paragraph (1) of the 1945 Constitution explicitly states that Indonesia is 'a unitary state in the form of a republic.' In a unitary state, the highest authority on any state affairs falls to the central government without any delegation to local governments.<sup>2</sup> The concept of unitary state believes that the central government holds the supreme authority and the state affairs are indivisible between central and local government.<sup>3</sup>

According to C.F Strong, a unitary state is a state with indivisible sovereignty. In other words, its central government holds supreme authority as the constitution only recognizes a single law-making body.<sup>4</sup>

According to Soehino, a unitary state is a state with a single organization, meaning that it does not contain any region with the state status. There is only one state, and there shall not be any state inside the jurisdiction, with only the central government holding the supreme power and authority on any governmental affairs and a single constitution. Based on the description above, it could be concluded that the principles of unitary state are<sup>5</sup>:

1. The central government holds the sole authority to create constitution.
2. The local governance is carried out based on principles of decentralization, deconcentration, and assistance tasks.

---

<sup>1</sup> Muh Shujahri Am dkk, 2010, Analisis Hubungan Pemerintah Pusat dan Daerah; Studi Kasus Perimbangan Keuangan Kota Makassar, Government: *Jurnal Ilmu Pemerintahan*, Volume 3, Number 1, January 2010, p. 39.

<sup>2</sup> M. Solly Lubis, 1983, *Pergeseran Garis Politik dan Perundang-undangan Mengenai Pemerintah Daerah*, Alumni, Bandung, p.8.

<sup>3</sup> Ni'Matul Huda, 2014, *Desentralisasi Asimetris dalam NKRI*, Nusa Media, Bandung, p.7.

<sup>4</sup> Strong C.F, 2015, *Konstitusi-Konstitusi Politik Modern*, Nusa Media, Bandung, p. 111

<sup>5</sup> Soehino, 2004, *Hukum Tata Negara Perkembangan Otonomi Daerah*, BPFE, Yogyakarta, p.175.

3. In the unitary state with decentralization principle, the formulation and designation of governmental affairs that belongs to local governments are stated in explicit and detailed manner.

4. The original authority still belongs to the central government.

In a unitary state like Indonesia, there are two methods typically used to link the central government to the local government. The first method is called centralization, with which any governmental affairs, functions, tasks, and authority are organized by the central government and implemented in a deconcentrated manner by delegating the implementation authority to the local governments.<sup>6</sup>

Deconcentration is defined as a partial delegation of central government's authority to its local governmental instruments.<sup>7</sup> According to Bagir Manan, Deconcentrated arrangements, particularly those related to the establishment of an administrative governmental region, should take the following considerations:<sup>8</sup>

a. The presence of administrative regions should not replace the autonomous government that serves as the pillar of the state system according to the 1945 Constitution;

b. The presence of administrative government should not create dualism in the local government system. This dualism occurred when Law no. 5 of 1974 was in force, where decentralization and deconcentration concepts had an equal standing;

c. The presence of an administrative region should not result in authority, tasks, and responsibility confusions with the existing autonomous government, as such conditions may affect the service to the community.

d. Amrah Muslimin<sup>9</sup> define decentralization as a delegation of authority to bodies or organizations in the local community to organize their own domestic affairs. He further distinguishes decentralization into political, functional, and cultural decentralization. Article 1 of Law no. 23/2014 on local government defines decentralization as a delegation of governmental affairs from central government to the autonomous region based on the principle of autonomy. The term autonomy in this law refers to the principle of local government administration based on regional autonomy.

### **A. The Concept of Unitary State**

Article 1 paragraph (1) of the 1945 Constitution explicitly states that Indonesia is 'a unitary state in the form of a republic.' In a unitary state, the supreme authority on any state affairs falls to the central government without any delegation to local governments. The concept of a unitary state believes that the central government holds the supreme authority and that state affairs are indivisible between central and local governments. Referring to theories stated by Ni'Matul Huda in her books, the pure unitary state should be administered based on the centralized principle, where the central government holds the absolute authority to manage its territory. However, Indonesia's vast territory makes it difficult to apply a pure centralized principle, as it better suits countries with small territories or city-state like Singapore.

According to C.F. Strong, a unitary state has indivisible sovereignty. In other words, its central government holds supreme power as the constitution does not recognize any lawmaker other than the central law-making bodies. C.F. Strong does not limit the authority

<sup>6</sup> Fauzan Muhamad, 2006, *Hukum Pemerintahan Daerah*, UII Press, Yogyakarta, p.2.

<sup>7</sup> Amrah Muslimin, 1986, *Aspek-Aspek Hukum Otonomi Daerah*, Alumni, Bandung, p 4.

