

Reconstructing Fair Special Autonomy Based on Regional Wisdom and Regional Potential

Bambang Sugianto

Sumpah Pemuda College of Law Palembang, Indonesia

bambang sugianto1969@gmail.com

Article Info

Received: 2025-01-04

Revised: 2025-03-11

Accepted: 2025-03-16

Keywords:

Autonomy

Reconstruction,

Equity, Regional

Potential.

Abstract

The research aims to find out the problems of special autonomy and the concept of regulation which will be applied so that it has a positive impact in implementing special autonomy. The discussion uses a normative juridical approach method focused on analyzing literature and legal documents through doctrinal research. From the results of studies conducted in the implementation of special autonomy to several regional governments in Indonesia has not been successful and the main objectives of special autonomy have not been achieved, therefore it is necessary to change the concept of special autonomy regulation through the reconstruction of the legal concept of special autonomy in a form where concurrent authority only exists in local governments, special autonomy in the form of material autonomy whose authority lies with the provincial government and the central government has the authority to form regulations and implement regulations carried out by local governments, namely the provincial government

I. Introduction

The Article 18B Paragraph (1) of the 1945 Constitution explains “The state recognizes and respects units of regional government that are special or special in nature which are regulated by law”. This provision explains and recognizes the existence of special regions in the Regional Government and the central government holds responsibility in exercising supreme sovereignty in the state.¹ The provisions of this article are to realize the state's goals of justice and equitable development, and the central government delegates most of the authority to the regions to manage and implement the state's goals through the principle of decentralization in autonomous regions.²

For the implementation of state sovereignty in the regions, a subordinate government unit is formed which must be subject to the central government. Submission and compliance with government organizations based on vertical relationships in exercising authority with the principle of unity of command to the Government below.³

Delegation of authority through the principle of decentralization⁴ In addition to the special autonomy regions in the government system with the aim that the government in the regions can provide good and direct services to the community, the service will be able to maximize and benefit the community, so the central government forms a vertical state organ organization, namely the Regional Government which is tasked with carrying out government duties using the principle of decentralization. Regional autonomy,⁵ as a realization of the principle of decentralization to delegate part of the authority available to the central government to the government in the regions to accelerate development in managing their own government affairs, and the delegation of authority by the government is hierarchical.⁶ The

¹ Bambang Sugianto dan Evi Oktarina, 2020. *Hukum Tata Negara*. RajaGrafindo Persada Rajawali Pers, Cetakan Pertama, Depok, hlm. 121-122

² Ni'matul Huda, 2017. *Hukum Pemerintahan Daerah*. Nusa Media Cetakan pertama, Bandung, hlm. 42-43

³ *Ibid*, hlm. 27-28

⁴ Eka NAM Sihombing, 2020. *Hukum Pemerintahan Daerah*. Setara Press, Cetakan pertama, Malang Jatim, hlm. 37-39.

⁵ Ani Sri Rahayu, 2018. *Pengantar Pemerintahan Daerah: (Kajian Teori, Hukum ,dan Aplikasinya)*. Sinar Grafika Jakarta, Indonesia, hlm. 12-13

⁶ W. Riawan Tjandra, 2014. *Hukum Tata Negara*. PT. Gramedia Widiasarana Indonesia, Edisi Pertama, Jakarta, hlm. 42

delegation of authority in regional autonomy with the aim of accelerating and equitable development charged to local governments by placing great authority and responsibility on the regions, in this case the governor.⁷

The authority and broad responsibilities possessed by local governments as special autonomy in the hope of providing a change and high motivation to be able to utilize all existing regional potential with the aim of increasing independent economic growth and equity with no dependence on financial assistance from the Central Government.⁸

Equitable and democratic development is the main goal in special autonomy to manage and regulate some of the powers and authorities delegated by the central government.⁹ The granting of regional autonomy,¹⁰ in provincial governments by placing the governor's authority as head of the region and this assistance task aims to make the regions more innovative and independent and local governments can provide good public services, and can make maximum use of all the existing local resource potential, so that existing potential can be used with the aim of realizing good public services and equitable development nationally, namely economic growth, welfare and social justice for all Indonesian people,¹¹

The orientation of special autonomy to local governments, in addition to accelerating development, also has the following objectives:

1. Shortening the span of control carried out by the Government so that the public service process can run well and the regions, in this case the Government, are closer to the community.;
2. Regional autonomy will also encourage regions, especially with regard to efforts to optimize the utilization of human resources in the regions that will be involved in the implementation of development starting in planning, implementation and supervision.;

⁷ Budhi Setianingsih, 2015. Efektivitas Sistem Perencanaan Pembangunan Daerah-Studi Pada Badan Perencanaan Pembangunan Daerah Kota Malang. *Jurnal Administrasi Publik Mahasiswa Universitas Brawijaya*-3. (11), hlm. 36

⁸ Dalam Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 yang telah mengalami empat kali perubahan (amandemen) dari tahun 1999-2001

⁹ Ani Sri Rahayu, *Pengantar Pemerintahan Daerah*, Op. Cit, hlm. 21

¹⁰ Rusdianto Sesung, 2013. *Hukum Otonomi Daerah Negara Kesatuan: (Daerah Istimewa dan Daerah Otonomi Khusus)*. PT. Rafika Aditama. Edisi pertama. Bandung, hlm. 46-47

¹¹ Khelda Ayunita dan Abdul Rais Asman, 2016. *Hukum Tata Negara Indonesia*. Mitra Wacana Media. Jakarta, hlm. 160

3. In addition to shortening the span of control and increasing the role of the state civil apparatus, regional autonomy also aims to reduce the level of unemployment in the regions.:
4. Regional Autonomy as a form of trust from the central government to the regions is related to resource utilization and maintaining local wisdom.

This change can also be the main reason why it is necessary to reconstruct the concept of special autonomy with the principle of full autonomy placed at one level, namely in the provincial government with the aim of:

1. To provide a regional role in running the Government more directed and in accordance with the needs of the community, the Government will be close and can provide maximum services, and the people will participate in the implementation of development.
2. Regional Autonomy This will significantly reduce the burden on the central government and at the same time create a competitive climate among regions to creatively find new ways to manage their economic potential.
3. The regional autonomy for the social sector provides a very broad opportunity for local governments to develop the quality of society and share responsibilities with the central government to be able to improve services in the fields of education, health, and other social services, in addition to regional autonomy provides opportunities for regions to explore and develop local cultural values and characters and local wisdom is maintained as part of the unity of diversity in national culture.

