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A Journey of Regional Autonomy in Indonesia: From the Independence Day to The Reform Era

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Abstract: *This study describes the history of regional autonomy in Indonesia. This descriptive research uses a qualitative approach. Data collection was carried out using a literature study. The findings of this study provide an overview of the enactment and implementation of laws relating to decentralization and/or regional autonomy from Independence to the Reform Era, where the development and refinement of policies and laws always followed the conditions of the government in power. The historical course of law relating to regional autonomy in this study can be seen from each period of government in Indonesian history, which are grouped into the Old Order, New Order, and Reform Era. Starting from the Old Order, the laws governing regional autonomy can be seen in Law Number 1 of 1945, Law Number 22 of 1948, Law Number 1 of 1957, and Law Number 18 of 1965. In During the New Order era, there was Law Number 5 of 1974. Meanwhile, during the Reformation Era, until now, Law Number 22 of 1999, Law Number 32 of 2004 and Law Number 23 of 2014 have been found.*

Keywords: *regional autonomy, decentralization, law, local Government, reform era*

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1. Introduction

Indonesia is a unitary state as well as a state of Law. As a unitary state, Indonesia is divided into various geographical areas and is within the territorial integrity of the Unitary State of the Republic of Indonesia (NKRI). As the State of Law, Indonesia's Government is always conducted following applicable legal provisions. As a result, the Republic of Indonesia's Government divides government into the central and the regions. The construction of regional governments with the form and structure of government within the framework of the Unitary State of the Republic of Indonesia is governed by Law. According to Muntoha (2010), the division of power in a country based on function, authority, and position shows that the country conforms to the fundamental of democracy, and the rule of Law is a logical companion of the democratic principles that a country has adopted.

The Indonesian territory, spread over several archipelagoes, requires a political system that accommodates and unites the regions under the NKRI. The size of the land and the number of people in the Unitary State of the Republic of Indonesia demand a particular concept in government administration. Rudy (2012) states that decentralization is an agreed concept in the administration of government. A country of Indonesia's size and population may be governed centrally by government management. Sagala (2016) argues that centralization or decentralization as a government administration system cannot be separated from the growth of a country. Decentralization in Indonesia has had difficulties throughout history, as have changes in the political constellation inherent in and occurring during the nation's development.

Jati (2012) proffers that decentralization has become part of the constitutional mechanism of Indonesia as referred to in Article 18 of the 1945 Constitution before the Amendment that the Unitary State of the Republic of Indonesia consists of large and small regions or in its constitutional language is defined as the distribution of government power in the regions in the form of territorial decentralization, whose an authority, independent duties, and responsibilities. Hence, there are two basic values, namely, the unitarian value and the territorial decentralization value. The unitarian value suggests that Indonesia will not have other government units that are said in nature, implying that the sovereignty inherent in Indonesia's people, nation, and state will not be separated into government units.

Decentralization in the Republic of Indonesia's Unitary State means granting the right to govern and manage the interests and aspirations of the local community so that decentralization can be an instrument in achieving the state's goals, the need for governance, and the formation of the nation's integrity, unity, and integrity within the framework of the Republic of Indonesia (Sagala, 2016). Decentralization allows the unification of the vast territory and a large number of residents scattered across

the Republic of Indonesia's territory, enabling the rights, interests, and aspirations of the people in various regions of the Unitary State of the Republic of Indonesia to be accommodated in the decentralized system. As a result, decentralization in the Indonesian government system is critical, given that the central government must manage multiple cultures, religions, customs, and a large geographical area (Moonti, 2017). Thus, the relevance of decentralization is that complex, heterogeneous, and regional-specific issues may be adequately addressed.

2. Theory and Concept

According to Kusriyah (2019), the term decentralization is etymologically derived from the Latin de = detached and centrum = center, thus means detaching from the center and is defined as 1) a government system that gives more power to local governments and 2) the transfer of some authority to subordinates (the center to regions and others). In addition, Law Number 23 of 2014 Article 1 Paragraph (8) states that decentralization is defined as the transfer of government authority by the Central Government to autonomous regions based on the principle of autonomy.

Moonti (2017) explains that in the context of state administration, decentralization is defined as the delegation of government power from the center to regions that run their own interests (autonomous regions). Administrative decentralization can be divided into two a) territorial decentralization, which is the delegation of power to govern and manage their own region, and b) functional decentralization, which is the delegation of power to govern and manage one or several specific interests. Furthermore, Sagala (2016) elucidates that decentralization includes two main elements of autonomous regions and the transfer of legal authority from the central government to regional governments to govern and manage any part of specific government affairs.

Decentralization in the Indonesian government system evolved following the time of governance in the Republic of Indonesia's history. Since the beginning of the independence era, the "spirit" of decentralization has been expressed in polite terms but is founded on the intelligent thoughts of the founding fathers. (Rudy, 2012). The founding fathers who set up the Constitution were keenly aware of the right to decentralization as an individual constitutional right for the regions, which later gained national acceptance as a fundamental right. The right of decentralization as a constitutional right is enshrined in Article 18 of the 1945 Constitution before the Amendment that reads, "The division of the area of Indonesia into large and small regional territories together with the structure of their administration, shall be prescribed by statute, with regard for and in observance of the principle of deliberation in the governmental system of the State, and the traditional rights in the regional territories which have a special character."

Furthermore, before the Reform Era, decentralization was one of the main concerns of the Indonesian government structure. Rudy (2012) explains that in the Annual Session in August 2000, the People's Consultative Assembly (MPR) underlined the importance of the decentralization program, as said in the MPR TAP Number IV of 2000 concerning Policy Recommendations in the Implementation of Regional Autonomy. The MPR Decree clearly says the importance of decentralization for a more democratic, fairer, and fair society. The Constitution and the TAP MPR demonstrate the decentralization of regional divisions and the adoption of regional autonomy for a more democratic, fairer, and equal society. Referring to various Laws on Regional Government as the basis for implementing Regional Autonomy, Ferizaldi (2016, p. 12) distinguishes Decentralization in Indonesia into three aspects: (a). Financial decentralization is the delegation of authority from the center to the regions to manage their regional finances adjusting local potential and management. (b). Government decentralization is the delegation of authority from the center to the regions to govern and manage their interests through entities in line with regional interests and based on the division of authority, (c). Cultural Decentralization is the granting of authority to regions to organize the culture and religion adopted by the community to organize their own culture and religion, such as regulating their religious education, the arts, and others.

In addition to the three aspects of decentralization mentioned before, Ferizaldi (2016) proffers that the main goal of decentralization policy is welfare by making local governments the main actors of public services and participatory development. It is expected to increase national welfare. From a political perspective, the second goal is to foster the development of robust local democracy, which will shape leaders with high integrity to enhance people's welfare, in line with the aims of the 1945 Constitution. Rudy (2012) mentions that the basic concept of decentralization aims to encourage political equality, local responsibility, local responsiveness, and citizen participation. The goals of decentralization are also in line with the goals of autonomy and democracy.

The relationship between the state's foundations and the state's organizational structure proves that a democratic government will meet at one point, namely the existence of a government with autonomy rights. So, in the Unitary State of the Republic of Indonesia, the territorial power takes the form of a central government unit and regional Government (Muntoha, 2010). As a constitutional order, autonomy is related to the state's basics and organizational structure. According to Moonti (2017), decentralization and regional autonomy are two sides of the same coin in that decentralization is the transfer of autonomy to people in specific areas.

Rudy (2012) mentions the link between autonomy, decentralization, and democracy, saying that autonomy as a manifestation of decentralization is never separated from the feature of democracy that is the basis of autonomy itself. In

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addition, Kusriyah (2019) explains that regional autonomy is the essence of government with a decentralized system. Regional autonomy is an essential and inseparable aspect of the notion of political development since autonomy is a bridge to democratization, both in the planning and implementation (Sinaga, 2010; vii). This explanation emphasizes the link connecting autonomy, decentralization, and democracy as one unit.

The concrete and responsible autonomy that serves as the foundation for decentralization implementation in Indonesia is meant to actualize a new government design within the framework of the Unitary State of the Republic of Indonesia (Ferizaldi, 2016). Decentralization or autonomy is often regarded as a transfer of authority from the government to regional governments and regional authorities to govern and manage their interests in line with local aspirations, where the decision is known as regional autonomy. (Endah, 2016). the region's authority or right to manage local government in its way in conformity with the Law, customs, and manners (Rudy, 2012). Referring to Kusriyah (2019), autonomy comes from the ancient Greek words autos (self) and nomos (Law). Law Number 23 of 2014 concerning Local Government Article 1 Paragraph (6) reads, "Regional autonomy is the right, authority, and duties of the autonomous regions to govern and manage their own affairs and interests of local communities in the system of the Republic of Indonesia." According to Sarundajang (2003), theoretically, autonomy is classified into several types based on the following criteria: (a). Organic autonomy is the whole affairs that decide the autonomous region's life or destruction. (b). Formal autonomy, in which autonomy matters, is not positively constrained. The only limitation is that the autonomous area involved may not regulate what is governed by a higher-level statutory regulation. (c). Material autonomy is where the authority of the autonomous region is positively limited, namely by specifying what it has the authority to govern and manage in a limited and specific manner or explicitly, (d). Absolute autonomy is a combination of formal autonomy with material autonomy, (e). Concrete autonomy is responsible and dynamic. The planning and construction of regions and the provision of regional government affairs in specific fields to regional governments must be adapted to the factors that develop objectively in the regions.

Autonomy and decentralization are closely related to the transfer of authority to autonomous regions. According to Rahmadanirwati (2018), regional autonomy is a response from a kind of government response to diverse community aspirations for state and government management. Regional autonomy is one choice for achieving excellent and responsive services. According to Faisal and Nasution (2016), regional autonomy is the ability of a region to administer and manage the government and the interests of its people independently under its regulations and procedures while not breaching current central laws and regulations.

Safitri (2016) argues that regional autonomy has entered a new era after the Government and the House of Representatives of the Republic of Indonesia (DPR) agreed to ratify Law Number 32 of 2004 concerning Regional Administration and Law Number 33 of 2004 concerning Financial Balance between the Central Governments and Regional Governments. Sufianto (2020) explains that the transfer of regional and district/city autonomy is founded on decentralization in the form of broad, concrete, and responsible autonomy. According to Endah (2016), a regional autonomy policy is critical to ensuring that national integration may be kept as effectively as possible. Ferizaldi (2016) mentions fundamental positive reasons for implementing regional autonomy policies, namely 1) regional autonomy is a means for realizing democratization, 2) regional autonomy helps improve the quality and efficiency of government, 3) regional autonomy can promote national stability and unity, 4) regional autonomy advances regional development.

The transfer of authority to regions through autonomy is motivated by two goals that serve as the foundation for the execution of autonomy in a country (Sinaga, 2010). The first reason is that the distance between the government as a service provider and the people it serves is reducing. The second reason is the reduction of the control distance and community control over government administration's accountability, including regional resource management. According to Dewirahmadanirwati (2018), several factors can impact the execution of regional autonomy policies: 1) the central government's political commitment and attitude and 2) natural resources and human resources. 3) balanced and dynamic organization, 4) cooperative relationship, 5) communication and coordination, 6) Behavior and attitude of the apparatus, and 7) community participation.

The notion of a unitary state underpins the grant of the most total possible autonomy to regions, with sovereignty vested solely in the state or national government and no sovereignty in the regions. As a result, regardless of the level of autonomy granted to local governments, the final responsibility for running local governments will remain with the central Government (Endah, 2016). As a result, under a unitary state, the regional government is a unit with the national government; the distinction is how to use local wisdom, potential, innovation, competitiveness, and creativity to achieve national goals. Moonti (2017) explains that because the Indonesian constitutional system evolves, the implementation of the principle of regional autonomy is never static but always dynamic. Changes in the Constitution, particularly the implications for regulations governing regional management, always have an impact on the dynamics of applying the principle of regional autonomy.

Regional autonomy is being implemented in Indonesia by transferring autonomy rights to regions to create a healthy climate of democratization at the local level. Regional autonomy has pushed regions to be more effective and efficient in public

services, and local leaders will be more attentive to their people's actual situations. This situation could increase public participation in regional development, supporting national development. However, can regional autonomy be implemented as well? What is the effectiveness and efficiency of implementing regional autonomy policies? Some of these concerns are worth considering, given that various regional government or regional autonomy policies are constantly changing in response to political and government conditions.

According to Ferizaldi (2016), decentralization politics have been turned into regional autonomy policies, which have been in place since 1945 or independence till now. Various regional autonomy policies have proved efforts to enhance and reformulate past policies on decentralization and regional autonomy. The formulation in the implementation of the regional autonomy policy is exceptionally experimental and temporary. Therefore a common consensus in developing the ideal regional autonomy design for regional Government in Indonesia has yet to be obtained (Jati, 2012).

Referring to the previous description, this study focuses on the historical sequence of policy formulations and stipulations related to regional autonomy in Indonesia from independence to the Reform Era. Therefore, this study investigates the genealogy of regional autonomy in Indonesia from its independence to the Reform Era. Genealogy in the KBBI is defined as 1) a line in a blood family relationship; 2) the growth of animals (plants, language, and others) from earlier forms.

The findings of this study are expected to offer a historical overview of the implementation of regional autonomy policies in Indonesia.

Theoretical Framework

The study uses a qualitative research approach. As Creswell (2010) said, a qualitative approach is used to explore and understand the meaning ascribed to social or human problems. Being highly inductive, this approach focuses on the individual meaning and is translated through the complexity of a problem. A qualitative approach was employed to explore and understand the historical journey and relationship of regional autonomy in Indonesia from Independence Day to the Reform Era.

This descriptive study seeks to offer an overview using words and numbers and present profiles (problems), type classifications, or outlines of research stages, as well as documenting causal processes or mechanisms and reporting the background or context of the situation on contemporary issues (Neuman, 2014). This descriptive research is used to describe in words or numbers the profile, classification of types, or an outline of regional autonomy in Indonesia.

The technique used in data collection was library research by studying libraries or literature. Library research is a data collection technique by studying books, literature, notes, and reports related to the problem (Nazir, 2008). This study examined various data sources, such as books and journal articles related to regional autonomy in Indonesia.

3. Result and Discussions

The study results show that policies, regulations, or laws regarding regional autonomy have undergone several adjustments from period to period of Government in Indonesia. Ferizali (2016) describes the 4th Amendment to the 1945 Constitution became a big steppingstone for the redesign of the government system that refers to the principle of a fair distribution of power between the central government and regional governments, fair distribution of the use of regional resources and wealth and the existence of more recognized local government.

Decentralization or regional autonomy has long been a government issue in Indonesia, as seen by the development of policies or laws related to decentralization or regional autonomy. Decentralization and regional autonomy policies prove the delegation and distribution of authority between the central government and local governments. According to Jati (2012), In Indonesia, the paradigm that has appeared because of the implementation of decentralization policies in the form of regional autonomy and regional expansion is constantly changing in a zig-zag pattern between decentralization and centralization. Three paradigms of regional autonomy are dominant in reading the primary substance of regional control by the state among the different Regional Government Laws, whether centralized, federalist, or mixed. The three paradigms were adapted to the socio-political constellation that appeared at that time when the characteristics of the central government affected the central government's perspective on the regions.

Several policies or laws that form the legal basis for the implementation of regional autonomy in Indonesia from independence to the Reform Era can be briefly mentioned as follows; a) Article 18 of the 1945 Constitution, the state recognizes diversity even though Indonesia is a Unitary State (the basis of formal legality), further affirmed in the 4th Amendment to the 1945 Constitution Article 18 Paragraphs (A) and (B), b) Law Number 1 of 1945, c) Law Number 22 of 1948, d) Law Number 1 of 1957, e) Law Number 6 of 1959, f) Law Number 18 of 1965, g) Law Number 5 of 1974, h) Law Number 22 of 1999, i) Law Number 32 of 2004 jo. Law 12 of 2008 was amended by Law Number 23 of 2014. These laws are elaborated referring to Old Order, New Order, and Reform Era.

3.1. The Old Order (1945-1966)

In this discussion, the Old Order refers to the reign of President Soekarno, which lasted from 1945 to 1966. Several laws were enacted in the early days of Indonesian independence, even though this was a turmoil for freedom. Several laws were enacted and were in effect during the time, forming the 1945 Constitution, the Federal Constitution of the United States of Indonesia (RIS), and the Provisional Constitution of 1950. According to Syarif (2013), laws and regulations governing regional governance were enacted throughout the period the Constitution was in power. During the Provisional Constitution of 1950, Law Number 1 of 1957 was enacted concerning Local Government, while during the RIS Constitution for the state of East Indonesia, Law Number 44 of 1950 was enacted concerning Regional Government. Meanwhile, for the Republic of Indonesia, Law Number 22 of 1948 concerning Local Government still applied.

There have been policies that promote decentralization or autonomy in the early days of independence, as shown by the existence of several laws that have been in effect creating laws on regional government that prioritize decentralization or autonomy. Jati (2012) explains that the philosophical roots of the decentralization policy of regional autonomy in Indonesia can be traced from Article 1 of the 1945 Constitution, which can be interpreted as the State of Indonesia is a Unitary State that puts forward aspects of decentralization as a national agreement since the early days of independence. Furthermore, Article 18 of the 1945 Constitution stipulates that the Unitary State of the Republic of Indonesia is an eenheidstaat / one country; as a result, Indonesia will not have any places inside its environment. that is staat / like the state. The decision to implement decentralization, the product of which is regional autonomy, has been ambiguous from the start, especially when reading Article 18 of the 1945 Constitution before the amendments in Paragraph (2), where the formation of three regional levels in the regional government structure and Article 18 Paragraph (5) namely the establishment of particular regions to allow regions that already had the original right before the Republic of Indonesia was established to have a system of self-government.

The principle of decentralization and regional autonomy was proved in the early days of independence. Several articles in the 1945 Constitution have included decentralization or recognition of the autonomy of a region within the Unitary State of the Republic of Indonesia. The discussion of policies or laws on local government is expanded below in line with the Law that was in place during the Old Order. The discussion of each Law on regional government will be interrelated based on the background of the Law's establishment; however, a discussion following the Law is needed to see the continuity of development and or changes in the development of the Law on Regional Government.

3.2. Law Number 1 of 1945

In the early days of independence or during the Old Order, there were several laws governing local government. Sagala (2016) reports that laws governing regional government were issued in the early days of independence. Law Number 1 of 1945 concerning the regulations about Regional National Committees (KND) formed only six articles. It was enacted on November 23, 1945. According to Sufianto (2020), during the enactment of this Law, the autonomy granted to regions was called 'Indonesian autonomy,' which was based on people's sovereignty and was more comprehensive than the Dutch era's regional autonomy.

Safitri (2016) describes that the enactment of Law Number 1 of 1945 is the result (resultant) of historical considerations of government during the kingdoms and colonialism. Three types of autonomous regions are provinces, districts, and cities. The validity of this Law was limited, making within three years, there has yet to be a government regulation governing the transfer of affairs (Decentralization) to the regions. The enactment of the Law proves a relationship with Indonesian situations before independence, considering that Indonesian legal provisions are still affected by conditions under the kingdom and Dutch colonialism.

Jati (2012) assumes that Law Number 1 of 1945 has a centralistic nuance. The central government recognized the combination of the central government wanting to exercise direct control over the regions and the local government trying to claim the rights/authorities to govern their interests at this time, coloring the fluctuations in the difficulties of the journey of regional autonomy in post-independence Indonesia. Four amendments to regional government law have resulted in relationship instability between the central and the regions. This Law was valid for three years since it was replaced by Law Number 22 of 1948.

3.3. Law Number 22 of 1948

The second Law enacted during the Old Order related to regional autonomy was Law Number 22 of 1948, which replaced the preceding Law, Law Number 1 of 1945. The historical journey of regional autonomy in Indonesia has always been marked by enacting a legislative product that replaces the preceding product. This change may signify the dynamics of Indonesia's regional development direction from time to time. However, it may also be interpreted as part of the rulers' "political experiment" in exercising their power (Safitri, 2016). The emergence of a Law can become a new rule enforced, but the emergence of a law is a change to the earlier Law.

Law Number 22 of 1948 concerning Local Government's Autonomy Rights was stipulated based on the 1945 Constitution (Sufianto, 2020). Law Number 22 of 1948 is intended to build the foundation for establishing a systematic regional government alongside a democratic regional government (Kusriyah, 2019). The purpose of enacting this Law is to meet the people's expectations of a collegial government based

on people's sovereignty and democracy. Referring to the provisions of Law Number 22 of 1948, the transfer of some government affairs to the regions has received the government's attention. The transfer of autonomy to regions based on the Law on Establishment has been further specified in its arrangements by government rules regulating the transfer of specific government affairs to the regions (Safitri, 2016).

Article 1 of Law Number 22 of 1948 states that regions that can govern and manage their interests can be divided into autonomous and particular regions. They consist of three levels: Province, Regency or City, and Village/Small Town (Kusriyah, 2019; Safitri, 2016). In addition to the (regular) autonomous regions, there are also particular regions at the provincial and district levels. Regions have also been constituted concurrently with the transfer of autonomy (basic affairs) (Sufianto, 2020). From this Law, there is regular regional autonomy and special autonomy. Besides that, the division of regional areas has also undergone changes starting from the Province, Regency, and Village.

Kusriyah (2019) describes that Law Number 22 of 1948 also regulates the autonomy system in Article 23, including 1) The Regional Representative Council (DPRD) governs and manages its affairs, 2) The subjects covered by affairs and interests are specified in the formation law for each region. The article covers the division of affairs that comes within the authority of the regional government, as well as the authority of the regional government to control matters within the Regional Government. The establishment of the Law has emphasized the distribution of authority, which is the responsibility of local governments.

Jati (2012) explains that the dilemma occurred during the drafting and enactment of Law Number 22 of 1948. The dilemma deals with the determination of regional autonomy and expansion paradigm. This is a sociopolitical polemic for a country transitioning from a unitary state to a federation. As a result, the regional autonomy paradigm appears on two levels: the unitary state and the federation state. The Republic of Indonesia has its own Regional Government Law, Law Number 22 of 1948, while the RIS has its own State Law, STT (staatblad) 44/1950. The dualism of the Regional Government Law has led to the dualism of central-regional relations in Indonesia. The Republic of Indonesia had influence only in Java, Madura, and a small part of Sumatra under Law 22 of 1948, although the RIS had great authority in Eastern Indonesia under STT 44/1950. This dualism undermined the authority of the Republic of Indonesia, which was later used by the separatist movement to free regions from the republic of Indonesia. For example, the PRRI/Permesta rebellions in West Sumatra, DI/TII in West Java, and the PKI in Madiun appeared because of unstable state government situations and the Pancasila ideology, which began to be supplanted by Liberalism, as well as the unequal distribution of economic resources between the center and the Regions. Law Number 22 of 1948 is regarded as overly authoritarian since it includes two government intervention mechanisms, namely

preventative supervision, and repressive supervision, which allow the state to intervene. Meanwhile, STT 44/1950 is inapplicable in Indonesia. It is still plagued by vertical inter-ethnic conflicts as a national problem and has yet to find an adequate problem-solving formulation to address it.

3.4. Law Number 1 of 1957

Law Number 1 of 1957 concerning the Essential of Local Government was issued when Indonesia was based on the Provisional Constitution of 1950. The autonomous system adopted was Real autonomy which can be seen in Article 31 (Kusriyah, 2019). Sarundajang (2003 states that Real Autonomy is a combination of formal and material autonomy. Formal autonomy matters are not positively constrained. The only limitation is that the autonomous area may not regulate anything regulated by a higher-level statutory regulation. While material autonomy, meaning the authority of the autonomous region, is positively limited by specifying what is entitled to be governed and managed in a limited and specific way.

The Real Autonomy applied in Law Number 1 of 1957 can be understood by combining formal and material autonomy. In this case, the government has autonomy over the regional government's affairs, and the regional government's authority is restricted to specific choices about what the regional government has the right to regulate and supervise. Furthermore, regional governments with Real Autonomy are not allowed to control what has been decided or become legislation at a higher level. The provisions of the rules on higher legislation can be known in line with the territorial division in this Law.

Sufianto (2020) mentions that referring to Law No. 1 of 1957, the regions are divided into three levels forming autonomous regions of the first-level region at the provincial level and overseeing all autonomous regions of the second-level region at the district level and municipalities (large/small cities). The autonomous district of the second-level region oversees the third-level region (if needed), whose name is decided in each of the regulations for its formation. In contrast, the second-level municipality does not oversee the third-level region. Specifically, the municipality of Greater Jakarta is at the provincial level (first level). Following the Real Autonomy adopted by this Law, the grouping of areas in this Law decides the stipulation of laws and regulations in governing regions.

Until the enactment of Law Number 1 of 1957, the regions had autonomy. However, when the Presidential Decree was issued on July 5, 1959, local governance had an extremely centralized nuance (Sagala, 2016).

3.5. Presidential Decree (Penpres) Number 6 of 1959

Indonesia's government system changed in 1959 because of a Presidential Decree issued on July 5, 1959, which re-enacted the 1945 Constitution and

invalidated the 1950 Provisional Constitution (Kusriyah, 2019). This change brought changes to other constitutional provisions, including regulations on regional government. After returning to the 1945 Constitution, the regional government administration was stipulated by Presidential Decree Number 6 of 1959 as an improvement of Law Number 1 of 1957. Although Presidential Decree Number 6 of 1959 had been amended to Law Number 1 of 1957, it legally requires that local government be governed by a separate law (Syarif, 2013). As a juridical implication, based on Article 18 of the 1945 Constitution, Law Number 18 of 1965 concerning Regional Government and Law Number 19 of 1965 concerning Village Administration were enacted.

3.6. Law Number 18 of 1965

Following Law Number 22 of 1948, other regional government laws were enacted, including Law Number 1 of 1957 (the first single rule that applied universally across Indonesia) and Law Number 18 of 1965 (which adheres to a system of autonomy that is as wide as possible) (Safitri, 2016). Adopting Law Number 18 of 1965 as a replacement for Law Number 1 of 1957 proves that the Central Government's paradigm of regional centralization in regional autonomy is becoming stronger (Jati, 2012). Law Number 18 of 1965 was enacted in response to the country's sociopolitical situation following the Presidential Decree of July 5, 1959, which set up the Guided Democracy. The implication is that the center is progressively managing regional government, including regional head recruitment as the executive agency and DPRD as the legislative body.

Changes to regional governance were implemented following the Presidential Decree of 1959 (return to the 1945 Constitution), which had previously been proclaimed by Law Number 1 of 1957, the implementation of which was issued by Presidential Decree Number 6 of 1959. Then, to grant autonomy to the regions, it was replaced with Law Number 18 of 1965 (Sharif, 2013). Law Number 18 of 1965 concerning the Principles of Regional Government is a follow-up to the Presidential Decree of 1959 (return to the 1945 Constitution) (Sufianto, 2020). Regarding regional autonomy, this Law, like Law Number 1 of 1957, conforms to a framework that allows the opportunity to hand over sure of the central issues that Government Regulations govern.

Kusriyah (2019) explains that in Law Number 18 of 1965 concerning the Principles of Regional Government, Article 2 Paragraph (1) stipulates that the territory of the Republic of Indonesia is divided into regions whose right to regulate their affairs. They are divided into three levels: 1) Province and City as the first level, 2) Regency/or Municipality as the second level, and 3) District/or Municipality as the third level.

3.7. New Order (1966-1998)

The term "New Order" refers to President Suharto's era in the Indonesian government from 1966 to 1998. During the New Order, the 1945 Constitution was implemented, including regional autonomy adhering to the 1945 Constitution's principles. For this reason, the MPRS stipulated TAP MPRS No.XXI/MPRS/1966 describes the transfer of the broadest possible autonomy to the regions. This is consistent with the state administration's history, as well as demands for regional autonomy, that the presence of low-level government units is more than just a demand for efficiency and effectiveness in government administration, but is a territorial principle of Indonesia, which is divided into large and small government units. Based on various challenges that developed against local governments, Law Number 5 of 1974 concerning Basic Provisions of Local Government was enacted on July 23, 1974 (Syarif, 2013).

Jati (2012) describes the implementation of Law Number 5 of 1974, which regulates the Basic Provisions of Local Government as a "concrete and responsible autonomy." It is concrete because transfer autonomy to a region must be founded on factors, assessments, and actions that ensure the region can take care of its affairs. The change in the principle of "concrete and wide autonomy" into "concrete and responsible autonomy" is due to the broadest perspective of regional autonomy can lead to thinking tendencies that jeopardize the integrity of the Unitary State of the Republic of Indonesia and are not in line with the objectives of providing autonomy to regions under the Outlines of State Policy (GBHN) (Safitri, 2016).

During the New Order, the Law related to regional autonomy was Law Number 5 of 1974. According to Kusriyah (2019), Law Number 5 of 1974, concerning Basic Provisions of Local Government, was the first Law to regulate the principle of deconcentration, decentralization, and co-administration jointly used in this Law, while the earlier Law only regulated the principles of decentralization and co-administration. This shows significant changes and developments in the provisions of regional autonomy. According to Sagala (2016), Law Number 5 of 1974 created regional stability; as a result, the executive is granted incredible power as the single ruler of the region.

Law Number 5 of 1974 also stipulated the provision for the administration of government with the principles of decentralization, deconcentration, and co-administration (Ferizaldi, 2016). According to Sufianto (2020), this Law has formed regions (autonomous regions in the context of decentralization) and territories (administrative regions in the context of deconcentration). Regions are organized into two levels. First- and second-level regions, while Regions are organized into five levels: Province, Regency/Kodya, Kotip (if any), district, and Village/Ward. Regarding regional autonomy, this Law adheres to a concrete and responsible autonomy system with the emphasis placed on the second-level region as emphasized in Government

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Regulations 45 of 1992 Concerning the Implementation of Regional Autonomy with Emphasis on Level II.

Syarif (2013) explains two regional government systems based on Law Number 5 of 1974, namely: (1) the autonomous system and (2) the medebewin system. These two systems make it difficult for local governments to carry out their functions, in addition to needing to be more centralized by the central government, particularly in the sector of natural resources. Sagala (2016) argues that The DPRD's regional head election is merely rhetoric because of who should be predetermined, including who receives how many votes. If the scenario fails and the chosen candidate is not elected, the central government will easily select/re-appoint the candidate of choice. The DPRD election results were given to the center, and the center is free to decide who will be admitted based on the proposed election results (Article 15 of Law Number 5 of 1974).

Apart from some discrepancies in the implementation of Law Number 5 of 1974, Ferizaldi (2016) states that the government under the Law Number 5 of 1974 has succeeded in achieving considerable progress in managing Indonesia. The success of national development with a systematic development planning system through PELITA (five-year development) has brought Indonesia on par with other third-world countries. This developing country will become an Asian tiger if all stages of the PELITA are well realized.

3.8. Reform Era (1998-Now)

The reform era has been rolling since 1998. Since the Reform Era, different demands have evolved, some of which are connected to democratization in society, country, and state. The democratization is also marked by development laws and regulations, such as the Law on regional government, which further governs the structure and procedures for administering regional government in line with the conditions met throughout reformation.

Laws on Regional Government linked to decentralization and regional autonomy are also constantly changing and improving over the Reform Era. There were several laws about decentralization or regional autonomy during the Reform Era, including Law Number 22 of 1999, Law Number 32 of 2004, and Law Number 32 of 2014. Each of these laws is tied to the others; there will be a relationship in the discussion. Each of these laws is discussed in the following section.

3.9. Law Number 22 of 1999

Ferizaldi (2016) elaborates that the implementation of Law Number 22 of 1999 was motivated by the decision of the MPR to reorganize the government system in response to the voice of the people in Indonesia. The MPR issued Tap MPR No. XV/MPR/1998 concerning the Implementation of Regional Administration,

regulation, division, and use of national resources and the Financial Balance between the Central Government and Regional Governments within the framework of the Unitary State of the Republic of Indonesia. The enactment of Law Number 22 of 1999, followed by Law Number 25 of 1999, concerning the Financial Balance between the Central Government and Regional Governments, is a complete revision of Law Number 5 of 1974 concerning Basic Provisions of Local Government to supply sufficiently broad autonomy to regions following the ideals of the 1945 Constitution (Muntoha, 2010).

Law Number 22 of 1999 was valid on May 7, 1999, and has been effective since 2000 as the implementation of TAP MPR-RI Number XV/MPR/1998 and within the framework of the 1945 Constitution. According to Ferizaldi (2016), the Law was created to fulfill the demands of reform to create a new Indonesia, an Indonesia that is more democratic, fairer, and more prosperous. According to Muntoha (2010), the principle of governance used is the principle of decentralization by strengthening the function of DPRD in making regional regulations. Jati (2012) developed three major paradigms of regional autonomy decentralization, namely; 1) Political decentralization, the mechanism by which the central government gives power to local governments, which is often called regional autonomy, 2) Administrative Decentralization, the transfer of administrative authority from the center to local governments, and 3) Fiscal decentralization, increasing financial responsibility and capacity of local governments with the promulgation of Law Number 25 of 1999.

The Government of President BJ. Habibie enacted a new legal basis for decentralization to replace Law Number 5 of 1974 by enacting Law Number 22 of 1999 concerning Local Government and Law Number 25 of 1999 concerning the Financial Balance between the Central Government and Regional Governments. Ferizaldi (2016) proffers that the execution of the two laws is substantially different from the preceding Law's principle, or like switching from a centralized to a decentralized system. Kusriyah (2019) mentions that this Law is referred to as the "Law on Regional Government" because it regulates the implementation of the regional government, which prioritizes the implementation of the principle of decentralization.

The decentralization paradigm of concrete and broad regional autonomy has responded to the different upheavals caused by the New Order regional centralization arrangements during the adoption of Law Number 5 of 1974. Jati (2012) mentions that Law Number 22 of 1999 addressed different post-authoritarian concerns by focusing on four sensitive issues sharing of power, revenue, empowering locality, and central recognition and respect for local identity.

One significant difference between Law Number 5 of 1974 and Law Number 22 of 1999 is a fundamental shift in the framework of regional autonomy and the substance of Decentralization (Safitri, 2016). These changes may be seen in the

material content of the Law's formulation, article by article. Several points are addressed in the two laws (Law Number 22 of 1999 and Number 25 of 1999); theoretically will conclude that Decentralization in Law Number 5 of 1974 tends to be deconcentrated. Meanwhile, Decentralization in Law Number 22 of 1999 tends to be more devolved.

Furthermore, Safitri (2016) explains that this distinction is especially noticeable when it is associated with the position of regional heads. Based on Law Number 5 of 1974, the regional head is, at the same time, the regional head, an extension of the government. In practice, the function of the regional head, which performs deconcentration tasks, is more significant than that of the regional head. This is possible because the regional head reports to the President through the Minister of Home Affairs rather than the DPRD as a representative of the people who voted for him.

Sufianto (2020) describes that Law Number 22 of 1999 adheres to the principle of transferring wide, concrete, and responsible autonomy. This Law sets up provincial regions and regencies/municipalities, each of which is independent (Decentralization). Provinces do not oversee districts/cities. The designation of the first-level region of the Province is changed to Province, and the second-level region of the Regency or Municipality is changed to Regency or City. During the enactment of this Law, Government Regulation Number 25 of 2000 concerning the Authority of the Government and the Authority of Provinces as Autonomous Regions.

Sagala (2016) explains that in some cases, Law Number 22 of 1999 adheres to the principles of federalism, as seen by the limited authority the central government had in the regions. Article 7 of Law Number 22 of 1999 stipulates that the central government's authority in the regions only covers defense, monetary and fiscal, foreign policy, justice, and religion. