



# Legal Study of Relationship with the Authority of Central & Local Governments According to Law No. 23 Year 2014

Agustien Cherly Wereh<sup>(✉)</sup> and Joupy G. Z. Mambu

Law Studies Program, Faculty of Social Science and Law, Universitas Negeri Manado,  
Tondano, Indonesia  
cherlywereh@unima.ac.id

**Abstract.** Everything pertaining to the public interest is considered government activities. The entire territory of the Unitary State of the Republic of Indonesia is subject to control by the central government. The implementation of state government, which used both a centralized and decentralized system, was renewed with the passage of Law No. 32 of 2004. Externality, accountability, and efficiency requirements are split into categories for the management of governmental affairs. Normative legal research, often known as library law research, was the method employed in this study. Legal studies that are understood as norms or rules that apply are studied normatively. Written positive legal norms, the creation of statutory institutions, codification, laws, governmental rules, etc. are examples of applicable legal norms. The purpose of this study is to ascertain how the central and local governments are related in terms of power. The findings of the study suggest that the government administration is aware of the connection between the national and local governments. The decentralization strategy aims to grant the regions the power to manage their own affairs while remaining within the bounds of the Unitary State of Indonesia Republic. In order for regions to carry out their autonomy as effectively as possible, the central government's job in the framework of regional autonomy will primarily be to determine macropolicies and to carry out supervision, monitoring, evaluation, and empowerment..

**Keywords:** Centralization · Decentralization · Local Government

## 1 Introduction

Indonesia is both a unitary and a legal state. This constitutional clause conveys the idea that this nation was created as a unitary state, not a federation. As a result, Indonesia's government operates under a decentralized system predicated on the greatest amount of autonomy. Without being cut off from the framework of the unitary state, regions are free to control and run their own affairs. The goal of the state is to organize a just and successful society or to ensure the well and happiness of its citizens.

People control and exercise their sovereignty in accordance with the 1945 Constitution (UUD 1945). The 1945 Constitution grants all governmental authority to the president. Indonesia's national territory is divided into provinces, which are further subdivided into cities or regencies. Each province, district, and city has a local government that is subject to legal restrictions. Aside from the unitary state's sovereignty, the regional government has no autonomous authority. The regional government's position is part of the unitary state government's hierarchical structure, which means that the central government controls all government institutions from the center to the regions. Government affairs are everything related to the public interest. The administration of government affairs is divided into externality, accountability, and efficiency criteria. The affairs of the government with the household teaching system are related but not visible. The legislation regulates and implies what is meant by government affairs that give rise to authority.

According to S.F. Marbun, authority means the ability to carry out a public legal action [1]. There was a shift in power due to the repeal of Law 32 of 2004 on Regional Government and its subsequent replacement by Law 23 of 2014 on Regional Government [2].

In a unitary state, the central government has the authority to regulate its entire territory through the formation of regions within the territory of the state. The implementation of state government can be carried out with a centralized and decentralized system. However, the existence of a decentralized system in the administration of national government, which has implications for the formation of two main subsystems of government, necessitates a division of authority in the relationship between the two government subsystems.

In Indonesia, after the enactment of Law no. 5 of 1974 concerning regional government, there was a practice of centralization of government in the New Order era, which tended to be authoritarian. Along with the wave of reforms, enthusiasm and ideas emerged in the administration of a more aspirational and accommodating government at the regional level. It then initiated the birth of the widest possible autonomy as stipulated in Law no. 22 of 1999, which was enhanced by Law no. 32 of 2004. This reform marked a new chapter in the government regime, which shifted from a centralized to a decentralized style. It has led to various criticisms that have led to demands for a more balanced distribution of authority between the centre and the regions.

Paragraph 3 of the Preamble to the 1945 Constitution of the Republic of Indonesia contains the Proclamation of the Independence of the Indonesian Nation, and Paragraph 4 explains the connection between the central government and the regional governments. In the fourth paragraph, it is said that the Government of Indonesia, the central government responsible for governing and controlling the Indonesian people, was the first to be founded following the Proclamation of Independence.[3].

As stated further in the fourth paragraph, it is the responsibility of the Government of the State of Indonesia to ensure the safety of the Indonesian people and their country, to advance the common good, to educate the people of Indonesia, and to contribute to the upkeep of a global order predicated on freedom, peace, and fairness. Under addition, the State of Indonesia is defined as a republic in Article 1 of the Republic of Indonesia's

Constitution from 1945. A national administration for the State of Indonesia is established for the first time as a natural outgrowth of the country's newfound status as a unitary state. The national government then establishes a region in accordance with the laws in place[4].

The Regional Governments are given the maximum possible autonomy to govern and manage their Government Affairs in accordance with the Principles of Autonomy and Co-Administration, as set forth in Article 18, paragraphs (2) and (5) of the 1945 Constitution of the Republic of Indonesia. Disagreements between the central government and the less popular districts, as well as other concerns of autonomy and organizational efficiency, constantly challenge the viability of territorial government. However, the existence of Law Number 23 of 2014 pertaining to the Regional Government has not been able to remedy the situation. Contrary to the goals of legislation and regulation creation, especially the formation of order and authenticity through consideration of competence, this view is not desirable. Furthermore, it further complicates the connection between federal and local governments.

The will of regional autonomy is disregarded by the existence of Law Number 23 of 2014 regarding Regional Government. Exploring the concept of efficiency and effectiveness in the administration of state government involves thinking about more facets of central-regional and super-regional relations, regional possibilities and diversity, as well as opportunities and challenges of global competition in the state administration system. Regional autonomy-style decentralization has given way to centralization with decentralization [5].

The regulation of relations between the centre and the regions largely reduces the authority of the regent or mayor to develop the region and serve the people [6]. The authority was withdrawn and given to the governor; some authorities returned to the central government. It tends to reformulate the authority of local government administration, contrary to the spirit of the amendment to Article 18 of the 1945 Constitution. Based on the preceding, the authors feel the need to conduct research as legal writing material [7].

Article 18 of the Constitution was amended in 1945, and giving federal officials the power to run local governments runs counter to its original intent. In light of the foregoing, the writers are obligated to compile a legal study titled "The Study of Law on the Relationship between Central and Regional Government Authorities pursuant to Law Number 23 of the Year 2014 about Regional Government."

## 2 Method

Philosophical legal research seeks to find the ultimate truth of every juridical phenomenon and empirical fact. According to Theo Huijbers [8], philosophy is an organized and systematic intellectual activity, reflecting the essential meaning of the whole processing of his mind methodically and systematically. The goal is the truth that makes humans happy.

### 3 Results and Discussion

#### 3.1 Relation of Authority Between Central and Regional Government

Essentially, Law 2015 No. 9 By its second amendment, Law No. 23 of 2014, which focuses on regional government and the interaction between the federal and local levels of government, seeks to clarify and strengthen this notion. The third and fourth paragraphs of the Preamble to the Constitution of the Republic of Indonesia lay out the foundation for the interaction between the Central Government and the Regions. 1945 Indonesia. In addition, the fourth paragraph states that it is the responsibility of the Government of the State of Indonesia to safeguard the entire nation and the Indonesian homeland, advance the general welfare and educate the people of Indonesia, and take part in the upkeep of a global order predicated on freedom, peace, and fairness.

Under addition, the State of Indonesia is defined as a republic in Article 1 of the Republic of Indonesia's Constitution from 1945. A national administration for the State of Indonesia is established for the first time as a natural outgrowth of the country's newfound status as a unitary state. The central government then establishes a region according to the rules set down in law. The Regional Governments are given the maximum possible autonomy to govern and manage their Government Affairs in accordance with the Principles of Autonomy and Co-Administration, as set forth in Article 18, paragraphs (2) and (5) of the 1945 Constitution of the Republic of Indonesia.