Special autonomy to local governments ,¹² The granting of special autonomy to regional governments must be able to create geography and freedom to innovate in the regions while still strengthening the principles of the unitary state concept to be able to increase the level of welfare to the community. However, in reality, the granting of special autonomy to local governments does not have a maximum impact and change on the regions in increasing economic growth and welfare for the community, including in equitable development. The failure of the concept of special autonomy that is running now there are several factors that encourage the need for a reconatruction of special autonomy in local government, namely:

¹² Ani Sri Rahayu, *Pengantar Pemerintahan Daerah*, Loc. Cit, hlm. 12-13

1. The implementation of regional autonomy is not in line with the main objectives;
2. Regional disparities in development that eventually lead to poverty and slow development.;
3. Not maximizing local government with limited authority to innovate on the development, utilization, and management of the potential in the region.;
4. The occurrence of conflicts of interest both vertically and horizontally between the Provincial Government and Regency / City Governments, these conflicts arise in connection with the management of natural resources and boundaries that have high economic value.;
5. The national strategic programs (Central Government and Provincial Government) often do not receive support, it can be seen that many pusa t government programs in the regions do not run well, because they do not have a direct impact on the interests of the local community.

The implementation of this special autonomy has not been maximized and there are still gaps in the economic sector that will have an impact on the implementation of this development due to patterns of regional resource management and limited authority in the management and utilization of natural resources. so that development and economic growth are far behind. To get out of the problem and in accordance with the main objectives of special autonomy in local governments, it is necessary to reassess the current concept of special autonomy through the idea of reconstructing equitable special autonomy based on local wisdom and regional potential.

II. Research Method

In The research method used in this research is a normative juridical approach, focusing on analyzing literature and legal documents through doctrinal research. This approach distinguishes between primary, secondary, and tertiary legal materials, with primary legal materials having the strongest binding force. Primary legal materials include laws and regulations enacted by the state or authorized legal entities.

This research analyzes primary and secondary legal materials related to special autonomy and local government including differences in the

application of the specificities of each provincial region in Indonesia as a special autonomous region. The main legal materials studied are:

1. Law of the Republic of Indonesia Number 23 of 2014 with the second amendment through Law of the Republic of Indonesia Number 9 of 2015 concerning Regional Government
2. Law of the Republic of Indonesia Number 13 of 2012 concerning the Privileges of the Special Region of Yogyakarta
3. Law of the Republic of Indonesia No. 11/2006 on the Government of Aceh
4. Law of the Republic of Indonesia Number 2 of 2021 concerning the Second Amendment to Law Number 21 of 2001 concerning Special Autonomy for the Province of Papua
5. Law of the Republic of Indonesia Number 2 of 2024 concerning the Second Amendment through Law Number 151 of 2024 concerning the Special Province of Jakarta

This analysis uses qualitative methods and interpretation techniques to examine laws and regulations related to the special autonomy process in local governments related to authority and mandatory and optional affairs in managing regional potential within the framework of the Unitary State of the Republic of Indonesia.

III. Result and Discussion

Problems of Special Autonomy Implementation

a In the Indonesian constitutional system, it is actually regulated in laws and regulations that guarantee the existence of special or special regions, as part of the Indonesian government system.¹³ It can be seen that since the beginning of independence until now the existence of special regions in our country is clearly regulated in the 1945 Constitution, the Constitution of the Republic of Indonesia Union (RIS) and the Temporary Basic Law (UUDS) including in the 1945 Constitution which has undergone amendments or changes.¹⁴

¹³ Titik Triwulan Tutik, 2015. *Konstruksi Hukum Tata Negara Indonesia Pasca Amendemen Undang-Undang Dasar 1945*. PT, Prenada Media Group. Cetakan ketiga. Jakarta, hlm. 241-242

¹⁴ Rusdianto Sesung, 2013. *Hukum Otonomi Daerah Negara Kesatuan: (Daerah Istimewa dan Daerah Otonomi*

In connection with special autonomy and the form of legislation governing local government and its existence is recognized in the form of special regions, Article 399 of Law No.23 of 2014 concerning Regional Government states “The provisions in this law shall also apply to the provinces of special regions, namely, including the Province of Yogyakarta, the Province of Jakarta, the Province of Aceh, the Province of Papua, and the Province of West Papua”.¹⁵

The purpose of the formation of special autonomous regions in the asymmetrical autonomy system is to improve public services which can ultimately realize public welfare. This aims to make it easier for the region to organize and realize its regional goals.,¹⁶ In compliance with Law No. 23 of 2014 concerning Regional Government and the special autonomy laws of several regions, it is stated that regional autonomy is the authority of local governments to regulate and manage their own interests according to their needs.¹⁷ However, in addition to autonomous regions, the government can establish special areas in autonomous regions to carry out government functions of a special nature in the national interest.¹⁸

Has a separate Regional autonomy in Indonesia adheres to the principle of asymmetrical autonomy, varying in style and authority including local government systems and regional institutions.¹⁹ This can be considered as a comparison of special autonomy with other autonomous regions in an asymmetrical autonomy system, among others:

1. The Implementation of Special Autonomy in Yogyakarta Province

The Province of Yogyakarta as a special region is inseparable from the long journey of Indonesian history before independence and after independence.

Khusus). PT. Rafika Aditama. Edisi pertama. Bandung, hlm. 35-36

¹⁵ Dadang Sufianto, 2020. *Pasang Surut Otonomi Daerah di Indonesia*, *Jurnal Academia Praja*, Volume. 3 No.02, hlm. 271-288.

¹⁶ Lihat penjelasan umum pada alinea keempat *Undang-Undang Nomor 23 Tahun 2014* Tentang Pemerintahan Daerah menjelas pemberian otonomi daerah bertujuan untuk mempercepat terwujudnya kesejahteraan umum melalui peningkatan pelayanan publik.