<sup>8</sup> Bagir Manan, 1994, *Hubungan antara pusat dan Daerah menurut UUD 1945*, Pusataka Sinar Harapan, Jakarta, p.160-161.

<sup>9</sup> Amrah Muslimin, *Op.Cit.*, p.5.

division between central and local governments. In the unitary state system, the central government indeed holds a dominant authority.

According to Soehino, a unitary state is a state with a single organization, meaning that it does not contain any region with the state status. There is only one state, and there shall not be any state inside the jurisdiction, with only the central government holding the supreme power and authority on any governmental affairs and a single constitution. Based on the description above, it could be concluded that the principle of a unitary state is:

1. The central government holds the sole authority to create a constitution.
2. The local governance is carried out based on principles of decentralization, deconcentration, and assistance tasks.
3. In the unitary state with the decentralization principle, the formulation and designation of governmental affairs that belong to local governments are stated in an explicit and detailed manner.
4. The original authority still belongs to the central government.

The Republic of Indonesia, as a unitary state, adheres to the principle of decentralized government by providing local governments opportunities to administer their regional autonomy. Article 18 of the 1945 Constitution state that Indonesia is divided into big and small regions with different form and government structure stipulated by the law.

The elucidation section of this article state that, since Indonesia is a unitary state, it shall not have any region bearing the nature of a state inside its territory. Indonesia is divided into provinces, which are further divided into smaller regions. In autonomous regions (streek en locale rechgemeenschappen), any regional affair is stipulated by law. Regional representative council is established in every autonomous region. In other words, local government also lies upon consultation principles.

As such, the 1945 serves as a robust foundation to administer autonomy by providing broad, real, and responsible authority to local government, as stipulated in the Decree of MPR-RI no. XV/MPR/1998 on Regional Autonomy. The fair arrangement, division, and exploitation of national resources and fiscal balance between central and local governments in the Unitary State of the Republic of Indonesia. This MPR-RI decree stipulates that the regional autonomy could be carried out by delegating a broad, pronounced, and responsible authority to the region in proportionate manner, which should be translated into a fair arrangement, division, and exploitation of national resources, in addition to balanced finance between central and local government. The regional autonomy should also be administered according to the principle of democracy, community roles, equality, and fairness, and by taking local potentials and diversity into account.

Indonesia is divided into provincial regions, which are then further divided into regencies and municipalities. Each region holds a regional autonomy based on the 1945 constitution and hence should not be in conflict with the central government.

In this context, as stated in article 18 of the 1945 Constitution, the national political dimension does not only recognize a single system (i.e., decentralization), it also encompasses regional aspects that represent the government's general tasks. While the central government in a unitary state holds the supreme authority, this authority is delegated to the local government through the decentralization concept to improve government efficiency and effectiveness. Thus, autonomous regions and their autonomous authority are established. Thus, the local government's autonomy is still within certain limits. In other words, regional autonomy is not unlimited; It is within the authority framework of the central government, better known as general governance. The difference is that in the past, the framework was too narrow, while

today, it is broad enough to allow local government creatively organize its region. According to Nick Devas, the central-regional government division mainly deals with the authority division.

### **B. Local Government (Centralization, Deconcentration, Decentralization, and Assistance Task)**

In a unitary state like Indonesia, there are two methods typically used to link the central government to the local government. The first method is called centralization, with which any governmental affairs, functions, tasks, and authority are organized by the central government and implemented in a deconcentrated manner by delegating the implementation authority to the local governments.

Deconcentration is defined as a partial delegation of the central government's authority to its local governmental instruments. According to Bagir Manan, Deconcentrated arrangements, particularly those related to the establishment of the governmental administrative region, should take the following considerations:

1. The presence of administrative regions should not replace the autonomous government that serves as the pillar of the state system according to the 1945 Constitution;
2. The presence of administrative government should not create dualism in the local government system. This dualism occurred when Law no. 5 of 1974 was in force, where decentralization and deconcentration concepts had equal standings;
3. The presence of an administrative region should not result in authority, tasks, and responsibility confusion with the existing autonomous government, as such conditions may affect the service to the community.

C.S.T Kansil and Christine S.T. Kansil state that decentralization refers to a principle of delegating a number of governmental affairs from the central government or from a higher-level government to the lower ones, allowing the latter to govern its domestic affairs. Thus, the initiatives, authorities, and responsibilities of the delegated tasks belong to the local governments, e.g., political policies, planning, implementation, and funding.

