

The Urgency Of Regional Expansion In The Territory Of West Java Province Based On The Principle of Justice

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Abstract

Regional division is a way that is expected by the regions so that the regions can develop and advance the welfare of their people both in terms of infrastructure, education, regional income, and increasing their human resources. The plan for regional expansion in the West Java Province area is based on a proposal from the West Java Provincial Government which was then approved by the West Java Regional People's Representative Council (DPRD). The eight regions to be expanded include South Tasikmalaya Regency, North Garut Regency, South Garut Regency, South Cianjur Regency, North Sukabumi Regency, East Bogor Regency, West Bogor Regency and West Indramayu Regency. Justice in the expansion of the area will be felt by the people who are in the province of West Java, especially in terms of equal distribution of public services and equitable development. This study uses normative juridical and analytical descriptive methods. The conclusion is that regional expansion in the West Java Province region must continue to be carried out, so that areas that are difficult to achieve can experience an even distribution of development.

I. Introduction

The Unitary State of the Republic of Indonesia (NKRI) with its fairly large territory and large population and with such a complex level of heterogeneity, of course it is impossible for the central government to effectively carry out government functions without involving regional apparatus and handing over some of its authority to autonomous regions (Syihab, 2023). Then, to carry out the government functions in question, one of them requires decentralization in addition to deconcentration (Josef Riwu Kaho, 1991; Juanda, 2008).

Bearing in mind the reality of the country's territory and pluralism as well as the desire to provide the widest possible opportunities for regions and various legal community units to develop independently within the framework of the unitary state of independent Indonesia, it is necessary to build a new joint administration of government that is more appropriate, decentralization which has a main core or is based on on autonomy (Bagir Manan, 2001).

The importance of decentralization for modern countries is an absolute and unavoidable necessity, in the context of efficiency-effectiveness, political education, political stability, political equality and public accountability (Syaukani et al., 2002) Providing autonomy is not just about spreading out government administration to achieve government efficiency and effectiveness. Autonomy is a constitutional order (*staatsrechtelijke*), not just a state administrative order (*administratiefrechtelijke*), as a constitutional order, autonomy is related to the basics of the state and the structure of the state organization (Bagir Manan, 2001).

The era of regional autonomy marked the shift from the centralization paradigm adopted by the New Order to the decentralization paradigm contained in Law no. 22 of 1999 concerning Regional Government. The phenomenon of regional expansion or the formation of New Autonomous Regions (DOB), then becomes a logical consequence of the implementation of political decentralization policies. Then, in the post-reform political context, decentralization is more interpreted as regional freedom to expand regions or create new autonomous regions, whether provinces, districts/cities, sub-districts or villages/sub-districts (Santoso, 2015).

The context of a modern legal state (welfare state) states that every government policy, including regional expansion, must have implications for the public interest, namely making a positive contribution to improving the quality of public services that are equitable and affordable for all groups of society. The formation of new autonomous regions is one part of the implementation of regional autonomy which is expected to be able to build cooperation between regions to improve shared prosperity and prevent inequality between regions. In practice, regional expansion which is widespread in the current era of regional autonomy has given rise to various problems in the struggle for interests between certain parties which has an impact on conflict in society (Santoso, 2015).

In practice, this ideal goal turns out to be hidden by political interests and power which actually negates the goal of regional expansion as a whole. So that a study of the process of regional expansion must also look carefully at the context of location, time, events and political constellation when the expansion occurred. Because it cannot be denied that the influence of politics on law is very strong, law and politics essentially influence each other. So it can be understood that regional expansion is only the engineering of political elites, both local and central, with various interests that they promote, so that they do not pay attention to aspects of viability (rationality and urgency) or feasibility (feasibility) (Santoso, 2015).

Regions that have such a large area and a large population expect the central government to expand their regions as a form of implementing equitable development in the context of justice. For example, in the West Java Province region, the population is 49.94 million people and has the largest population in Indonesia (Central Statistics Agency, 2020). However, West Java Province only has 27 districts/cities. Regional expansion in the West Java Province region is very urgent to immediately carry out the expansion of the New Autonomous Region (DOB).