¹⁷ Deddy Supriady Bratakusumah dan Dadang Solihin, 2002. *Otonomi Penyelenggaraan Pemerintahan Daerah*. PT. Gramedia Pustaka Utama, Jakarta, hlm. 1

¹⁸ Dianora Alivia, 2019. Politik Hukum Pengaturan Pemerintahan Daerah yang Bersifat Khusus atau Bersifat Istimewa di Indonesia, *Jurnal Hukum Recht Idee*, Volume. 14, No.2, Edisi Desember, hlm. 150-166

¹⁹ Gunawan A. Tauda, 2016. Desain Desentralisasi Asimetris Dalam Sistem Ketatanegaraan Republik Indonesia, *Administrative Law & Governance Journal*. Volume. 1 Edisi 4 November, hlm. 413-435

The specialty of Yogyakarta was formed as an implementation of Article 18 of the 1945 Constitution and then the government issued a legal basis with Law No. 3 of 1950 concerning the Establishment of the Special Region of Yogyakarta. As a special region in Article 1 of Law No. 3 of 1950, it reads:

- (1) The area covering the Sultanate of Yogyakarta and the Paku Alaman Region is designated as the Special Region of Yogyakarta.
- (2) The Special Region of Yogyakarta is the equivalent of a province.

The enactment of Law No. 13/2012 on the Privileges of the Special Region of Yogyakarta came into force on September 3, 2012. The privileges granted to Yogyakarta include: Procedures for filling positions, positions, duties and authorities of the governor and deputy governor, Regional Government institutions, culture, land, and spatial planning.²⁰ Including the implementation of privileges, the central government provides several specificities in the financial sector in the form of privilege funds which are intended for funding special programs.²¹

Privilege funds are intended for funding privilege programs. Based on Regulation of the Minister of Finance of the Republic of Indonesia Number 36/Pmk.07/2014 on General Guidelines and Allocation of Special Privilege Funds for the Special Region of Yogyakarta for the Fiscal Year.²² The regulation states that the allocation of privilege funds for the Special Region at Yogyakarta, with details of the allocation of privilege funds as referred to in paragraph (1) for each of the special affairs of the Special Region of Yogyakarta as follows:

1. Field of procedures for filling the positions, positions, duties and authorities of the governor and deputy governor;
2. Local government institutional sector;
3. The Cultural Division aims to preserve and maintain the culture of the palace.;
4. Land and spatial planning in the province of Yogyakarta .²³

The emphasis on specificity set out in Law No.13/2012 in the field on cultural affairs, including in the funding provided by the central government.

²⁰ *Ibid*

²¹ Bagir Manan, 2001. *Menyongsong Fajar Otonomi Daerah*, Pusat Studi Hukum FH UII, Yogyakarta, hlm. 15

²² Rusdianto Sesung, 2013. *Hukum Otonomi Daerah Negara Kesatuan: (Daerah Istimewa dan Daerah Otonomi Khusus)*. PT. Rafika Aditama. Edisi pertama. Bandung, hlm. 110

²³ Lihat pada alinea ke-sepuluh penjelasan Undang-Undang Nomor. 13 Tahun 2012

This specificity in the field of culture allows the Yogyakarta Special Region government to maintain culture as an icon of Yogyakarta. To maintain the specificity of the Yogyakarta Government issued the regulation of Governor Regulation No.5 of 2014 concerning the Duties and Functions of Regional Work Units in the Implementation of Privileged Affairs to implement cultural values in accordance with Law No.13 of 2012 concerning DIY Privileges.,

The duties and functions of the cultural sector institutions are as follows:

- a. Preparation of materials for formulating regulations in the field of culture;
- b. Formulation of policies for the conservation of cultural resources, including the development and utilization of culture.;
- c. Cultural development through the protection and development of a culture of healthy living;
- d. Cultural preservation through promotion and cultural cooperation for the preservation of cultural values;
- e. Implementation of protection, development and utilization of culture;
- f. The monitoring and evaluation of the protection, development and utilization of culture and the preservation of documents/archives and library materials as cultural heritage.

Seeing the function of special autonomy institutions in the DIY Government must be supported through the three main pillars of the institution, namely regulative, normative and cognitive culture. Institutions may be formulated as regulations that relate to norms (laws and regulations) as guidelines for the management and provision of existing resources. The function of the institution is to provide stability and order in society, although it can also change, including how special funds are regulated.

2. Implementation of Special Autonomy in Aceh Province.

Aceh Province as a special autonomous region is a follow-up to the agreement and agreement of the Government of the Republic of Indonesia with the Free Aceh Movement (GAM) on August 15, 2005 or better known as the Helsinki Memorandum of Understanding (MoU). This agreement is outlined in Law No. 11/2006 on the Government of Aceh,²⁴ and this law

²⁴ Khairil Akbar, Zahlul Pasha Karim dkk, 2019. Sistem Pengawasan Dana Otonomi Khusus Aceh dan Dampaknya terhadap Pemberantasan Korupsi, *Integritas Jurnal Anti korupsi*, Vol. 7 No.1, hlm. 101-120

regulates the specificity of Aceh Province with the concept of asymmetrical decentralization but still within the framework of the national government system under the Unitary State of the Republic of Indonesia.²⁵

After the enactment of Law No. 11/2006 up to now approximately 18 (eighteen) years of implementation of special autonomy on the Government of Aceh still found some problems in its implementation, including derivatives or regulations against Law No. 11/2006 on the Government of Aceh, as for the problems still found mainly related to several Draft Qanun Aceh, which must be completed as the implementation of the Law on the Government of Aceh.

The privileges of the Government of Aceh in Law No. 11/2006 are very different from those of other local governments, in the system of organizing elections with different names, including the mention of DPRD, KPU, Panwaslu. Particularly in the political field, the Government of Aceh has local political parties that do not exist in other provinces as participants in general elections held every five years. These features are followed by the stages and requirements in the implementation of regional head elections, namely a regional head in Aceh Province must be Muslim.

