

## **The Legal Politics of The Governor's Authority in the Formation of Regulatory Regulations of The Region/Municipal Head**

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### ***Abstract***

*This study aims to analyze legal politics related to the authority of the governor in the formation of district / city head regulations. Legal policy is an important concept in understanding how power and law interact and influence the legislative process at the regional level. The authority of the governor as the representative of the central government in the region has significant implications for regional autonomy and the dynamics of the relationship between the provincial government and the district / city government. This research uses normative juridical method with statutory approach and conceptual analysis. The results show that the governor's authority in the formation of district / city head regulations often causes conflicts between central and regional interests. Political, economic, and social factors influence the governor's decision to approve or reject regulations proposed by district/city heads. In addition, it was found that there is vagueness and inconsistency in the regulations governing the governor's authority, resulting in legal uncertainty. The conclusion of this study emphasizes the importance of legal reforms that can clarify the limits of the governor's authority and increase transparency and accountability in the process of forming local regulations. Thus, it is expected to create harmonization between central and regional interests in order to realize good governance.*

## I. Introduction

The Regional Government in Indonesia is responsible for administering government affairs, led by the Regional Head, in collaboration with the Regional People's Representative Council. The Regional Head, as the key executive of the Regional Government, oversees the implementation of governmental duties within the Autonomous Region. Indonesia's system of governance is founded on the principle of popular sovereignty underpinned by law. Article 1, paragraph (2) of the 1945 Constitution asserts, "Sovereignty is vested in the people and executed in accordance with the Constitution." It is the people who shape the structure and functioning of the government, as well as set the objectives for the state and its administration.<sup>1</sup>

According to this principle of popular sovereignty, laws are made based on democratic principles, law enforcement and law-making processes must reflect the will of the people in all policy-making carried out by the government. Therefore, the rule of law must be supported by a democratic system because there is a clear correlation between the rule of law based on the constitution and popular sovereignty applied in a democratic system.

One example of democratization in Indonesia during the reform era is the adoption of decentralization, granting regions the authority to manage their own autonomy. This is a departure from the New Order period, when the government was centralized and regional authority was concentrated in the central government. This transition aligns with the principle of the rule of law in Indonesia, demonstrating the implementation of a democratic rule of law. Furthermore, contemporary Indonesian democracy is grounded in the nation's socio-cultural values, emphasizing deliberation and consensus, and prioritizing community aspirations and interests in line with the philosophy of Pancasila, which includes gotong-royong (mutual cooperation), and guarantees freedom of expression, freedom of the press, and social and political rights by law.

Power that is centered in one hand is contrary to democratic principles because it opens up opportunities for arbitrariness and corruption. A commonly known doctrine on this issue is Lord Acton's statement that "power tends to corrupt but absolute power corrupts absolutely".<sup>2</sup>

There are two kinds of power distribution, namely horizontal distribution and vertical distribution. The horizontal dispersal of power is the dispersal of power to institutions of equal position, each of which is given a function and accompanied by checks and balances, namely the dispersal of power into the legislature (lawmakers), the executive (executors of the law) and the judiciary (enforcing the law). Meanwhile, the vertical distribution of power gave birth to the form of state, namely the state unitary and federal states.

A Unitary State is characterized by the delegation of authority to regional entities through mechanisms like decentralization or deconcentration, allowing these regions

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<sup>1</sup> Agus Dwiyanto, dkk., *Reformasi; Tata Pemerintah dan Otonomi Daerah*, Cetakan Pertama, Yogyakarta: Pusat Studi Kependudukan dan Kebijakan UGM, 2003.

<sup>2</sup> Askari Razak, *Penyelenggaraan Otonomi Daerah Dalam Meningkatkan Pelayanan Publik*, Disertasi, Makassar: Universitas Hasanuddin, 2009.

to manage and govern their own affairs. This authority is derived from, or granted by, the central government in accordance with legal and constitutional provisions. In contrast, a federal state comprises independent states or regions internally, while the central government retains full external sovereignty, with powers devolved from the individual states as outlined in the constitution.