2. Research Method

This study aims to find and find a model and implementation of the conception of the ideal concept of the election of the Attorney General through normative and empirical legal research methods and comparative studies (Christiani, 2016). Starting with conducting studies, field investigations, and analysis, until a model and the right and concrete implementation of the Attorney General's conception

are found in the current state administrative system (Sonata, 2018).

3. Results and Discussion

The essence of justice is the fulfillment of human desires in accordance with their rights. This right is what humans have from birth as humans living in society. Justice is part of the rights that should be given to humans as social creatures. Concrete justice is part of the legal form. Because justice is closely related to law, justice will be realized if existing laws or regulations provide fair decisions. Fair decisions contained in the law are a form of justice. The main goal of law is certainty, justice can distribute benefits. Certainty that is fair will provide positive benefits for humans as legal subjects (Ferry Irawan Febriansyah, 2016).

Justice is one of the goals of law, apart from legal certainty itself and also legal benefits (Muchsin, 2010). Justice is basically an abstract, not concrete, concept. Throughout the history of human life, humans have never received a definite picture of the true meaning and significance of the concept of justice, but have always been influenced by the ideology or school adopted at that time (Ferry Irawan Febriansyah, 2016).

Several concepts of justice put forward by the American philosopher at the end of the 20th century, John Rawls, such as a Theory of Justice, Political Liberalism, and The Law of Peoples, have had a considerable influence on the discourse on the values of justice (Pan Mohamad Faiz, 2009). Justice is the first virtue (virtue) of social institutions, as is truth in systems of thought (John Rawls, 1999).

Justice is not just a moral requirement, but factually characterizes the law (Bambang Sunggono and Aries Harianto, 2001). Justice is a condition where everyone can carry out their rights and obligations in a rational, responsible and beneficial manner (Bambang Sunggono and Aries Harianto, 2001).

Aristotle demanded equal treatment for those who are equal before the law (Friedman, 1990). Aristotle's view of justice can be found in the book *Nichomachean Ethics*. The book is entirely devoted to justice based on Aristotle's general philosophy, which must be considered the core of legal philosophy, because law can only be established in relation to justice (Carl Joachim Friedrich, 2004). The theory of justice according to Aristotle, that justice must be understood in terms of equality. However, Aristotle makes an important distinction between numerical equality and proportional equality. Numerical

equality is equalizing every human being as one unit. This is what is now commonly understood by equality and what is meant when we say that all citizens are equal before the law. Proportional equality gives each person what he is entitled to according to his abilities (Ferry Irawan Febriansyah, 2016).

Aristotle in his writing *Rhetorica* differentiates justice into two types, namely distributive justice (*justitia distributiva*) as justice that is given to each person based on their services or distribution according to their respective rights, and cumulative justice (*justitia cummulativa*) as justice received by each person - each member regardless of their respective services. This cumulative justice is based on transactions (*sunallagamata*) both voluntary and involuntary (Teguh Prasetyo and Abdul Hakim Barkatullah, 2012).

Apart from Aristotle's opinion which provides an explanation of justice, John Rawls is also seen as a " liberal-egalitarian of social justice " perspective, arguing that justice is the main virtue of the presence of social institutions . However, benevolence for the whole society cannot override or challenge the sense of justice of every person who has acquired a sense of justice. Especially weak communities seeking justice. Specifically, John Rawls developed the idea of the principles of justice by fully using the concepts he created known as the original position and the veil of ignorance (Pan Mohamad Faiz, 2009).

View posits that there is an equal and equal situation between every individual in society. There is no difference in status, position or having a higher position between one another, so that one party and another can make a balanced agreement. John Rawls's view is an original position that relies on the understanding of reflective equilibrium based on the characteristics of rationality, freedom and equality to regulate the basic structure of society .

John Rawls's theory of justice aims to articulate various general principles of justice that underlie and explain various moral decisions that are seriously considered in specific circumstances (John Rawls, 1999). The meaning of moral decisions is the various moral evaluations that have been made that lead to social action. A truly considered moral decision refers to a moral evaluation made reflectively. John Eawls' theory is assumed to have the ability to explain moral decisions related to social justice.