3. Implementation of Special Autonomy in Papua Province.

The Papua and West Papua Provinces, which were originally the Irian Jaya Province, are part of the Unitary State which is given by the central government a special authority to manage and regulate its own government affairs, the authority to regulate is regulated through the principle of autonomy mandated by the 1945 Constitution of the Republic of Indonesia.²⁶ Providing special authority to accelerate the realization of community welfare through improving services, empowering the role of the community and providing regional opportunities to increase competitiveness by taking into account a local wisdom.²⁷

The Special Autonomy of Papua Province and West Papua Province aims to increase the active role of the community in carrying out its development by taking into account the values of democracy, equity, justice, specialty and

²⁵ Suharyo. 2018. Otonomi Khusus di Aceh dan Papua di Tengah Fenomena Korupsi, "Suatu-Strategi Penindakan Hukum". *Jurnal Penelitian Hukum De Jure*, Vol.18 No.3, hlm 306-327

²⁶ Koentjaraningrat, 1993. *Irian Jaya Membangun Masyarakat Majemuk*. Djambatan, Jakarta, hlm,3-5

²⁷ Rusdianto Sesung, 2013. *Hukum Otonomi Daerah, Op. Cit*, hlm. 100

specificity of a region within the Unitary State of Indonesia. Autonomy is recognized and explained in the basic norms of the State of Indonesia in part efforts and respect for units of regional government that are special or special in nature.²⁸

The authority of local governments to regulate and manage their own government affairs according to the principle of regional autonomy as mandated by the constitution, as well as based on the issue of geopolitical conflict in Papua for a long time, encouraged the central government to establish a special autonomy region with Law Number 21 of 2001 concerning Special Autonomy for the Province of Papua.²⁹

The journey of special autonomy is regulated in laws and regulations, especially in Law No.21 of 2001 which has undergone several amendments to be able to balance and resolve conflicts in Papua Province, as for the latest amendment to Law No. 21 of 2001 through Law of the Republic of Indonesia Number 2 of 2021 concerning the Second Amendment to Law Number 21 of 2001 concerning Special Autonomy for Papua Province, which is called Law No.2 of 2021, this change is a form of the seriousness of the central government to accelerate development in Papua Province.³⁰

The enactment of Law No.21 of 2001 with limited changes through the Law No.2 of 2021 concerning Special Autonomy for Papua Province. It is a special policy that provides and requires legal certainty in the context of improving public services, accelerating development and empowering all people in Papua Province so that it can be equal to other regions.³¹

The implementation of special autonomy for Papua and West Papua Provinces, however, in reality, through various policies in centralized governance and development, has not fully fulfilled a sense of justice,

²⁸ Nur Rohim, 2014. Optimalisasi Otonomi Khusus dalam peningkatan kesadaran hukum masyarakat guna meredakan konflik dan kekerasan, *Fiat Justisia Jurnal Ilmu Hukum*, Volume 8 No.1 Edisi Januari-Maret, hlm. 80-100

²⁹ Rusdianto Sesung, 2013. *Hukum Otonomi Daerah. Op. Cit*, hlm, 101

³⁰ Lihat pada penjelasan pada alinea kedua dan alinea ketiga Undang-undang Nomor 2 tahun 2021, Undang-undang ini merupakan penyempurnaan terhadap Undang-undang Republik Indonesia Nomor 21 Tahun 2001 tentang Otonomi Khusus bagi Provinsi Papua

³¹ Lihat Pada Konsideran Menimbang bagian C Dan D Undang-undang Republik Indonesia Nomor 35 Tahun 2008 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-undang Republik Indonesia Nomor 1 Tahun 2008 Tentang Perubahan Atas Undang-Undang Nomor 21 Tahun 2001 Tentang Otonomi Khusus Bagi Provinsi Papua Menjadi Undang-Undang,

including the achievement of the welfare of the Papuan people, including in the fields of law enforcement, politics and human rights.

Problems facing the implementation of special autonomy for the Province of Papua are still visible in several sectors of life, especially in the fields of education, health, economy, culture, and socio-politics. The issue of human rights violations and justice for the Papuan people as the main issue has always been exaggerated so that the conflict of interest between certain groups and the Indonesian Government has been prolonged until now.

The application of special autonomy, including the expansion of three New Autonomous Regions (DOB) in 2022 to the Regional Government in Papua Province has political consequences, especially in the socio-economic field, which is very large in the distribution of natural resource products, prioritizing education, health and increasing economic growth for indigenous Papuans, including political and human rights concessions which closely affect special autonomy, towards regional institutions in special autonomy there is the Papuan People's Assembly (MRP) which functions as a representative institution for indigenous Papuans.³²

Law No. 2 of 2021 was born with the aim of being able to answer all the problems in Papua, including regulations related to the ease of regional expansion (DOB), the priority scale for Papuan youths to serve the country through special funding through educational scholarships, every ASN and TNI / Polri recruitment for Papuan youths in their recruitment is carried out separately.

Another specialty is the filling of the position of regional head as referred to in Article 12 of Law No.21 of 2001, which reads that those who can be elected as Governor and Deputy Governor are Citizens of the Republic of Indonesia with the following requirements:

- a. Indigenous Papuans;
- b. Believing and pious to God Almighty;
- c. Have at least a bachelor's degree or its equivalent;
- d. Be at least 30 years old;
- e. Physically and mentally healthy;

³² Ketreda Ludia Torobi, 2014. Efektivitas Pelaksanaan Kebijakan Otonomi Khusus Dalam Rangka Meningkatkan Kesejahteraan Masyarakat Di Distrik Jayapura Utara Kota Jayapura, *Jurnal Administrasi Universitas Sam Ratulangi Manado*, Volume.2 No.3 Edisi Januari, hlm. 63-74

- f. Loyal to the Unitary State of the Republic of Indonesia and devoted to the people of Papua Province;
- g. Never been sentenced to imprisonment for committing a criminal offense, unless imprisoned for political reasons; and
- h. Not being deprived of his/her right to vote based on a court decision that has permanent legal force, except for imprisonment for political reasons.³³

From Article 12 of Law No.21 of 2001, there are two paragraphs that are of concern and have a special value, namely in paragraph (a) and paragraph (c) which are very different from other local governments. This difference can be seen in the filling of regional leadership positions (governor and deputy governor) of the Papua Government. In addition to privileges in government institutions, in the legislature there are also privileges between the existence of the Papuan People's Representative Council (DPRP) and the Papuan People's Assembly (MRP).