The decentralized policy stems from the need for strengthening local government positions and bridging the gap between the state and local communities. Countries with large populations and vast territories tend to apply decentralized governance, given that it is too difficult and costly to effectively govern the excessively large territory. Countries with large territories usually have large climatic, geographic, and economic varieties, causing centralized government service to be inefficient.

Amrah Muslimin defines decentralization as a delegation of authority to bodies or organizations in the local community to organize their own domestic affairs. He further distinguishes decentralization into political, functional, and cultural decentralization.

In Indonesia, a decentralized system arose after the centralized decision-making system failed to adequately provide solutions to diverse local communities. It is also realized that managing a country with thousands of problems in a centralized manner would be an ineffective and overwhelming task, and establishing a system more familiar to the local condition is necessary.

The centralized system also failed to deliver efficient local resource consumption, causing ineffective and inefficient expenditure by the central and regional governments. This inefficiency could be seen in tax revenue allocation. Centralized tax collection and local resource consumption are considered to benefit the central government in controlling local expenditure and policy-making processes in the region. In other words, decentralization is

viewed as a solution to a failed centralized system and is expected to better accommodate local needs in a more effective and efficient manner.

Article 1 of Law no. 23/2014 on local government defines decentralization as a delegation of governmental affairs from the central government to the autonomous region based on the principle of autonomy. The term autonomy in this law refers to the principle of local government administration based on regional autonomy.

The autonomy is transferred to the regency and municipality by proportionately providing them with broad, pronounced, and responsible authority to local government. In other words, the transfer of authority from the central to local government would be followed by a fair division and exploitation of national resources and balanced finance between central and local governments. Local government is given the authority to plan, implement, supervise, control, and evaluate local policies. As such, local people's participation is expected to increase as they are positioned as the subject of development, not an object. With the increased participation of the local community, decentralization is expected to affect the quality of other governmental components.

The logical consequence of political decentralization is that it would be followed by fiscal and administrative decentralization. Through political decentralization, local government is given authority to govern its territory according to local aspirations and choose its own representatives and regional head directly. Regional diversity allows the regional government to develop its region based on the local potential with minimum intervention from the central government. Local people are free to elect their regional head to continue their development agenda through a regional development planning mechanism by involving the regional representative council. Regarding fiscal decentralization, the local government holds the authority to explore its locally-generated revenue, manage its own financial affairs and use the money to fund its development plan. Meanwhile, administrative decentralization allows local government to plan, implement, and control its programs to realize local people's welfare. In short, a decentralized system allows local governments to prepare and compete against other regions in facing economic globalization.

In order to prepare and leverage the chances offered by economic globalization, local government needs to have effective financial management. Regional financial management could be categorized into three: revenue and expenditure management and local government management. Local financial management and local development funding evaluation could bring broad implications. Both components will determine the position of a local government in carrying out regional autonomy.

A shift from deconcentration to decentralization principle also involves funding. For instance, the transfer of authority to regional departments and offices is followed by the transfer of employees and instruments and also the funding to local government. Based on the description above, several issues should be taken into account when implementing regional autonomy in the future. First, it is necessary to see how local governments use their fund effectively and efficiently to achieve the local community's welfare. Second, regional finance should not serve as a burden for the local community, e.g., due to increased taxation by the local government. In contrast, regional autonomy should provide a space for local government together with the local community to manage their local affairs more freely. Third, the central government should partially transfer the state affairs to the local government along with the funding.

The basic concept of decentralization actually promotes political equality, local responsibility and responsiveness, and citizen participation. Political equality deals with how

decentralization could promote collaboration among different government levels to generate check-and-balances and open space for the community, including women and other marginal groups, to participate in various local political activities.

Local accountability deals with the relationship between decentralization and governmental transparency, better access to information, and local government's accountability mechanism in order to deliver effective governance.

Local responsiveness is associated with how decentralization responds and contributes to public service (health, education, etc.); accelerates socioeconomic development to fulfill basic rights (including a healthy environment); arrange the developmental resources in a fair manner, and warrants safety and protection of local people's basic rights.

Citizen participation encompasses how decentralization provides spaces for local people's participation in the local policy-making process. It also deals with the implementation and consolidation of democracy.

Academicians, in general, agree that decentralization promotes efficiency and equity through the democratic process in which local government serves their constituents' needs. Therefore, democratic decentralization emerges as the ideal system, as democratic local Institutions can better accommodate the local community's needs and aspirations as they are closer and can be more easily accountable to the local community. In short, effective decentralization requires an inclusive local process under the local authority, which hold discrete decision-making authority on resources required to empower the local community. In this stage, decentralization may take the form of community participation institutionalization.

As an instrument of decentralization, local government also plays other roles. First, local government serves as an effective means to distribute local tension and state and unite local interests. Second, the local government could provide more efficient service than the central government due to its geographic proximity. Third, local government could develop a plan based on more local knowledge to promote socioeconomic and human resources development more efficiently than the central government. Fourth, local government could ensure better public officials' accountability, as they are closer to their constituents. Lastly, the local government may serve as an effective means of communication between the central government and the local community, ensuring better effectiveness of the central government's policy implementation. Thus, as the instrument of decentralization, local government is highly influential in carrying out governmental tasks due to its higher capacity to reach the local community than the local government.

### **Conclusion**

A decentralized government system offers greater advantages, as the policies are made according to the local needs, the development is conducted following the local requirement, and it provides a space for local community participation. In other words, a decentralized government has more advantages than a centralized one, as the former can better accommodate local needs. Indonesia's decentralized system is built upon its constitutional foundation in article 18 of the 1945 constitution. This constitutional foundation also serves as a momentum to strengthen local democracy, assuming that decentralization is closely associated with democratization.

Regarding the central-regional government relationship, it is important to refer back to article 18 of the 1945 Constitution, which states that Indonesia is divided into several big and small, autonomous regions, i.e., regions allowed to govern their domestic affairs, and administrative regions that are not allowed to stand independently as a state. This represents the

decentralized and deconcentrated regions. However, both systems do not go beyond the administrative level, as they are parts of a government system called territorial unit, although Law no. 22/1999 unites both systems into a so-called Regional Head, also known as personal unit. As a consequence of article 18 of the 1945 constitution, the Indonesian government is required to implement political decentralization and deconcentrated governance. Article 1 of Law no. 23/2014 on Local government defines deconcentrating as a partial delegation to the governor as the representation of the central government, to a vertical institution in a region, and/or to the governor and regent/mayor as the person responsible for general governmental affairs.

Issues on the implementation of general government and local government autonomy lie in the principle of balance that demands the degree of knowledge on to what extent the deconcentrating does not harm the decentralization or even benefit from it. Issues on balance between decentralization and deconcentrating revolve around the efficiency and effectiveness of public service. It should be noted that decentralization and regional autonomy are merely instruments to achieve goals, not the goal itself. Therefore, Local governments with larger regional authority may likely develop local community welfare so long they are supported by the presence of institutions established according to local needs, financial sources, human resources, and tools.

The assistance task aims to improve the effectiveness and efficiency of development and public service, in addition to helping regional development according to Local potentials and characteristics. Article 1 of Law no. 23/2014 on Local Government defines Assistance Task as the assignment from the central government to the autonomous region to partially carry out the governmental affairs that belong to central government authority or from the provincial government to the regency/municipality to partially carry out the governmental affairs that belong to the provincial government. It is worth noting that not all authority can be carried out through decentralization and deconcentrating principles. Meanwhile, the village and regency/municipality are the closest governmental organizations to the local community and serve as a parameter to measure the government's performance. In other words, the performance of local government may affect public perception of the central government. Therefore, as the entity responsible for regional and people's welfare, it is necessary to consider giving assistance tasks to the region and the village.

## References

- [1] Muh Shujahri Am dkk, 2010. Analisis Hubungan Pemerintah Pusat dan Daerah; Studi Kasus Perimbangan Keuangan Kota Makassar. *Government: Jurnal Ilmu Pemerintahan*, 3 (1), p. 39.
- [2] M. Solly Lubis. 1983. *Pergeseran Garis Politik dan Perundang-undangan Mengenai Pemerintah Daerah*. Bandung, Alumni, Bandung, p. 8.
- [3] Ni'Matul Huda. 2014. *Desentralisasi Asimetris dalam NKRI*. Bandung, Nusa Media, p. 7.
- [4] Strong C. F. 2015. *Konstitusi-Konstitusi Politik Modern*. Bandung, Nusa Media, p. 111.
- [5] Soehino. 2004. *Hukum Tata Negara Perkembangan Otonomi Daerah*. Yogyakarta, BPF, p. 175.
- [6] Fauzan Muhamad. 2006. *Hukum Pemerintahan Daerah*. Yogyakarta, UII Press, p. 2.
- [7] Amrah Muslimin. 1986. *Aspek-Aspek Hukum Otonomi Daerah*. Bandung, Alumni, p. 8.
- [8] Bagir Manan. 1994. *Hubungan antara pusat dan Daerah menurut UUD 1945*. Jakarta, Pustaka Sinar Harapan, p. 160-161.
- [9] Amrah Muslimin. *Op.Cit.* p. 5.