Meanwhile, the concept of the veil of ignorance is translated by John Rawls as meaning that every person is faced with the closure of all facts and circumstances about themselves, including certain social positions and doctrines,

thereby eliminating the existence of a concept or knowledge about justice that is currently developing. This concept, John Rawls led society to obtain the principle of fair equality with his theory called " Justice as fairness ". John Rawls's view of the concept he created contained the main principles of justice, including the principle of equality, namely that everyone is equal in terms of freedom and inequality in terms of social needs for each individual. The first principle is stated as the principle of equal freedom in the sense of equal rights for each individual, such as freedom of religion, freedom of politics, freedom of expression. The second principle is stated as the principle of difference in the social sense. Equal rights for individuals but inequality considering a person's social needs (Ferry Irawan Febriansyah, 2016).

One of the cornerstones of a democratic state (democratischerechtsstaat) is decentralization. Decentralization is the right choice in order to answer various problems facing the state and nation now and in the future. In fact, decentralization is the antithesis of centralization of government administration. The development between these two poles is often placed at opposite poles, even though in a unitary state, apart from being wrong to oppose the two, it cannot be completely eliminated. This means that the two concepts, systems and even theories in question complement each other and need each other in an ideal framework as the cornerstone of a democratic state (Juanda, 2008).

The importance of decentralization is essentially so that complex problems are motivated by various factors of heterogeneity and regional specificity that surround them, such as: culture, religion, customs and area, which if handled entirely by the central government or superior government is impossible with limitations and shortcomings. in almost all aspects. However, on the contrary, it is decentralized to the regions for reasons that reflect democratic principles. Therefore, central control and supervision as a reflection of centralization is still considered absolute as long as it does not weaken or even sterilize the principles of democracy itself.

Decentralization is divided into three, including political decentralization, functional decentralization and cultural decentralization. Political decentralization is the delegation of authority from the Central Government which gives rise to the right to manage their own household interests for political bodies in areas elected by the people in certain areas. Functional decentralization is the granting of rights and authority to groups to manage a type or group of interests in society, whether tied or not tied to a particular area, such as managing irrigation interests for groups of farmers in a certain area or several

areas (waterschap or Balinese subak) . Cultural decentralization is giving rights to small groups in society (minorities) to carry out their own culture (regulating education, religion, etc.) (Amrah Muslimin, 1982).

The universal nature of local government (local self-government) in several countries contains the following characteristics (Sarundajang, 1999):

- a. All affairs carried out are affairs that have been made into household affairs themselves, so the affairs need to be defined in detail;
- b. Government administration is carried out by equipment that does not consist entirely of central officials, but local government employees;
- c. The handling of all matters is entirely carried out on the basis of one's own initiative or discretion;
- d. The relationship between the central government and regional governments which manage their own households is only a supervisory relationship;
- e. The entire implementation is basically financed from its own financial sources.

The relationship between decentralization and autonomy, the implementation of regional government through a decentralized system which has a core or relies on autonomy is absolutely absolute in a democratic country. Decentralization is autonomy, namely the process of providing autonomy to communities in certain areas. This relationship between decentralization and regional autonomy is reflected in Gerald S Marynov's statement which states that decentralization and regional autonomy are two sides of a coin (Bhenyamin Hoessein, 1993).

The term autonomy means freedom or independence (*zelfstandigheid*), but not independence or independence (*onafhankelijkheid*). Limited freedom or independence is a form of giving opportunities that must be accounted for. In giving responsibilities there are two elements, namely (Ateng Syafrudin, 2023):

- a. Giving tasks in the sense of a number of jobs that must be completed and the authority to carry them out;
- b. Giving trust in the form of authority to think and decide for themselves how to complete the task.

All the experiences of decentralization in developing countries and the experience of other programs and policies, show that its implementation is not merely a technical process to realize initial plans, but is a dynamic and somewhat

unpredictable process of political interaction. Various political, social, behavioral, economic and organizational factors also influence the level of implementation of policies according to the original plan and the level of success in achieving goals. Successful policy implementation requires the interaction and coordination of a large number of institutions at different levels of government, necessitating supporting actions by local, regional, and national government bodies, as well as cooperation by non-governmental organizations and concerned groups (Ni'matul Huda, 2017).

The effectiveness of relationships and relationships between institutions implementing decentralization policies seems to depend on (Ni'matul Huda, 2017):

- a. Clarity and consistency of policy objectives and the level of clarity of direction understood by implementing agencies to take efforts that lead to achieving policy objectives;
- b. Appropriate allocation of functions and roles among implementing agencies, based on their capabilities and resources;
- c. The level of standardization for planning, budgeting and implementation procedures which in turn can reduce the level of conflicting interpretations and make it difficult to coordinate programs and policies;
- d. Accuracy, consistency and quality of communication between institutions that enable institutions involved in implementing policies to understand their roles and duties and support the efforts of other parties; and
- e. The effectiveness of ties between decentralized administrative office units that ensure ongoing interaction between institutions and enable coordination of efforts.

Criteria that can be used to assess this decentralization. These criteria measure the extent to which decentralization: (1) contributes to the achievement of political goals; (2) increasing the effectiveness of administration/government; (3) increasing managerial economic efficiency; (4) increasing government sensitivity to different needs and demands; (5) increasing self-confidence (independence) among groups and organizations in the region that represent legitimate political interests; and (6) developing appropriate ways to plan and implement development programs and projects area (Rondineli and Nellis, 1986).

The implementation of government, decentralization or autonomy functions shows: (1) decentralized (autonomy) units are more flexible in meeting various changes that occur quickly; (2) decentralized units can carry out tasks

effectively and more efficiently; (3) decentralized units are more innovative; (4) decentralized units encourage the growth of higher moral attitudes, higher commitment and more productivity (David Osborne-Ted Goebler, 1993).

Although assessments of decentralization show records of success, the government is still cautious in moving towards delegating development implementation. Data does not allow a positive assessment of the impact of decentralization, but the conditions that influence the implementation of decentralization programs can be known with certainty. These conditions are: (1) the extent to which central officials and the central bureaucracy support decentralization and the organizations entrusted with responsibility. The extent to which dominant behavior, attitudes and culture support or are conducive to decentralized decision making; (3) the extent to which policies and programs are designed and implemented appropriately to increase decentralization of decision making and management; (5) the extent to which financial, human and physical resources are available to the organizations entrusted with responsibility.

Experience in many developing countries shows that decentralization is not a quick step to overcome governmental, political and economic problems. Its implementation does not automatically address the shortage of skilled labor or personnel. Decentralization does not guarantee that large amounts of resources can be generated at the regional level. One form of decentralization may be successful in one country, while in other countries it may not be successful. However, the shortcomings proven by the experience of a number of developing countries do not mean that these efforts should be stopped.

Decentralization does not produce positive results because (Rondineli and Nellis, 1986):

- a. Access of people living in previously neglected rural areas to central government resources and institutions has increased;
- b. Decentralization has increased participation in a number of fields, meaning that in this case decentralization puts pressure on central government institutions;
- c. In a number of countries there has been an increase in the administrative and technical capacity of regional governments/organizations, although this increase has been slow;
- d. New organizations have been formed at regional and local levels to plan and implement development, all of these organizations have had quite a positive impact;

- e. Planning at regional and local levels is increasingly emphasized as an important element of national development strategy by incorporating new perspectives and interests into the decision-making process.

Decentralized government can only be successful when (a) the decentralization process is seen as a continuation of the state government structure; (b) a dynamic “bottom up” structure of local governance operating on a voluntary basis; (c) decision-making power at this level can be equally shared by all social and economic classes; and (d) the people are mobilized to continue their struggle for democratic rights through their own organizations (Abdul Aziz and David D., 2003).

Decentralization is not just a distribution of authority, but also includes a division of power to regulate and administer state government between the central government and lower level government units. Thus, the decentralization system implies the recognition of government policy makers regarding regional potential and capabilities by involving regional people's representatives in carrying out government and development, by training themselves to use things that are balanced with the obligations of a democratic society.

The characteristics of decentralization and regional autonomy can be developed with at least two benchmarks that must be considered: (1) being given the authority to make decisions on matters relating to the region; (2) given freedom to control and divert various potential sources in the area concerned. So of these two benchmarks, the first benchmark is widely adopted, while the second is starting to be abandoned. For the Indonesian state to fully adhere to the second benchmark is impossible, because the principle of equality, the different conditions of potential and resources in each region and the principle of achieving a balanced growth rate between regions and an archipelagic perspective are fundamental in achieving the goal. granting autonomy to regions, in accordance with the principles of the Republic of Indonesia as a Unitary State. Therefore, most of the financial resources originating from the regions are collected centrally by the center, then some are distributed back to the regions.