4. Implementation of Special Autonomy in Jakarta Province

With the enactment of Law Number 3 of 2022 concerning the National Capital, this has an impact on the existence of the specificity of the Jakarta Province as the capital of the Republic of Indonesia. The enactment of Law No. 3 of 2022 itself encourages amendments to Law No. 29 of 2007 concerning the Government of the Special Capital Region Province of Jakarta as the Capital of the Unitary State of the Republic of Indonesia. Amendments to Law No. 29 of 2007 through Law number 2 of 2024 concerning the Special Capital Region of Jakarta Province

The enactment of Law No. 2 of 2024 with the first amendment with Law No. 151 of 2024 concerning the Special Region of Jakarta Province in principle in the amendment of Law No. 29 of 2007 did not experience many significant changes in authority. Changes through Law No. 2 of 2024 only focus on the status of the national capital which has been the Jakarta Province to become the State Capital (IKN) called the Archipelago located in East Kalimantan Province and Jakarta Province has a special position for the province as an economic center and global city.

³³ Lihat pasal 12 dan penjelasan umum terhadap Undang-undang Republik Indonesia Nomor 21 Tahun 2001 tentang Otonomi khusus agi Provinsi Papua

Jakarta Province as a special autonomous region and an economic and global city, this has an impact on governance in the field of government, especially those related to regional potential and local wisdom of the people of Jakarta. As a special autonomous region, the Jakarta Provincial Government has an important function and role in supporting the implementation of regional governance.³⁴ Given the specificity of the Jakarta Province in carrying out the duties, rights, obligations and responsibilities in the administration of regional government, it becomes large in carrying out the principle of decentralization to be independent.

The specificity of the Jakarta Province as stipulated in Law No. 2 Year 2024 as the current positive law. The specificities of Jakarta Province, namely:³⁵

1. Jakarta as a national economic center province and global city;
2. Jakarta Province is implemented according to the principle of autonomy, the principle of deconcentration and assistance tasks in carrying out its government duties with the widest possible autonomy within the system and principles of the Unitary State of the Republic of Indonesia;
3. In running the government at the city / regency administrative level, a city council / regency council will be formed to accommodate the aspirations of the community;
4. The relationship between the Jakarta Provincial Government and other surrounding areas is in the form of coordination and cooperation with other local governments, namely in particular for cross-regional affairs or have functional links with surrounding areas. In the internal authority of relations with administrative cities and regencies within its jurisdiction, the form of autonomy is single at the provincial level and there is no autonomy in the city / regency.
5. The Jakarta Provincial Legislative Council performs legislative, budgetary and supervisory functions and its membership is specifically determined. Meanwhile, government duties are carried out by the governor assisted by a deputy governor who is directly elected from the election results by obtaining more than 50% (fifty percent) of the valid votes. Meanwhile, the regent/mayor

³⁴ Sirajuddin, 2016. *Hukum Administrasi Pemerintahan Daerah*. Setara Press, Malang, hlm. 265-266.

³⁵ Ro'is Alfauzi, 2022. *Desentralisasi dan Keistimewaan Praktik Otonomi Daerah Khusus Ibu Kota Jakarta*, *IN RIGHT Jurnal Agama dan Hak Azazi Manusia*, Volume. 11, No.1, Edisi Juni, hlm. 22-38

is appointed directly by the governor and acts as a provincial apparatus, not as a regional head;

6. In financing, Jakarta Province has the same sources of revenue as other provinces such as balancing funds (central government) and regional own-source revenues (PAD), as an additional source of revenue there is special funding, namely from funds budgeted in the APBN, this “special” fund is determined jointly between the DPR and the Government based on the proposal of the Provincial Government of DKI Jakarta.

From the description described above on the application of special autonomy in several regions, it appears that specialization does not affect the principle of regional authority in maximizing and optimizing the management of natural resource potential and increasing authority in sectors that encourage the increase in regional potential based on local wisdom. Special autonomy in some regions in the authority of regulations related to the management of natural resource potential is not given, so that regional dependence on the economy and natural resource management is still the authority of the central government.

Limited authority to manage natural resources causes some regions that are given the status of special autonomy regions to remain underdeveloped and poor, while the contribution of the region to the central government in the form of national income is very large, this is based on the potential of the region both in the oil and gas, mining, plantation and forestry sectors. For more details on the differences in the implementation of special autonomy, see the table below:

DIFFERENCES IN THE AUTONOMY OF SPECIAL REGIONS IN INDONESIAN PROVINCES

Dif fer enc e	Pro vin ce Yo gya	Pro vin ce Ace h	Prov ince Pap ua	Pro vin ce Jak arta
------------------------	-------------------------------	------------------------------	---------------------------	---------------------------------

	kar ta			
Go ver nm ent	1. Go ver nor app oint ed 2. The Reg ent , the Ma yor is elec ted dir ectl y	1. Reli gio us gov ern or isla m 2. Reg ent, Ma yor Elec ted dire ct and Reli gio us Isla m	1. The gove rnor mus t be a nati ve of Pap ua 2. Reg ent- May or dire ctly elect ed mus t be a son of the regi on	1. Go ver nor elec ted By vict ory of 50 % mo re 2. Reg ent Ma yor app oint ed by gov ern or fro m

				AS N and assi ste d by the Cit y/R ege ncy Co unc il
Fin anc e	Cul tur e enh anc em ent in Pro vin cial and Dis tric t/Ci ty AP BD	For dev elo pm ent, ther e are pro vin cial and dist rict/ city bud gets	Hu man Reso urce s Imp rove men t in Prov incia l and Dist rict/ City APB Ds	Co ntr olle d by one aut hor ity in the pro vin cial gov ern me nt

				with the Pro vin cial AP BD
Pol itic s	Nat ion al elec tion s wit h nati ona l poli tica l par ties par tici pati ng	Elec tion s incl ude nati ona l and loca l part ies	Nati onal elect ion with nati onal polit ical parti es parti cipat ing in the Regi onal Asse mbl y	Nat ion al elec tion s wit h nati ona l poli tica l par ties par tici pati ng to elec t onl y the