Talking about this unitary form of state, we cannot escape Soepomo's speech during the session of the Independence Preparation Investigation Board (BPUPK), because he was the first to discuss the form of the state in the session. In a speech on May 31, 1945 in front of the BPUPK meeting, Soepomo put forward his idea of an integralistic state. He started by saying that if you want to talk about the basis of the government system to be used for the Indonesian state that was to be formed at that time, then the basis of a government system depends on the ideals of the state, on staatside, on the understanding of the state that will be used to build the Indonesian state.<sup>3</sup>

Soepomo argued regarding this integralistic theory, that the state is not to guarantee the interests of a person or group, but to guarantee the interests of society as a whole. The State is an integral arrangement of society, all groups, all parts, all members are closely related to each other and constitute an organic unity of society. Therefore, the right state basis for Indonesia is an integralistic state which is reflected in the form of a unitary state. Soepomo then explained, that in state science there are several theories about the State. In a state administration system that follows the principle of vertical dispersal of power, decentralization is implemented by distributing authority to lower-level local governments through the transfer of powers.<sup>4</sup>

The application of this principle led to the development of a local government model that necessitates autonomy in exercising authority. In this framework, state administration is divided between the central government and local governments. The division of powers concerning regional autonomy varies between different countries. In Indonesia, for example, the country follows a unitary state system.

The definitions of decentralization and regional autonomy actually have their respective places. The autonomy term is more inclined to the political aspect of state power, while decentralization is more inclined to the administrative aspect. However, when viewed from the context of sharing of power, in practice, the two terms are closely related, and cannot be separated. This means that when talking about regional autonomy, of course and vice versa.<sup>5</sup>

The implementation of Regional Government in the Constitution of the Republic of Indonesia is outlined in Article 18 of the 1945 Constitution. This article was amended during the Second Amendment of the 1945 Constitution. Prior to this amendment, the

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<sup>3</sup> Ateng Syafrudin, Menuju Penyelenggaraan Pemerintahan Negara Yang Bersih Dan Bertanggung Jawab. *Jurnal Pro Justisia Edisi IV*, Bandung, Universitas Parahyangan, 2000.

<sup>4</sup> Padmo Wahjono, *Indonesia Negara Berdasarkan Atas Hukum*, Cetakan Kedua, Ghalia Indonesia, Jakarta, 1986.

<sup>5</sup> Bagir Manan, *Perjalanan Historis Pasal 18 UUD 1945*, UNSIKA, Karawang, 1993.

article was a single paragraph under the title "Regional Government," stating: "The division of Indonesian regions into large and small areas, along with their government structure, shall be determined by Law, considering the principles of deliberation in the state governance system and the rights of origin in special regions." Following the Second Amendment, Article 18 now includes three sections: Article 18 (paragraphs 1 through 7), Article 18A (paragraphs 1 and 2), and Article 18B (paragraphs 1 and 2), all under the chapter titled Regional Government.<sup>6</sup>

In local government systems, in addition to deconcentration and decentralization, there is also a duty of assistance (medebewind; coadministration; co-government) by the government to autonomous regions. Based on this principle, the government sets macro policies, while autonomous regions make micro policies and their implementation. According to Koesoemahatmadja, medebewind or zelfbestuur is the granting of the possibility to the government / local government or the upper level to ask for assistance to the lower local government / local government in order to carry out household tasks or affairs (the upper level area). The term zelfbestuur is the equivalent of the word selfgovernment which means government activities in each part of the UK carried out by representatives of the governed.

The first law produced by the parliament of the Republic of RI was a law that granted legislative rights to the Indonesian National Committees in the regions. Although this law was not intended to give autonomy to the regions, the political implications were very real, namely giving political power to the regions to determine the direction of their local politics. The next series of laws were even directly directed towards achieving an ideal format of center-region relations, as reflected in the enactment of Law No. 22/1948, Law No. 32/1956, Law No. 1/1957, Perpu No. 6/1959, and Perpu No. 5/1960.<sup>7</sup>

Among these laws are many other more technical legal documents that are principally intended to facilitate the realization of harmonious relations between the Center and the regions. Then at the end of Bung Karno's reign, efforts to find an ideal relationship format continued, as revealed by the enactment of Law Number 18/1965.

In the New Order period, with the spirit of Pancasila democracy, the government again overhauled the local government law. It turned out that the reality that occurred was no better, the New Order government never wanted broad regional autonomy, this was clearly seen with the birth of Law Number 5 of 1974 concerning the Principles of Government in the Regions. Politically, the regions were never given the "freedom" to determine the future of their regions according to the style, style and dynamics desired by the local community.

Post-reformation, amendments to the 1945 Constitution were made four times: in 1999, 2000, 2001 and 2002. However, by agreement The initial opinion of the MPR members was that there were five things that were not amended from the 1945 Constitution, one of which was that Article 1 of the 1945 Constitution was not amended,

<sup>6</sup> Faisal H. Basri, *Otonomi Atau Federalisme*, Cetakan Pertama, Jakarta: Sinar Harapan, 2000.

<sup>7</sup> H. Abdul Manan, *Dinamika Politik Hukum di Indonesia*, Kencana, Jakarta, 2018.

which still reads "The State of Indonesia is a Unitary State in the form of a Republic".<sup>8</sup>

Article 18 further underscores the principle of regional autonomy, with paragraph 5 stating: "Regional governments exercise the widest possible autonomy, except for matters that are designated by law as central affairs." While the principle of autonomy is extensive, certain issues are reserved for the Central Government, as specified in the phrase "except for government affairs designated by law as central matters." This provision serves as the legal foundation for the relevant legislation, specifically Law Number 32 of 2004 concerning Regional Government.

In the spirit of reform and to implement the Constitution, Law No. 22/1999 on Local Government was enacted, but like the advice of a driver, "never apply the brakes suddenly".<sup>14</sup> With this law, the country that had been running on the lines of centralism and uniformism at a very high speed, suddenly had to reduce the speed very suddenly. Political decentralization reversed the entire logic of power very quickly and reduced central power very significantly. The consequence of this condition is the birth of extraordinary complexity in a very broad spectrum in the framework of central-regional relations in Indonesia.<sup>9</sup>

Law No. 22/1999 grants a very broad autonomy to the regencies/cities, while the provinces, in addition to being autonomous regions, are also representatives of the center in the regions, so they do not have full autonomy. This makes the autonomous district/city no longer under the province, as well as the regent/mayor is no longer subordinate to the governor. Feeling that they have no responsibility to the governor, many regents/mayors no longer follow the instructions of the governor and make the lack of control over the district/city government. Realizing the problems contained in Law No. 22 of 1999, Law No. 32 of 2004 on Regional Government was born.

The main differences between the two laws lie in how regional heads are elected and the extent of provincial authority over district and city governments. The updated law addresses issues from the previous legislation by granting provincial regions the power to oversee and guide the autonomy of district and city governments. In terms of regional autonomy, both laws aim to provide the broadest possible autonomy to Regency and City governments, except for areas defined by law as central affairs, such as foreign policy, justice, defense, security, monetary and fiscal matters, and religion. Conversely, the provincial government does not have full autonomy; the governor acts as a representative of the central government to carry out tasks related to assistance and deconcentration.<sup>10</sup>

The Governor as the representative of the center in the region in the context of the "Integrad Prefectural System" has the authority to coordinate, supervise, supervise and

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<sup>8</sup> H.M. Busrizalti, *Hukum Pemda Otonomi Daerah dan Implikasinya*. Cetakan Pertama. Yogyakarta: Total Media, 2013

<sup>9</sup> Paulus Efendi Lotulung, *Beberapa Sistem tentang Kontrol Segi Hukum terhadap Pemerintah*, Citra Aditya Bakti, Bandung, 1993.

<sup>10</sup> HRT. Sri Soemantri M, *Otonomi Daerah*, Cetakan Pertama, PT Remaja Rosdakarya, Bandung. 2014

facilitate so that the subordinate regions are able to carry out their autonomy optimally.<sup>17</sup> The working area of a Governor is the Provincial Region. The role of the provincial government is to encourage the implementation of regional autonomy at the district / city level to run in accordance with existing regulations as a reflection of the implementation of decentralization of government oriented towards the welfare of the people in an equitable manner.

Arrangements in each Law on Regional Government have given a strategic role to the regional head<sup>19</sup>, considering that the regional head is a determining element related to the success of national development, because regional government is a subsystem of national or state government. The problems that arise are related to the relationship between the central government and local governments with regard to the authority of the Governor as the Central Government Representative.<sup>11</sup>

Section 4 Paragraph (1) of Law No. 22/1999 on Regional Government (Law No. 22/1999) states that "In the context of implementing the principle of decentralization, Provincial Regions, Regency Regions, and City Regions are formed and structured which are authorized to regulate and manage the interests of local communities according to their own initiatives based on community aspirations". This affects the coordination relationship between the Governor as the representative of the central government in the provincial area and the regency/city due to the absence of a hierarchical relationship between each other.<sup>12</sup>

Law No. 23 of 2014 on Regional Government introduces an expanded role for the Governor, giving them greater authority as a representative of the central government in regional administration. This contrasts with Law No. 32 of 2004, where the Governor's role was limited to guidance, supervision, and coordination. According to Article 91 of Law No. 23/2014, the Governor now has a more extensive set of powers in managing regional government affairs.

The shift in the concept of regional autonomy raises both legal and philosophical questions. Philosophically, the direct interaction with local communities happens through the Regency/City Government, not the Provincial Government. The Regency/City Government is better positioned to understand the specific conditions and needs of each region and serves as a venue for political education where values like justice, equality, and tolerance are instilled. Legally, however, the Provincial Government acts as an extension of the central government. This raises concerns about how true autonomy can be achieved if the government remains heavily influenced by central interests.<sup>13</sup>

## 2 Research Method

The description of the research method regarding the Political Law of the Governor's

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<sup>11</sup> Philip Mawhood, *local government in the Third World*, Jhon Wisley and Sons Chicester, UK, 1983.

<sup>12</sup> Imam Mahdi, *Hukum Tatanegara Indonesia*, Cetakan Petama, Teras, Yogyakarta, 2011.

<sup>13</sup> Imam Syaukani dan A. Ahsin Thohari, *Dasar-dasar Politik Hukum*, Raja Grafindo Persada, Jakarta, 2006.

Authority in the Formation of Regency / City Head Regulations is as follows:

**1. Type of Research**

This research uses normative juridical research, which examines the object of the Governor's authority in the formation of Regency / City Head Regulations, examines and analyzes the legal politics of the Governor's authority in the formation of district / city head regulations.

**2. Research Approach**

In the perspective of legal research, solving a legal issue through legal research requires certain approaches as a basis for compiling precise, logical, and accurate legal arguments. Legal research includes several approaches, and with this approach, researchers will obtain information from various aspects regarding the issue that is being tried to find or solve the problem.

**3. Results and Discussion**

**Research Results**

This research reveals several main findings related to the legal politics of the governor's authority in the formation of district / city head regulations:

**1. Governor's Authority in Legal Perspective:**

Based on juridical analysis, the governor's authority to approve or reject district/city head regulations is regulated in various laws and regulations, including Law No. 23/2014 on Regional Government. However, these regulations often lack clarity and consistency, causing confusion in implementation in the field.

**2. Political Factors Influencing the Governor's Decision:**

The findings show that the governor's decision in the formation of regional head regulations is not only influenced by legal considerations, but also by political dynamics. Governors tend to consider central and local political interests in the decision-making process, which can affect the independence of regional policies.

**3. Central and Local Conflicts of Interest:**

There is a conflict between the interests of the central and local governments in the determination of regional head regulations. Governors are often in a difficult position to balance the interests of the center they represent and the needs of regional autonomy.

**4. Implications for Regional Autonomy:**

The strong authority of the governor in the formation of regional head regulations can weaken the principle of regional autonomy. This has the potential to reduce the effectiveness of local governments in managing their own household

affairs.

The governor in carrying out his duties and authority as a representative of the central government is to oversee the running of the government in regencies or cities, which is then regulated in Government Regulation Number 33 of 2018 concerning the Implementation of the Duties and Authority of the Governor as a Representative of the Central Government (hereinafter referred to as PP Pembantuan). The PP on Assistance Duties regulates the duties and authority of the governor in overseeing the government at the regency or city level.<sup>14</sup>

Article 1 paragraph (1) of the PP on Assistance Tasks states that "In carrying out guidance and supervision of the implementation of government affairs which fall under the authority of districts / cities and assistance tasks by districts / cities, the president is assisted by the governor as the representative of the central government". The consequence of this provision is that a governor must oversee the running of the government in the regency or city, including the draft regulations that will be made by the regency or city government.

Supervision of district or city regulations can be conducted in two ways: preventive and repressive. Preventive supervision involves the governor reviewing drafts of these regulations before they are enacted, while repressive supervision occurs after the regulations have been formally established. Initially, the governor exercised both types of supervisory authority. However, these powers were restricted by a Constitutional Court Decision in 2016.<sup>15</sup>

Prior to the Constitutional Court Decisions No. 137/PUU-XIII/2015 and No. 56/PUU-XIV/2016, the governor's supervisory authority primarily included repressive supervision, which allowed for the cancellation of district or city regulations. However, following these decisions, the governor's role in supervision was limited to preventive measures, such as facilitating and evaluating drafts of district or city regulations. The authority to cancel these regulations was removed.<sup>16</sup>

The limitation of authority has an influence on supervision and effect on the process of forming district or city regulations. Where it affects the facilitation and evaluation process that is more tightened. Even before the limitation of the governor's authority was limited by the Constitutional Court's decision, facilitation was not mandatory, but after the governor was limited in his authority to supervise the revocation of district or city regulations, facilitation became mandatory. Certainly, it affects the process of forming district or city regulations.

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<sup>14</sup> J. Kaloh. *Mencari Bentuk Otonomi Daerah; Suatu Solusi dalam Menjawab Kebutuhan Lokal dan Tantangan Global*, Rineka Cipta, Jakarta, 2007.

<sup>15</sup> Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, Konstitusi Press, Jakarta, 2005.

<sup>16</sup> Philip K. Hitti, *The Arab A Short History*, diterjemahkan oleh Usuluddin Hutagulung dan ODP Sihombing, Dunia Arab, Cetakan Kelima, Sumur, Bandung, 1962.

In terms of the quality of the resulting Perkada, Fitri (Legal Department of Lubuklinggau City Government)<sup>387</sup> said that it was actually not too different from before, meaning that the quality was the same. It is just that the facilitation process is more tightened so it is possible that in the facilitation process many articles are crossed out by the governor. A draft district or city regulation will not be given a registration number before facilitation.<sup>17</sup>

From the explanation above, it can be understood that the purpose of limiting the authority of the governor in conducting repressive supervision is almost achieved by optimizing the facilitation authority as a form of preventive supervision. But on the other hand, of course there are also weaknesses, where the governor is too interfering in regional affairs in terms of the formation of regional regulations.

## **Discussion**

### **1) Inconsistent Authority and its Legal Implications :**

Vagueness and inconsistency in the regulations governing the authority of the governor can lead to legal uncertainty. This impacts the legislative process at the regional level, which becomes ineffective and prone to abuse of power. Legal reforms are needed to clarify and harmonize the regulations governing this authority, to ensure clear boundaries and transparent procedures in the formation of regional regulations.

### **2) The Influence of Political Dynamics on the Governor's Authority:**

The politics influencing the governor's decision reflects the complex interactions between various political actors. This shows that in practice, legal decisions cannot be separated from the political context. To reduce the negative impact of politicization, there needs to be a strong oversight and accountability mechanism, so that decisions taken are more oriented towards the public interest rather than political interests alone.

### **3) Conflict of Interest and Central-Local Policy Harmonization:**

Conflicts between central and regional interests are a major challenge in the legal politics of the governor's authority. Efforts to create policy harmonization between the central and local governments need to focus on constructive dialogue and collaboration. Increasing the capacity of local governments to formulate policies that are responsive to local needs is also important to reduce dependence on governor approval.

### **4) The Importance of Legal Reform to Support Regional Autonomy:**

Regional autonomy must be strengthened through a legal framework that supports regional independence in decision-making. Legal reforms that include affirming the limits of the governor's authority and increasing public participation in the regional legislative process are crucial steps to ensure that regional head regulations truly

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<sup>17</sup> Philipus M. Hadjon, *Hukum Administrasi dan Tindak Pidana Korupsi*, Gajah Mada University Press, Yogyakarta, 2011.

reflect the aspirations and needs of local communities.

The process of forming a district or city *perkada* from the planning stage to the promulgation stage does not immediately become a *perkada*. There are many stages or processes that are passed and it is not impossible that the proposed *Perda* draft cannot be continued and stipulated as *Perda*.<sup>18</sup>

The governor's participation in every process of forming district or city regulations can be understood as a consequence of various provisions of legislation and also as a consequence for the governor in carrying out his duties as a representative of the central government in providing guidance and supervision of the running of government in the district or city. So here it can also be understood that the governor performs the duty of assistance as the principle of regional autonomy.

In the establishment of *Perkada* regency or city as discussed earlier, the governor has an important role, where the governor has two authorities that are mandatory for the establishment of *Perkada* regency or city. The authority is the facilitation authority and the authority to evaluate the draft *Perda* of the regency or city before it is stipulated as *Perda* of the regency or city.<sup>19</sup>

In the opinion of the author, it seems that these two authorities have their own impact on district or city governments in forming district or city regulations. Fitri (Legal Department of Lubuklinggau City Government) also acknowledged that after facilitation became mandatory by the governor, the city government seemed to be overshadowed in determining the content or content material of the district or city *perkada* to be formed.

According to the author, the governor's facilitation authority should be eliminated and transferred to the Regional Office of the Ministry of Law and Human Rights, Facilitation Section of *Perkada* Draft. The facilitation authority can be transferred because it is not like evaluation. In addition to the district or city *perkadas* that are evaluated, according to the author, the authority to facilitate the draft of district or city *perkada* can be carried out by the Designer from the Regional Office of the Ministry of Law and Human Rights in the *Perkada* Draft Facilitation Section. This is certainly not without reason. Here, the first thing that needs to be considered is why the governor's authority in supervising the district or city *Perda* is differentiated, namely in the form of facilitation and evaluation? This is because both have differences.

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<sup>18</sup> Mahendra Kurniawan, dkk, *Pedoman Naskah Akademik PERDA Partisipatif*, cetakan kesatu, Kreasi Total Media, Yogyakarta, 2007.

<sup>19</sup> M. Laica Marzuki, *berjalan-jalan di Ranah Hukum*, Cetakan Kedua, Jakarta: Sekjen dan Kepaniteraan Mahkamah Konstitusi RI, 2006.

According to the author, the essence of the facilitation is none other than a written coaching action given by the governor to the draft Perkada of the regency or city (outside those evaluated), both technically and in terms of its content. Meanwhile, the essence of the evaluation authority by the governor over the draft Perkada of the district or city as referred to in the provisions of Article 88A paragraph (2) PHD has its own purpose, namely to supervise and control the course of government at the district or city level.<sup>20</sup>

If examined from all the provisions governing regional autonomy, it can be found implicitly that the implementation of the evaluation of the draft Perkada district or city as referred to in the provisions of Article 88A paragraph (2) PHD is in the framework of the implementation of co-administration by the governor in the concept of a unitary state. The governor, acting as a representative of the central government, is responsible for overseeing the implementation of government functions at the district or city level. This includes evaluating drafts of district or city regulations that directly impact local governance. This role involves both facilitation and evaluation, with the distinction being that the governor's evaluative authority specifically targets drafts that have a direct effect on the governance of districts or cities. According to Article 88A paragraph (2) of the relevant regulations, only these particular drafts are subject to evaluation by the governor.

The author suggests that facilitation authority should be assigned to drafters from the Ministry of Law and Human Rights, who specialize in harmonizing, refining, and stabilizing drafts of district or city regulations. This approach would enhance the efficiency and effectiveness of the facilitation process. Additionally, evaluating drafts that directly impact local governance remains crucial for monitoring government operations at the regency or city level. This aligns with the principle of co-administration, where the governor, as the central government's representative, plays a key role in overseeing regional governance.<sup>21</sup>

The facilitation is only done for local regulations that are not directly related to the process or running of the government in the regency or city, so the facilitation process can be transferred to the Regional Office of the Ministry of Law and Human Rights, Draft Perkada Facilitation Section. There is no need for the governor to intervene with districts/cities related to the draft of district or city percdas outside the draft that is evaluated. It is enough for the district or city government and the Regional Office of the Ministry of Law and Human Rights of

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<sup>20</sup> Muh Fauzan, *Hukum Pemerintah Daerah; Kajian tentang Hubungan Keuangan antara Pemerintah Pusat dan Daerah*, UII Press, Yogyakarta, 2006.

<sup>21</sup> Muh. Yamin, *Naskah Persiapan Undang-Undang Dasar 1945*, Jilid I, Prapanca, Jakarta, 1959.

the Perkada Draft Facilitation Section to be colleagues in harmonizing, rounding, and stabilizing the district or city perkada draft. It also makes it easier for district or city governments to form Perkada in accordance with the legal needs of their communities.

In Article 1, paragraph (2) of the Government Regulation (PP) on Assistance Tasks, it is stipulated that the governor, as the representative of the central government, is responsible for carrying out development and supervision duties. This includes overseeing the implementation of regulations and ensuring alignment with central government policies and objectives;<sup>22</sup>

- a. Coordinate the guidance and supervision of the implementation of assistance tasks in regencies/cities;
- b. Conducting monitoring, evaluation, and supervision of the implementation of district/city regional governments in the region;
- c. Empowering and facilitating districts/cities in the region;
- d. Evaluating the draft regulations of the regency / city head regarding regional long-term development plans, regional medium-term development plans, APBD, APBD changes, accountability for the implementation of the APBD, regional spatial planning, regional taxes, and regional retribution;
- e. Conducting supervision of district/city regulations; and
- f. Carry out other duties in accordance with the provisions of laws and regulations.

The provision of Article 1 paragraph (2) of the PP on Assistance Tasks, it can be understood that the governor's authority is more about evaluating the draft of district or city regulations. The authority to facilitate is not clearly mentioned, although Permendagri Number 120/2018 regulates facilitation by the governor. Even in the provisions of Article 1 paragraph (3) letter d of the PP on Assistance Tasks, it is not regulated at all regarding facilitation authority, but the governor only gives approval to the draft of regency or city regulations on the formation and composition of regency or city regional apparatus. This certainly provides more or less room for the future facilitation authority not to be given to the governor anymore.<sup>23</sup>

So in the author's opinion, that all drafts of district or city regulations can be facilitated by the Ministry of Law and Human Rights Facilitation Section without facilitation by the governor except for the drafts of district or city regulations that

<sup>22</sup> Mahfud MD, *Politik Hukum di Indonesia*, rajawali pers, Jakarta, 2009.

<sup>23</sup> Ni'matul Huda, *Otonomi Daerah; Filosofi, Sejarah Perkembangan dan Problematika*, Cetakan Pertama, Pustaka Pelajar, Yogyakarta, 2005

are evaluated by the governor such as the drafts of local taxes, local levies, regional spatial planning, district / city industrial development plans, and the establishment, elimination, merger, and / or change in the status of villages into sub-districts or sub-districts into villages because the drafts of district or city regulations that are evaluated by the governor are draft regulations that will directly take care of the running of the government in the district or city.

The existence of facilitation authority by the governor on the drafts of district or city percdas that have been maintained has an effect on the rigidity of the district or city government in establishing district or city percdas, so that in the future it is no longer necessary for the governor to facilitate the drafts of district or city percdas other than percdas that are evaluated.

#### **4. Conclusion**

From the research results that the author has reviewed and discussed in this writing, there are at least two conclusions that can be described, namely;

1. The implementation of the governor's authority to supervise district or city head regulations (perkada kabupaten or kota) has shifted from repressive supervision to preventive supervision. In this case, the governor no longer has the authority to cancel district or city percdas, so the supervision process is carried out when it is still in the form of a district or city percada draft. In addition, the governor's authority to conduct facilitation and evaluation can only be done if the district or city percada draft has been harmonized, rounded up, and strengthened by the drafter from the Ministry of Law and Human Rights.<sup>24</sup>
2. The authority of the governor, which is currently limited to preventive authority, does not really affect the quality of the resulting district or city regulations, while the purpose of limiting the authority is to optimize the governor's preventive supervisory authority so that the quality of the resulting regulations is better. On the other hand, the facilities available to the governor only affect the rigidity of the district/city government in establishing Perkada. When viewed from the relevant institutions based on the duties and authorities of these institutions, too many are involved in the process of forming district/city Perda so that the formation process is more rigid, including the participation of the governor. The authority of facilitation by the governor is more effective if it is given maximally to the drafter from the Ministry of Law and Human Rights, moreover it is given space by the provisions of laws and regulations so that the transfer of facilitation authority is possible.

This research has revealed various important aspects of legal politics related to the Governor's authority in the formation of district/city head regulations. The main findings of this research are as follows:

1. Legal Authority: The Governor's authority in the creation of regional head

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<sup>24</sup> Nita Widyastuthie, *Pelaksanaan Pemilukada Aceh Menurut Undang-undang Nomor 11 Tahun 2006 Tentang Pemerintahan Daerah*. Yogyakarta: UII, Program Pasca Sarjana Magister Ilmu Hukum, 2012.

regulations is explicitly outlined in several laws and regulations, including Law No. 23/2014 on Regional Government. This authority encompasses supervision, evaluation, and approval of regulations issued by district or city heads.

2. **Political Dynamics:** The legislative process at the regional level is not only determined by legal aspects, but is also influenced by political dynamics. Interactions between the Governor and district/city heads are often influenced by political affiliations, local interests, and pressure from various interest groups.
3. **Harmonization of Regulations:** The Governor's role is crucial in ensuring harmonization between district/municipality regulations and national and provincial policies. The Governor's authority serves as a control mechanism to prevent overlapping regulations and ensure harmony in the implementation of development policies.
4. **Implementation Challenges:** Although the Governor's authority is clearly regulated, its implementation in the field often faces various challenges. These include resistance from regional heads, limited resources, and the complexity of local issues that require a specialized approach.

## 5. Suggestion

From the results of the research that the author has reviewed, there are at least two suggestions in this writing:<sup>25</sup>

1. It is necessary to optimize the participation or role of legislative drafters from the Kemenkum HAM Regional Office and to be consistent in involving drafters in all types of district or city regulations that will be harmonized, rounded up and stabilized.
2. The facilitation authority for district or city Perda drafts should be exclusively managed by the Ministry of Law and Human Rights, specifically by the Facilitation Section responsible for harmonizing, refining, and stabilizing these drafts. This transfer of authority is justified because district and city governments have greater autonomy in establishing their own regulations. Additionally, existing laws and regulations permit the delegation of this facilitation authority to ensure that the process is efficient and aligned with central oversight.
3. **Strengthening the legal framework:** The central government needs to continue to strengthen the legal framework governing the Governor's authority in the establishment of regional head regulations. This includes the improvement of existing regulations and the creation of technical guidelines to assist implementation in the field.
4. **Capacity and Training:** There is a need for training and capacity building for government officials at the provincial and district/city levels. This is to ensure that they understand and are able to exercise the authority granted in accordance with applicable regulations.
5. **Dialogue and Collaboration:** Governors and district/municipality heads need to

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<sup>25</sup> Pradjarta Dirdjosanjata dan Nico L. Kana (penyunting), *Demokrasi dan Potret Lokal Pemilu 2004*, Pustaka Percik, Salatiga, 2006.

increase dialog and collaboration to reduce political friction and ensure policies are tailored to local needs. Coordination and deliberation forums need to be strengthened to achieve this goal.

6. Monitoring and Evaluation: Monitoring and evaluation mechanisms need to be reinforced to ensure that regional head regulations approved by the Governor comply with applicable legal and policy standards. This includes enhancing the role of oversight institutions and community participation in the evaluation process.
7. Increased Transparency: To reduce potential conflicts and increase public confidence, the process of establishing regional head regulations should be transparent. Information on the legislative process and decisions taken should be easily accessible to the public.

By following these suggestions, it is hoped that the Governor's power to formulate regional head regulations can run more effectively, harmoniously, and provide optimal benefits for regional development and community welfare.

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