The strengthening phenomenon of regional expansion in the reform era is also a portrait of the weakness of the central government. The weakness of the central government is seen from regional interests as an opportunity to make demands (aspirations) or carry out resistance against the state. Because the central government is weak, the state is also weak in facing pressures from the

regions, local elites and the masses moving in the regions. It is this mobocracy that the weak central government seems to be worried about because it has a negative impact on the stability and image development that is being sought. Then the powerless Central Government carried out a policy of accommodation to regional demands, especially demands for expansion.

When compared with the regulation of regional expansion in the New Order era which referred to Law no. 5 of 1974 concerning Regional Government, the policy of regional expansion in the reform era through the legal basis of Law no. 22 of 1999 concerning Regional Autonomy has significant differences. The policy of regional expansion in the New Order era was indeed elitist and had a centralized character, where the planning and implementation of expansion was more of a central government initiative (top-down) rather than bottom-up participation. Regional expansion during this period was often a closed process and an arena limited to the central government (Soetandyo Wignjosebroto, 2010).

Regional expansion in the reform era, which is technically regulated in PP Number 78 of 2007, actually places more emphasis on political processes. The space for regions to propose the formation of new autonomous regions is wide open. Then, with such a policy, regional expansion will be dominated by the political process rather than the technocratic-administrative process. Regional expansion then seems to be the main choice for realizing regional aspirations, even though in the context of regional planning, expansion actually means the expansion and merger of regions. So it can be understood that this legal product has an impact on the unstoppable proliferation of regional expansion throughout Indonesia, especially outside Java, which reaches almost 95 percent. Regional expansion on the island of Sumatra increased by 150% from 1999-2009. The many waves of regional expansion then also had an impact on the emergence of various problems in the newly expanded regions.

West Java Province consists of 18 (eighteen) regencies and 9 (nine) cities, because with such a large population and such a large area, West Java Province with this consideration wishes to carry out regional expansion.

There are 8 (eight) districts that have been proposed by the Governor of Answerarat and the West Java Regional People's Representative Council (DPRD) to the Central Government, including North Garut Regency, South Garut Regency, South Tasikmalaya Regency, South Cianjur Regency, North Sukabumi Regency, Bogor Regency West, East Bogor Regency and West Indramayu

Regency.

There are several perspectives that can be used in carrying out regional expansion, including the normative perspective. According to this normative access, regions have the broadest possible autonomous rights to regulate and manage their own household affairs. Regions that have so far received little development due to access to policies that are felt to be too far away will have great opportunities to develop themselves.

Regional expansion can be interpreted as a strategy to gain new opportunities and access in an effort to obtain and manage regional resources. This means that all regions have the same rights to compete in developing their regions. However, the meaning of competition can turn into a threat and even become a disaster, when the region is unable to compete. With the regional autonomy policy, regardless of the parent region or expansion regions, there will be the same competition. Each region must strive to gain the widest possible access for transactions with the various resources it has, both regarding natural resources and human resources.

A rational perspective means providing motivation for the expansion of a region in a rational way, so that political, normative and other aspects must be removed first. Logical aspects that must be fulfilled include the ratio between the new autonomous region and the real conditions of the population, this must be the main focus. So that by using rational considerations, any methods, strategies, policies, calculations or considerations in the regional expansion process will be directed at indicators that are measured accurately and validly.

The regional expansion that is currently taking place in West Java Province should use a rational perspective, because if you use a normative perspective and perspective to stimulate competition it will have implications for the New Autonomous Region (DOB) becoming less objective and will even cause setbacks for the new autonomous region.

Justice must also be prioritized in terms of regional expansion, because remote areas that have not yet experienced development must be paid attention to by the regional government, for example by considering the road access that must be passed to get to government offices in the region, then the facilities and infrastructure that should be used. obtained by remote areas must also continue to be considered and monitored.

4. Conclusion

Regional expansion for a region in West Java Province is not a necessity, but if regional expansion in West Java Province is the best solution for that region to increase regional income, increase Natural Resources and Human Resources, then the Central Government must not obstruct it, by rational perspective that must be put forward. Regional Governments should always pay attention and supervise their remote areas, lest remote areas feel that they are not being cared for, so that the impact is that people in remote areas will become socially jealous of areas that are close to the central government.

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