Giving regions as much power as possible is, conceptually, meant to hasten the achievement of community welfare by the enhancement of services, the empowerment of residents, and their active participation in decision-making. Furthermore, from one administrative/government official to another, through broad autonomy, in the strategic environment of globalization, the region is anticipated to be able to increase competitiveness by considering the principles of democracy, equity, justice, privilege, and specificity, as well as the potential and diversity of regions within the framework of the Unitary State of the Republic of Indonesia.

Deconcentration In addition to adhering to the decentralization idea, keep the lines of communication open between the federal and state administrations. Another important principle is deconcentration. In deconcentration, authority is transferred from central government officials to their counterparts in the subnational governments. In accordance with the deconcentration concept, those to whom power is delegated are not permitted to initiate the creation of regulations or other types of central decisions and then implement them on their own.

Laica Marzuki defines decentralization as "Amtelijke Decentralisatie or Delegatie Van Bevoegdheid," wherein power is transferred from a centralized apparatus of state to a network of subordinate entities. Because subordinate agencies exist solely to carry out the central government's orders, the government at the center retains all of its authority. Additionally, an alternative view illustrates how the "Delegatie Van Bevoegdheid" is illuminating, and how delegation of authority in the staats kundige decentralisatie ultimately leads to the permanent transfer of authority from the central government to the local governments. Meanwhile, Maddick defined deconcentration as "appropriate delegation of power for the fulfillment of specified responsibilities to employees a central

department who are positioned outside the headquarters." [9] In a nutshell, decentralization births state or regional governments at the ground level. Deconcentration, as defined by Bulthuis, is as follows. 1) Delegated power to act on matters requiring it. The officer delegating the authority has access to more resources and a broader scope of work than the official with the authority, the official delegating the authority can direct the official with the authority on how to make decisions, and the official delegating the authority can overrule the decision made by the official with the authority. The official who makes the delegation has the right to replace the delegated official with someone else.

This clarification makes it clear that deconcentration is used to disperse or fracture central power among regional officers who are tasked with carrying out national policies. Two types of unitary states exist: One unified state with a unified government. Two-fold government: (2) a unified state with a plethora of independent institutions. Every aspect of life in a unitary state is governed and controlled by a single government agency. Every directive from the federal government need only be carried out by the states. In a unitary state with a decentralized structure, each region has the ability and power to manage and care for its own home based on the unique qualities of that region (regional autonomy).

Consider that in actuality, the Village Consultative Body has the competence to investigate potential in its area under Law Number 22 of 1999. (BPD). Village expansion is still erratic and not meeting projections. [10] Due to insufficient excavation for village treasury sources, the village authority is unable to fulfill its responsibilities.

In matters of government, regional administrations interact with both the federal government and other regional governments. Among these connections are: 1) Positions of authority, 2) Financial connections, and 3) Provision of basic services. Fourthly, making use of available materials.

All monetary transactions, public service delivery, and the exploitation of natural and other resources are conducted in an honest and amicable manner. Administrative and territorial relationships emerge through the interplay of power, money, public services, and the exploitation of natural and other resources.

Structurally, the relationship between the central and regional governments is based on the principle of deconcentration in which the central level government delegates some of its authority to agencies or institutions at the regional level and then the regional government is responsible for the duties and authorities to the central government. The authorities that are the responsibility of the central government but structurally, the duties and authorities are in the regions include 1) Foreign policy; appoint diplomatic officials and citizens to sit in international institutions, establish foreign policy, enter into agreements with other countries, establish foreign trade policies, and so on. Two) Courts and Justices; The Judicial Power is vested in the State Institutions of the Supreme Court, the Constitutional Court, and the Judicial Commission. These courts exist at the regional level, with particular emphasis on the Court of the first level, which is formally accountable to the Supreme Court. District and city courts, religious courts, state administrative courts, commercial courts, etc., as specified in article 1 point 11 of Law Number 23 of 2014 concerning Regional Government, are all placed at the district/city level. On the other hand, the province level is home to the High Court or Court of Appeal. 3) Monetary and finance; the central bank is a very significant institution in a country that regulates and carries out the duty of monetary policy. For operational

purposes, the Central Bank maintains a presence in the province via a local branch. The State Audit Board, which is in responsibility of assessing the State Budget and Regional Budget, is based in the state capital and has representation in each province. Fourthly, in terms of defense, the Indonesian National Armed Forces are made up of the Army, the Navy, and the Air Force, and they are state instruments tasked with defending, protecting, and sustaining Indonesia's independence and sovereignty. The TNI has established regional organizational linkages, such as the Regional Military Command (Kodam) at the provincial level and the Military District Command (Kodim) at the district/city level, to facilitate the performance of its duties. 5) Safety The Regimental Police (Polres) in each district/city and at the sub-district level is called the Sector Police in the Republic of Indonesia. The State Police of the Republic of Indonesia is a state instrument that maintains security and public order and has the responsibility of protecting, nurturing, serving the community, and enforcing the law (Polsek). 6) Religion The Ministry of Religion is headquartered in the national capital, although its day-to-day operations are delegated to provincial offices in each district and major city.

### **3.2 Division of Government Affairs According to Law no. 9 of 2015 the Second Amendment to Law no. 23 of 2014 Concerning Regional Government**

Issues pertaining to the government fall into the categories of absolute government, concurrent government, and general government, as defined by this statute. Each of the aforementioned three concerns can be categorized as either a matter of central or regional concern. Decentralization, deconcentration, and co-administration are the three guiding principles utilized to divide up government responsibilities. Decentralization is the policy of distributing power away from a centralized location to subnational entities. The shift of authority from the federal government to state and local governments has significant ties to the decentralization field.

The deconcentration principle entails the Central Government handing up some of its powers to the governor, who acts as a representation of the Central Government, to vertical agencies in some sectors, or to the governor and regent/mayor, who are in charge of general government matters. Meanwhile, the principle of co-administration entails the delegation of some governmental functions, either by the Central Government to an autonomous region to carry out on its behalf some of the Government Affairs which fall under the purview of the Central Government, or by the Provincial Government to a Regency/Municipal Region to carry out some of the Government Affairs which fall under the purview of the Provincial Region.

When the authority of the central government is absolute, the centre has complete control over all governmental affairs. If we are to enter the realm of executive definition, the Central Government must be at the center. In this sense, the president of Indonesia is the head of state, with executive authority shared with the vice president and several ministers. Absolute governments are responsible for matters pertaining to international relations, territorial integrity, national defense, law enforcement, the economy, and the church. Vertical agencies are ministerial and/or non-ministerial government agency that

administer Government Affairs that are not given over to autonomous regions in particular contexts in accordance with the deconcentration principle, however overall government affairs remain in the hands of the center. Work units and SKPD at the regional level are two types of vertical agencies.

In the second government, matters run simultaneously. According to this concept, the Central Government and the Provincial and Regional Governments of the provinces and regencies/municipalities share responsibility for governing the country, but the responsibilities delegated to the regions form the basis for enforcing regional autonomy. Agriculture, commerce, mining, fishing, and other industries are all included in the division's purview. Accountability, efficiency, and externalities, as well as national interests, must serve as the guiding principles in the allocation of overlapping governmental responsibilities. General government affairs are the third category of government affairs covered by this statute. The term refers to matters of state that are, by definition, the president's purview. Fostering national resilience, inter-religious harmony, national unity and integrity, resolving social conflicts, promoting inter-ethnic or intra-ethnic harmony, coordinating the implementation of tasks between existing government agencies in the province, city, and regency areas, developing democratic life, and implementing all affairs are all examples of such matters. The federal government is not a local entity.

Absolute Government Affairs, Concurrent Government Affairs, and General Government Affairs can be seen as the three main divisions of government in Indonesia.

#### 1. Absolute Government Affairs

If an issue pertains to the government, and the Central Government has complete control over it, then it is an absolute government affair. A) Foreign policy, including the appointment of diplomats and citizens to posts in international institutions, the formulation of foreign policies, the conclusion of agreements with other countries, and the establishment of foreign trade policies, are all absolute matters of state. B) Defense, which includes things like creating armies, declaring when peace and war have been declared, declaring when all or part of a country's territory is in a state of emergency, developing and deploying a national defense infrastructure and arsenal, mandating mandatory military service, and protecting the safety of all citizens. C) Establishing and organizing a state police force; developing national security policies; and penalizing individuals, groups, and organizations whose actions threaten national security. D) The Judiciary, which oversees the installation of law enforcement agencies, the appointment of judges and prosecutors, the building of prisons, and the formulation of judicial guidelines. (E) The provisions of paragraph one of article nine of Law No. 23 of 2014 on Regional Government. F) Clarification of paragraph one of article ten in Law No. 23 of 2014 on Regional Government. G) national regulations on immigration, pardoning, amnesty, abolition, and the enactment of laws and government regulations. H) The creation of money and the establishment of currency values, the establishment of monetary policy, the regulation of the circulation of money, etc., are all aspects of national monetary and fiscal macroeconomic policies. I) Religion, for instance, establishes national religious holidays, establishes regulations for the management of religious life, and so on. To encourage greater local investment in religious growth, regional religious affairs may fund the execution of religious activities through grants.

In the context of deconcentration, some areas have been declared autonomous, and the governor, as the representative of the central government, must approve any new vertical agency. The deconcentration principle allows for either direct central government involvement in these matters or the delegation of authority to regional vertical agencies or governors acting as central government representatives. Nonetheless, if the vertical agency is established by a ministry whose name is specified in the 1945 Constitution of the Indonesian Republic. The governor's permission as a representative of the federal government is not required. All power in governance ultimately originates with the people and is delegated to the central government. Yet, in order to decentralize the government, some power must be given to the states. In light of this, the federal government can only regulate six spheres of activity. Moreover, the provinces and districts/cities have authority outside of the 6 (six) fields. There is a national authority vested in the central government. While regional authorities have only local jurisdiction (which represents the interests and needs of the local community). Each area is allowed to establish its own system of government under his initiative.

## 2. Concurrent Government Affairs

Concurrent government affairs are government affairs that are divided between the central and provincial governments and district/city areas. Thus, in every concurrent affair, there is always a section of affairs under the central government's authority. There is a section of affairs handed over to the province, and there is also a section of affairs handed over to the regencies/municipalities. Concurrent government affairs under regional authority consist of obligatory and elective government affairs. To realize a proportional distribution of concurrent affairs between the central government, provincial regions and districts or cities, criteria that include externality, accountability, and efficiency are drawn up by considering the compatibility of the relationship in the management of government affairs between levels of government.

## 3. General Government Affairs

Referred to as "general government issues," these are matters of state that are under the purview of the President of the United States. Fostering national insight and resilience in the context of strengthening the practice of Pancasila; implementing the 1945 Constitution of the Republic of Indonesia; preserving *Bhinneka Tunggal Ika*; maintaining and maintaining the integrity of the Unitary State of the Republic of Indonesia; and all other matters pertaining to the general administration of the Republic of Indonesia. Protecting and strengthening national cohesion and identity. c) Promoting peace and understanding between and within diverse communities of all kinds (ethnic, religious, racial, and so on) in order to achieve domestic, regional, and international safety and security [11] d. Using legal and regulatory frameworks to address societal conflicts. Problem-solving at the provincial and municipal levels that takes into account the principles of democracy, human rights, equity, justice, privileges and specificities, regional potential, and diversity as set forth in the law; e. Coordination of the implementation of tasks between existing government agencies in the provinces and districts/cities. f. The growth of democratic society in accordance with Pancasila and, g) The carrying out of all government affairs that are not under regional control and are not handled by vertical agencies.



Governors and regents/mayors carry out general government affairs in their assigned fields with the assistance of vertical agencies. The Governor is the representative of the Central Government and reports to the President through the Minister, whereas the Regent/Mayor reports to the Minister via the Governor.

## 4 Conclusion

From the perspective of government administration, a connection between the federal government and the Regional Government becomes apparent. As part of exercising its independence, the region is free to establish its own set of laws. The strategy of decentralization seeks to give local governments more control over domestic affairs while yet remaining within the bounds of the Republic of Indonesia's unitary state (NKRI). Since the state would be responsible for the consequences of the implementation of governmental matters delegated to the Regions, the National (Central) Government bears ultimate responsibility for their administration. With regional autonomy, the central government will play a larger role in determining macro policies and in supervising, monitoring, evaluating, controlling, and empowering the regions to maximize their autonomy. Furthermore, the region's function will shift toward the degree of actualizing autonomy. The regional governments' actions are consistent with the level of autonomy granted to them. They can't go against centrally-set guidelines, rules, or processes. All levels of government, including the federal government and other regional governments, work together to accomplish their missions. Authority, finances, general services, and the use of natural and other resources are all examples of these types of connections.

According to Law No. 9 of 2015, the government's responsibilities have been divided. There are three distinct sections to the new modification to Law No. 23 of 2014. To begin, central government has complete control over absolute government affairs. However, the decentralization concept allows the federal government to delegate its implementation to the states. Second, are concurrent government affairs, which is government affairs that are divided between the Central Government, the Provincial Government, and regencies/municipalities. Affair transfers to the regions provide the foundation for enforcing regional autonomy. The third category includes the president's exclusive purview as head of state: general government matters. It's up to each region's governor or regent to put this into action.

**Acknowledgments.** Thank to the Dean Faculty of Social Science and Law for supporting this research.

**Authors' Contributions.** The first author in this study served as the head of the research and coordinated the entire series of research activities. The second and third authors served as members and assisted in data collection and analysis.

## References

1. S. F. Marbun, "Pemerintahan Berdasarkan Kekuasaan dan Otoritas," *Jurnal Hukum IUS QUIA IUSTUM*, vol. 3, no. 6, pp. 28–43, 1996.
2. Pemerintah Pusat, *Undang-undang (UU) tentang Pemerintahan Daerah*. Indonesia: LN.2014/No. 244, TLN No. 5587, LL SETNEG: 212 HLM, 2014.
3. Soehino, *Ilmu Negara*. Yogyakarta : Liberty Yogyakarta, 2005.
4. A. G. Agussalim, "Pemerintahan Daerah (kajian politik dan hukum)," *Bogor: Ghalia Indonesia*, 2007.
5. S. Sunarno, "Hukum Pemerintah Daerah," *Jakarta: Sinar Grafik*, 2009.
6. N. Sinamo, "Filsafat hukum dilengkapi dengan materi etika profesi hukum," *Sinar Grafika, Jakarta*, 2014.
7. S. Utsman, *Menuju penegakan hukum responsif: konsep Philippe Nonet & Philip Selznick: perbandingan Civil Law system & Common Law system, spiral kekerasan & penegakan hukum*. Pustaka Pelajar, 2008.
8. T. Huijbers, *Filsafat hukum dalam lintasan sejarah*. Kanisius, 1993.
9. S. Munir, *Hukum pemerintahan daerah di Indonesia: konsep, azas, dan aktualisasinya*. Genta Publishing, 2013.
10. F. Amrusi and N. Huda, "Hukum Pemerintah Daerah." Bandung: Nusamedia, 2012.
11. H. Nurcholis, *Teori&Praktik Pmrintahan&Otda (Rev)*. Grasindo, 2005.

**Open Access** This chapter is licensed under the terms of the Creative Commons Attribution-NonCommercial 4.0 International License (<http://creativecommons.org/licenses/by-nc/4.0/>), which permits any noncommercial use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons license and indicate if changes were made.

The images or other third party material in this chapter are included in the chapter's Creative Commons license, unless indicated otherwise in a credit line to the material. If material is not included in the chapter's Creative Commons license and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder.