				Pro vin cial DP RD.
Th e his tori cal birt h of spe cifi city	1. Bec aus e of the are a Sult ana te 2. On ce was onc e the cap ital of cap ital of Ind one sia	1. As Por ch Me cca 2. Con flict poli tical con flict wit h GA M	1. Disa dva ntag ed and isola ted 2. Polit ical conf lict with the KKB	As a nati ona l eco no mic and glo bal city

From the explanation in the table above of several autonomous regions that are regulated with specificities that have their own legislation, including special autonomy, namely the Special Region of Yogyakarta, the Province of Nanggroe Aceh Darussalam (NAD), the Provinces of Papua and West Papua and the Special Region of Jakarta, there are several differences that will be described as follows:

1. In granting the status of special autonomy, special regions and special regions, among others:
 - a. The Provinces of Papua and West Papua were granted special autonomy status due to the development gap between Papua Province and other provinces, including geopolitical conflicts and the issue of independence driven by the Armed Violence Group (KKB) in Papua, this conflict is still ongoing;
 - b. The Aceh Province was honored with special autonomy status, while the main factor was due to the struggle for national independence of the Acehnese people, where the Acehnese people at that time had high fighting power and religious values (Islam) as a very strong culture in people's lives. This is also the main reason for the prolonged conflict between the Free Aceh Movement (GAM) and the Indonesian government, which ended with the Helsinki agreement;
 - c. The Special Provincial Region of Jakarta has the specialty of being a special area of the national economy and a global city.
 - d. Yogyakarta was recognized as a Special Region based on its origin and role in the history of the national struggle and Yogyakarta was once the capital of Indonesia.
2. In terms of the election and appointment of regional heads including:
 - a. In the Autonomous Regions of Papua and Nanggroe Aceh Darussalam (NAD), the election of the governor and deputy governor in these two regions is directly elected by the people. Likewise, the election of mayors/regents is directly elected by the people. Specificity for Papua and West Papua to be able to advance and become a candidate for regional head must be native Papuans. While the specificity in the Government of Aceh for the election to the region both the election of the governor and the election of the Deputy governor

including the election of regents / mayors and deputy regents / mayors must be Muslim and can read the holy book of Islam (Al Qur'an) and in Aceh there are local political parties whose functions and positions are the same as political parties that apply nationally;

- b. The Special Region of Jakarta in the appointment of the governor and deputy governor of DKI Jakarta is elected directly through the general election of regional heads and deputy regional heads (pemilukada), for the mayor / regent in the DKI Jakarta area appointed by the governor with consideration from the DPRD. Candidates for governor and deputy governor are appointed by winning more than 50% (fifty percent) of the votes in the regional head election;
 - c. The Special Region of Yogyakarta in terms of the election of the Governor and Deputy Governor is appointed by the President by considering that the Governor comes from the descendants of the Sultan of Yogyakarta and the Deputy Governor from the descendants of Paku Alam. Meanwhile, in terms of the election of mayors/regents, the Special Region of Yogyakarta is directly elected through the general election of regional heads and deputy regional heads (Pemilukada).
3. In terms of government administration including:
- a. The Special Regions of Papua and Nanggroe Aceh Darussalam are governed by separate laws, Papua by Law No. 21/2001 on Special Autonomy for the Province of Papua and Nanggroe Aceh Darussalam (NAD) by Law No. 18/2001 on Special Autonomy for the Special Region of Aceh as the Province of Nanggroe Aceh Darussalam and Law No. 11/2006 on the Government of Aceh;
 - b. The Special Region of Jakarta in the administration of government can be seen in Articles 3 and 6 of Law No.2 of 2024 concerning the Special Region of Jakarta as a national economic city and global city, including also regulating local government and regional head elections, except for matters regulated separately in this law;
 - c. This is also the case with the Special Region of Yogyakarta, whose governance is based on the applicable law on regional governance.
4. In terms of songs and flags including:

- a. The Special Autonomous Region of Papua and Nanggroe Aceh Darussalam (NAD) has regional songs such as the National Anthem of Indonesia Raya and regional flags such as the Red and White;
- b. The Special Capital Region of Jakarta only has one song and flag, namely Indonesia Raya and The Red and White;
- c. Likewise with the Special Region of Yogyakarta which only has Indonesia Raya as the national anthem and the red and white as the state flag.

From some of the specificities of regional autonomy owned by several provinces, namely Yogyakarta, Aceh, Papua and West Papua and DKI Jakarta, it has not brought much change or better and significant progress when compared to several other provinces in Indonesia. In particular, the provinces of Aceh and Papua are among the poorest provinces and their human development index is still low. Therefore, the author has a new idea with the concept through the reorientation of the governor's authority contained in regional autonomy.

B. Reconstruction of Special Autonomy Based on Local Wisdom and Regional Potentials

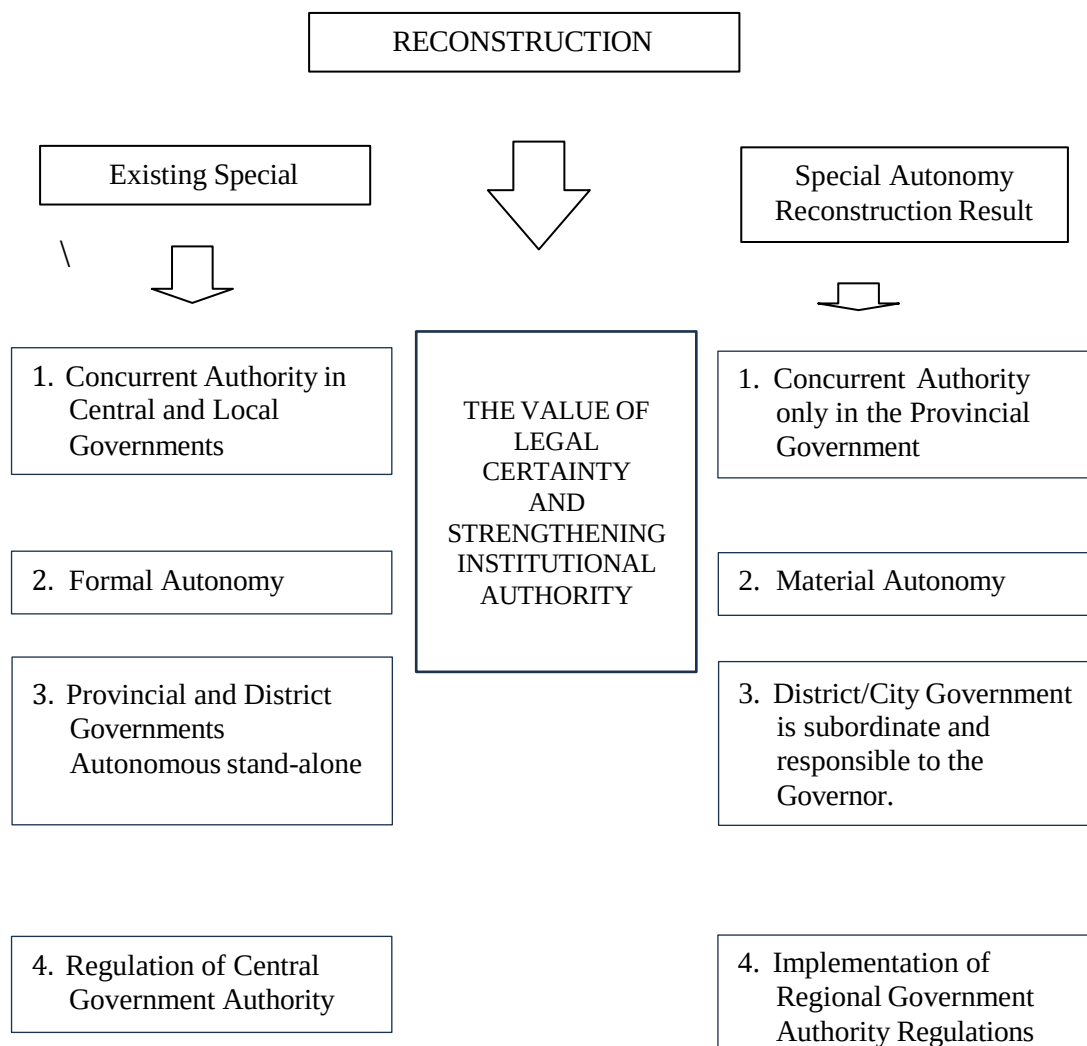
It is not going well and there are still conflicts between local governments and the central government, and some special autonomous regions are still among the poorest regions. This poverty is also not balanced with regional conditions and the potential of natural resources owned by local governments. Poverty and low indices of economic growth and human resources, this encourages the rearrangement or reconstruction of the concept of special autonomy now by taking into account the potential of the region and its local wisdom.

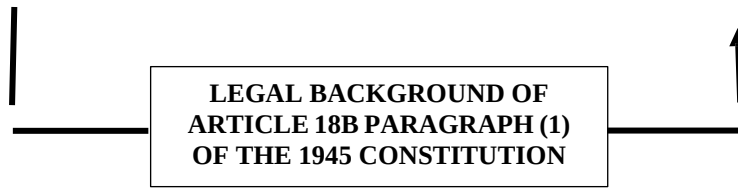
The formulation and changes until now to special autonomy have not brought much change, so an idea or idea emerged to give birth to an idea and thought in the form of a new legal concept of special autonomy through reconstruction of regional autonomy in implementing the principle of decentralization based on equitable regional potential. Strengthening the concept of special autonomy where local governments not only produce

improvements in institutional authority, but will regulate the relationship between the central government and the regions in the field of concurrent authority must be clear and centralized in the provincial government so that the main objectives of autonomy can run well.

For more clarity, the reconstruction of special autonomy in the regional government to strengthen the authority of the provincial government will come more clearly seen in the following chart:

THE CONCEPT OF EQUITABLE RECONSTRUCTION OF SPECIAL AUTONOMY BASED ON LOCAL WISDOM AND REGIONAL POTENTIAL





Starting from the above chart scheme, it is clearly seen from the reconstruction process of special autonomy reorientation into an orientation concept in strengthening authority to the province more broadly by not disturbing the absolute authority of the central government. With the strengthening of concurrent authority in the provincial government with the aim of maximizing the potential of regional resources, and local governments can freely innovate to develop regions based on local wisdom by upholding the principle of a unitary state.

The reconstruction of special autonomy gave birth to new authority to the governor as head of the region by making separate or special arrangements in the form of a clear vertical separation of authority over the governor's authority both the governor as the representative of the central government in the region and the governor's position as head of regional autonomy. Reconstructing special autonomy by expanding the authority, especially for the management of regional resources that are more focused and the programs carried out are truly in accordance with regional needs.

The reconstruction of special autonomy to strengthen authority through legal changes to the application of the principle of decentralization using the theory of separation of powers in relation to regional autonomy is better known as vertical separation of power. The division of power will be clearer where the authority of the central government and the authority of the provincial government if it refers to several laws and regulations relating to regional autonomy including special autonomy that applies to several regions. The current regional autonomy based on Law No. 23 of 2014 is not going well and there are still many shortcomings, as well as the irrelevance of the central government to fully release it, although the concept of regional autonomy as broad as possible is still limited and bound by the unitary state as a binder.

Not running regional autonomy properly in accordance with the mandate of Article 18 of the 1945 Constitution causes equitable development and

economic growth not to be achieved and there are still many regions with a lot of natural resource potential and local governments are among the poorest regions. To get out of poverty and return to the nature of autonomy and the objectives of special autonomy, it is necessary to have a legal arrangement to strengthen the authority of the governor through the division of powers over management and licensing in the utilization of the natural resource sector which has an impact on the regional income sector which is very important for regional independence in the financial sector.

Delegation of authority through reconstruction aims for speed of action and wider regional innovation power capabilities so that acceleration and economic growth are more quickly realized. Especially in the management and utilization of all regional potential and the broad authority to innovate, regions can see opportunities in the form of regulations related to investment attraction and create new resources that can generate income.

Freedom to innovate is needed by the region, where each region with geographical and cultural conditions can affect each regulation, therefore an authority is needed to create new potential in the region based on local culture and wisdom. The district / city government as autonomy cannot be separated from provincial and district / city regulations in autonomy are given authority as long as local wisdom is not the same as other regions in one province.

IV. Conclusion

The reconstruction of the concept of special autonomy in regional government is due to the current implementation of special autonomy for several local governments that are unsuccessful and failed and these local governments are categorized as poor and underdeveloped regions and the authority to manage and utilize limited regional potential sources, The form of the concept of reconstruction of new regional autonomy regulations through the reconstruction of equitable special autonomy based on local wisdom and regional potential where concurrent authority only exists in local government, Special autonomy in the form of material autonomy whose authority lies with the provincial government and the central government has the authority to form regulations and implement

regulations carried out by local governments, namely the provincial government

IV. References

Books

- Ani Sri Rahayu, 2018. *Pengantar Pemerintahan Daerah: (Kajian Teori, Hukum, dan Aplikasinya)*. Sinar Grafika Jakarta, Indonesia
- Bambang Sugianto dan Evi Oktarina, 2020. *Hukum Tata Negara*. RajaGrafindo Persada Rajawali Pers, Cetakan Pertama, Depok
- Bagir Manan, 2001. *Menyongsong Fajar Otonomi Daerah*, Pusat Studi Hukum FH UII, Yogyakarta
- Deddy Supriady Bratakusumah dan Dadang Solihin, 2002. *Otonomi Penyelenggaraan Pemerintahan Daerah*. PT. Gramedia Pustaka Utama, Jakarta
- Eka NAM Sihombing, 2020. *Hukum Pemerintahan Daerah*. Setara Press, Cetakan pertama, Malang JawaTumur
- Khelda Ayunita dan Abdul Rais Asman, 2016. *Hukum Tata Negara Indonesia*. Mitra Wacana Media. Jakarta
- Koentjaraningrat, 1993. *Irian Jaya Membangun Masyarakat Majemuk*, Djambatan, Jakarta
- Ni'matul Huda, 2017. *Hukum Pemerintahan Daerah*. Nusa Media Cetakan pertama, Bandung
- Rusdianto Sesung, 2013. *Hukum Otonomi Daerah Negara Kesatuan: (Daerah Istimewa dan Daerah Otonomi Khusus)*. PT. Rafika Aditama. Edisi pertama. Bandung
- Titik Triwulan Tutik, *Konstruksi Hukum Tata Negara Indonesia Pasca Amendemen Undang-Undang Dasar 1945*. PT, Prenada Media Group. Cetakan ketiga. Jakarta
- W. Riawan Tjandra, 2014. *Hukum Tata Negara*. PT. Gramedia Widiasarana Indonesia, Edisi Pertama, Jakarta

Journal

- Budhi Setianingsih, 2015. Efektivitas Sistem Perencanaan Pembangunan Daerah-Studi Pada Badan Perencanaan Pembangunan Daerah Kota Malang. *Jurnal Administrasi Publik Mahasiswa Universitas Brawijaya*-Volume 3. (11)
- Dadang Sufianto, 2020. Pasang Surut Otonomi Daerah Di Indonesia, *Jurnal Academia Praja*, Volume. 3 No.02
- Dianora Alivia, 2019. Politik Hukum Pengaturan Pemerintahan Daerah yang Bersifat Khusus atau Bersifat Istimewa di Indonesia, *Jurnal Hukum Recht Idee*, Volume. 14, No.2, Edisi Desember
- Gunawan A. Tauda, 2016. Desain Desentralisasi Asimetris Dalam Sistem Ketatanegaraan Republik Indonesia, *Administrative Law & Governance Journal*. Volume. 1 Edisi 4 November
- Khairil Akbar, Zahlul Pasha Karim dkk, 2019. Sistem Pengawasan Dana Otonomi Khusus Aceh dan Dampaknya terhadap Pemberantasan Korupsi, *Integritas Jurnal Anti korupsi*, Vol. 7 No.1
- Ketreda Ludia Torobi, 2014. Efektivitas Pelaksanaan Kebijakan Otonomi Khusus Dalam Rangka Meningkatkan Kesejahteraan Masyarakat Di Distrik Jayapura Utara Kota Jayapura, *Jurnal Administrasi Univ. Sam Ratulangi Manado*, Volume.2 No.3 Edisi Januari
- Nur Rohim, 2014. Optimalisasi Otonomi Khusus dalam peningkatan kesadaran hukum masyarakat guna meredakan konflik dan kekerasan, *Fiat Jastisia Jurnal Ilmu Hukum*, Volume 8 No.1 Edisi Januari-Maret
- Suharyo. 2018. Otonomi Khusus di Aceh dan Papua di Tengah Fenomena Korupsi, "Suatu-Strategi Penindakan Hukum". *Jurnal Penelitian Hukum De Jure*, Vol.18 No.3
- Widodo. I.G. 2011. "Gubernur Kepala D. I Yogyakarta dalam Sistem Pemilihan Kepala Daerah Berdasarkan pasal 18 ayat (4) UUD 1945". *Jurnal Dinamika Hukum* Vol. 11 No. 2 Edisi Mei

Legislation

- Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 yang telah mengalami empat kali perubahan (amandemen) dari tahun 1999-2001
- Undang-Undang Republik Indonesia Nomor 11 Tahun 2006 Tentang Pemerintahan Aceh

Undang-Undang Republik Indonesia Nomor. 13 Tahun 2012 Tentang Tentang Keistimewaan Daerah Istimewa Yogyakarta

Undang-Undang Republik Indonesia Nomor 23 Tahun 2014 dengan Perubahan kedua melalui Undang-Undang Republik Indonesia Nomor 9 Tahun 2015 tentang Pemerintahan Daerah

Undang-Undang Republik Indonesia Nomor 2 Tahun 2021 tentang Perubahan Kedua atas Undang-Undang Nomor 21 Tahun 2001 tentang Otonomi Khusus bagi Provinsi Papua

Undang-Undang Republik Indonesia Nomor 2 Tahun 2024 tentang dengan Perubahan Kedua melalui Undang-Undang Nomor 151 Tahun 2024 tentang Provinsi Daerah Khusus Jakarta