

# Trend Analysis of Operation: Local Governance Perspectives in Indonesia

*by* Rahyunir Rauf, Nurman, sharifah Zarina Syed Zaka Kadir Arifm

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## **Trend Analysis of Operation: Local Governance Perspectives in Indonesia**

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### Abstract

Local Government existence has been recognized by the Constitution of the Republic of Indonesia Year 1945, in particular article 18, which reads; The division of Indonesian regions over large areas and all the form of government structure defined by the Act, by looking at and remembering basic deliberations in the government system of the Republic of Indonesia, and rights or origins rights in areas that are special. Local Government system is a subsystem of the national government system. Local Government organized by elements of the regional administration, namely; Local Government (Regional Head of the Regional) and along with the Regional Representative's Council. The existence of the regional council in the local government system is always changing in accordance with the legislation in force; the Act No. 5 of 1974 on the Principles of Local Government put the House of Representatives as part of the local government together with Head of the Region of the Region. At the time of Law Number 22 Year 1999 on Regional Government, puts House of Representatives as the Legislature Regional and Local Government as the Regional Executive Board, so clearly there Regions Executive Agency Region and the Regional Executive Board. At the time of Law No. 32 of 2004 put the House of Representatives as an element of the regional administration, who participates together in organizing the village Head village government. While the latter is; Regional People's Council puts representation well as local government organizer element. Organizing development of local government is largely determined by the regulations applicable at the time.

*Key Words: Local Government, the Principle Regional Autonomy*

### 1. Introduction

The regional administration is a subsystem of the national government system. The existence of local governance<sup>1</sup> is recognized and protected in the Constitution of the Republic of Indonesia Year 1945 and in the Constitution of the Republic of Indonesia Year 1945 the amendment.

"The main source and the basic principles adopted in the implementation of the system of government in the region is based on Article 18 of the Constitution of the Republic of Indonesia Year 1945 (before the amendment), which reads as follows; "The division of Indonesian regions over a large area and small with the structure of government established by the Act, by looking at and remembering basic deliberations in the government system of the Republic of Indonesia, and the rights of its origins in the areas that are special"<sup>1</sup>.

In local government, there are elements of the local government and the Regional Representatives Council, that; "Legislative Council as one of the tools to realize the democratic values"<sup>2</sup>. In the long journey of local government system in Indonesia, the Regional

Representatives Council institutionally experienced ups and downs of the function and its existence in accordance with the legislation<sup>2</sup>. In the National Governance System Board of Representatives exercises legislative power which mandated the Constitution of the Republic of Indonesia Year 1945, so that the House of Representatives called the Legislature, but the House of Representatives both provincial and district is essentially running "executive power".

Frequent alternation of legislation of local government in Indonesia, resulting in the change of the system of regional governance, in this paper is limited to four (4) legislation on the last Local Government; Law No. 5 of 1974, Law No. 22 of 1999, Act No. 32 of 2004 and Law No. 23 Year 2014 on Regional Government.

## **2. Theory of Democracy**

Regional government has associated with application democracy, understanding and democracy; "Democracy has become a "vocabulary" famous and well known in the world, although with nuances and characteristics of democracy varies from one country to another, according to the political history of each country who subscribes. East German state (first) also expressed itself as a democracy, although in practice or implementation-authoritarian tyrannical reign. Likewise North Korea calls itself a democratic country, even though the systems and practices of his administration does not reflect the universal democratic values"<sup>2 3</sup>

The emergence of the reform movement after the fall of the New Order regime in 1998, to encourage democratization in the life of the nation, state, and governing, as a result of political pressure earlier period. Various dimensions of democratization develops after reform in Indonesia, among others, the increasing number of political parties, changing the electoral system, as well as the increasing number of autonomous regions in Indonesia, since the enactment of Law No. 22 Year 1999 on Regional Government, the number of autonomous regions in Indonesia, increased significantly, until October 2008, the number of autonomous regions in Indonesia as many as 522, consists of 33 provincial, 393 district and 95 regional areas City<sup>2</sup>.

Other views on the implementation of democratic reform period expressed, "The general election of 1999 the beginning of a new practice of procedural democracy in Indonesia, multiparty era began again, with a new spirit alternatif find a figure other than the actor who has been established in the circle Rezin new order. Political parties emerging "celebrate" freedom brought reforms. Election 1999 issue is a new government filled reformist figures, but a period of 5 (five) years was not as smooth as expected. Let alone the financial crisis and restore public confidence, the elite are busy conflict. Post-reform period filled elite never-ending conflict. On the local level, the area looks busy translating a regional autonomy. Freedom of egocentrism local area raises even very strong since 2004 elections early learning democracy"<sup>4</sup>.

Even last exercise of democracy in the election of the President of the Republic of Indonesia in 2014 as a forum for democracy ended in the Constitutional Court, the condition is at least for external observers to be one of reflection in the development of democracy in Indonesia, although it went well but there are a variety of discontent in the implementation of the presidential election. Realization of democracy at the national level in the form of legislative elections as well as elections for president and vice president are directly or indirectly affect the democracy at the local level, especially in the House of Representatives standing as a container and one form of implementation of democracy at the local level, there ups and downs in the presence of the Regional Representatives Council, Regional Representatives Council presence in the system of local governance affect the regional administration.

## **3. Decentralization and Regional Autonomy**

Decentralization is one form inseparable in democratic life, "Universal principle of democracy is the principle" of the people, by the people and for the people ". The essence of

decentralization is; "Solving local problems, local manner, and by the local people". Through decentralization, there will be more people-either directly or through their representatives in parliament could be involved the process of formulation, implementation and evaluation of public policies oriented interests of society"<sup>2</sup>.

Definition of decentralization expressed; "The transfer of responsibility for planning, management, and the raising and allocation of resources from the central government and its agencies to field units of government agencies, subordinate units of levels of government, semi-autonomous public authorities or corporations, area wide, regional or functional authorities, or private or voluntary non-governmental organizations"<sup>5</sup>.

Decentralization divided into four forms, namely; devolution, deconcentration, delegation and privatization<sup>5</sup>. The concept of "Decentralization", more emphasis on one way to develop local capacity, applied in the development of regional autonomy in Indonesia mainly affects bureaucrats and decision-making ability is still witnessing district/city or worrying about the onset of disintegration in implementing regional autonomy.

"In a unitary state like Indonesia whose population of more than 300 major ethnic and inhabiting more than 17,000 islands, it is very difficult to be managed centrally. With other words, decentralization for Indonesia is a condition sine qua non. For Indonesia, decentralization is not something new, because since the Dutch East Indies colonial period, the existing decentralized arrangement that wet decentralisatie 1903. At the time of Indonesia's independence, the new state government was formed, first drafted legislation that Act No. 1 of 1945 of the Indonesian National Committee of Regions which is none other than the decentralization law"<sup>2</sup>.

"Although there is no government affairs handed over to the local government, which by law are determined as the center of government affairs, this does not mean the government of the Republic of Indonesia adheres to the ideology of centralization "in the power of the state, as can be seen because the soul and spirit of article 18 of Law Constitution of 1945 that the Republic of Indonesia embrace decentralization giving broad autonomy to the province ranked region and district/city as an autonomous region. Autonomous Regions Provincial, District/Municipal formed with the legislation given the widest possible autonomy, not the same as the "state" (states) such as Federated States, but "autonomous region" within the unitary State (Unitary State) is an "integral part" unitary state based on the Act of 1945" In keeping harmony in the community, the region needs to choose its own government within the framework of a unitary state.

"The implementation of the regional administration functions performed local government, namely local government and the Regional Representatives Council. The regional administration is determined both the local government in this case the Regional Head area assisted devices and the Regional Representatives Council, so that the position and shape of local government relations and the Regional Representatives Council"<sup>6,7</sup>.

#### 4. Implementation of Local Government by Act No. 22 of 1999

According to article 1 point (d) of Law No. 22 of 1999, that; "The regional government is autonomous regional administration by the local government and the Regional Representatives Council". While the Local Government under article 1 point (b) of Law No. 22 of 1999 that; "Local government is the Regional Head and devices Autonomous Region as regional executive body". Regional head of the regional leaders, such as be regulated article 30 of Law No. 22 of 1999, that; "Each area is headed by a Regional Head as Chief Executive Officer assisted the Regional Deputy Regional Head". Provincial Regional Head called the Governor and is responsible to the Legislative Council, as stated in Article 31. Based on article 60 of Law No. 22 of 1999, that; "Regional device comprising regional secretariat, the Regional Office and other regional technical agencies". Article 65 of Law No. 22 of 1999 declared; "In the regions can be formed according to the needs of the local technical institute regions".



Special district/city government set up the District and Sub - District as part of the area. The existence of the Regional Representatives Council declared article 1 point (c) of Law No. 22 of 1999, namely; "House of Representatives, hereinafter referred to Regional Legislatures". The local government called the Regional Executive Board. Regional heads of regional executive is responsible to the House of Representatives as a legislative area", meaning that the institution "Regional Executive" accountable to the Regional Legislature. The position of the Regional Representatives Council, that;

"At least there are two different opinions on the status of the Regional Representatives Council. First, looking at the House of Representatives the same status as the House of Representatives, if the center is called the "Parliament" as a legislative body which has the power to make laws, then the House of Representatives in the region is seen as "regional parliaments" or "Legislature area" has the same powers of legislation, budgets, and control, so there is a hierarchical relationship with the Legislative Council, there is at least a functional relationship. The second view, consider the House of Representatives is not the same as the House of Representatives, even no relationship at all, where the House of Representatives is the part of local government which jointly organized a regional heads of local government, and has no legislative power, because in the system of government in the form of the Unitary State (Unitary state) there is only one parliament whose primary task, among others, formed by law"<sup>6,0</sup>

In respect of this, "The position of the regional legislature or the House of Representatives in each regulation is valid for a very interesting panorama. In the period from 1945 up to now been a shift in the position of Regional House of Representatives is quite fundamental. Changes in the provisions of the Regional Representatives Council position of the regulation to other regulations is very significant and is a total change, sometimes the substance of the regulation back or close to the previous. In any changes to the legislation governing local government, are automatically regulates the institutional agencies Regional Representatives Council. The central point is about the role and scope of the duties and rights of the Regional Representatives Council and Regional Head"<sup>6,0</sup>

The existence of the regional council in the local government system is referred to as "equal partners" with local government and as a vehicle or container to carry out democratic life at the local level as declared article 16 of Law No. 22 of 1999.

The existence of the Regional Representatives' Council as the Regional Legislature, then in the region has an element of "regional legislative" functions to the regional administration, in accordance with the principle of local autonomy.; "Through reforms, Act No. 5 of 1974 which centralized replaced by Act No. 22 of 1999 as a counter-concept of the previous legislation. Because the contents of both laws is diametrically. If the Law No. 5 of 1974 which holds regional dominance as the executive head of the region, then the law number 22 of 1999 which holds the dominant role of the Regional Representatives Council. It can be seen from the passages that assert that the head of the region selected by the House of Representatives, with consequences for regional heads responsible to the House of Representatives. Regional Head fate is highly dependent on the regional council, because every year it could happen rejection of accountability reports by the Regional Head of the Regional Representatives Council, could result in the cessation of the head of the area before the end of the tenure"<sup>2</sup>. "Based on Law No. 22 of 1999, in the area there are two (2) institutions, namely the Regional Executive Board consists of the Head of Region and the Region and the Regional Legislature in the form of the Regional Representatives Council. The position of the Regional Representatives Council is stronger than the position of head of the region although mentioned as partners domiciled in parallel, the statement implies contradictory. Called an equal partner but one party (regional head) responsible for and can dismissed other party (House of Representatives)"<sup>2/7</sup>

The working relationship between the House of Representatives with the Local Government by Act No. 22 of 1999, in the form;

1. Choose, appoint, and dismiss regional heads.

2. Together with the Regional Head establish regional regulation.
3. Together sets Regional Head Regional Regulation.
4. Carry out supervision on the implementation of the Local Regulation, Decree of the Head of Regional, Local Budget, and organized regional policies Regional Head.
5. Ask and discuss accountability Regional Head\_
6. And various other related forms of employment relationships.

The final part of governance for accountability as a form organizing general principles of organization of the State "principle of accountability". Regional Head as the heads of local governments to make accountability the regional administration in the period of 1 (one) year.

"Law Number 22 Year 1999 drawn up when the turbulent reforms, a "counter-concept" of the Act before the Act No. 5 of 1974 and Law No. 5 Year 1979 on Village Government. All philosophies and paradigms that underlie both the legislation to be replaced because they did not fit the spirit of the reforms. On the other hand, there is actually a hidden agenda (hidden agenda) that will change the shape of a unitary state into a federal state, although there are no guarantees with the changing shape of the country, Indonesia has become more prosperous and developed"<sup>25</sup>,<sup>9</sup>.

Construction of local government to further strengthen the position of the Regional Representatives Council compared to the Regional Head. Legislative Council setting is placed ahead of the Regional Head settings, whereas the various laws other areas of government regulation setting regional head always precedes the Regional Representatives Council.

"Strengthening the position of the Regional Representatives Council visible from the changing mechanism and accountability of regional heads. Article 34 paragraph (1) of Law No. 22 of 1999, states: "Filling the post of regional head and deputy head of the region conducted by the regional council elections simultaneously". Article 31 paragraph (2), Article 32 paragraph (3), Article 44 paragraph (2) confirms the regional heads responsible to the House of Representatives. There are two drawbacks to this system; First, the head of the region and the Regional Representatives Council located parallel or partner with the government as to which elements contained in article 16 paragraph (2), but the regional heads responsible to the House of Representatives. Second, using the mechanism of regional heads have been and are accountable to the Regional Representatives Council, this refers to the pattern semiparlementer government system, but the system of government at the national level presidential system. There lack of plants national and sub national systems"<sup>2</sup>. In connection with this, to make changes to a system of governance or imitate models of government in another country should be able to pay attention to the values that have long grown and developed on a country.

## 5. Implementation of Deentralization and Regional Autonomy

According to article 1, paragraph (2) of Law Number 32 Year 2004 on Regional Government, that: "Local Government is the implementation of government affairs by the local government and the Regional Representatives Council according to the principle of local autonomy and duty, of assistance with the principle of broad autonomy within the system and the principles of the Republic of Indonesia as stipulated in the Constitution of the Republic of Indonesia Year 1945". Under article 1, paragraph (3) of Law No. 32 of 2014 declared that: "Local Government the Governor, Regent, or Mayor, and the official elements of local government". Under article 1, paragraph (3) of Law Number 32 Year 2014 that consists of Local Government and Regional Head the Region. The device area under section 120:-

1. The Provincial comprising regional secretariat, the secretariat of the Regional Representatives Council, Regional Office and the Regional Technical Institute.
2. The district/city area consisting secretariat, the secretariat of the Regional Representatives Council, Regional Office, Regional Technical Institute, District, and Village.

Based on these provisions can be stated that;

1. There is a difference between the provincial and district/city. 5
2. The device consists of the provinces of 4 (four) elements, namely; regional secretariat, the secretariat of the Regional Representatives Council, the Office of the region and the Regional Technical Institute. 5
3. Tool District/City comprises six (6) elements, namely; Regional Secretariat, the Secretariat of the Regional Representatives Council, the Office of the region, the Regional Technical Institute and coupled with the sub-district and village.

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Office areas are implementing elements of regional autonomy, led by a Head of Department, appointed and dismissed Regional Head of C 16 Servants are eligible at the proposal of the Regional Secretary. Head of Department is responsible to the head of the region through regional secretary. The device area there are elements of the Regional Technical Institute is supporting the task of regional heads in the preparation and implementation of regional policies are specific entity, agency, or district general hospitals. For devices Regency arealcity there are districts and villages. Subdistrict region formed districts/cities led by a Head, Village set up in districts led by a headm 25 The position of the Regional Representatives Council determined system of governance at the national level. At the time of the presidential system of government is a strong form, then the House of Representatives made to be weak. When the national government using parliamentary system of government, the position of the House of Representatives terrain is made more powerful, that;

"The change of power weights Legislative Council moves from the poles is very powerful (as in Law No. 22 of 1948 and Law No. 22 Year 1999) to the pole that is very weak, which is only a "rubber stamp" of the various policies which come from the executive (as in Law No. 5 of 1974). Similarly, institutional position, can be grouped into two poles as part of the regional administration (as in Law No. 22 of 1948, Law No. 5 of 1974, and Law No. 32 of 2004), as well as an institution that stands apart of executive agencies (such as Law No. 22 of 1999)"<sup>2</sup>.

On Law No. 32 of 2004 does not mention the Regional Representatives Council as the legislative body area, only mentioned as an element of the regional administration. Contruction reflect regional institutional<sup>19,21,22</sup> mechanism of check and balances. Likewise, political positions and careers should be no distinctions to minimize the politicization of the Civil Service in the area. Check your hard creating a mechanism balance between the executive areas of the House of Representatives without the involvement of the community.

## 6. Implementation of Regional Administration 2

Understanding the regional administration set in article 1, paragraph 2 of Law No. 23 Year 2014 About the Regional Government, is; "Implementation of government affairs by the Local Government and Regional Representative Council based on the principle of autonomy and duty of assistance with the principle of broad autonomy within the system and the principles of the Republic of Indonesia as stipulated in the Constitution of the 18 public of [Indonesia Year 1945".

In the regional administration reinforced article 57 of Law No. 23 of 2014, that; "The organizers of provincial government and district / city is composed of Regional Head and the Regional Representatives Council and assisted by local device". Understanding Local Government pursuant to Article 1 paragraph (3) of Law Number 23 Year 2014, is; "Head of the Region as an element of local government leading the implementation of government affairs under the authority of the autonomous region". 18 Head of the Region as an element of the regional administration has the authority to lead the implementation of government affairs under the authority of the autonomous region, and implement 8 the Regional Head led a field of executive authority. In local governance<sup>11,4,15</sup>, Regional Head and the Regional Representatives Council assisted the Region.

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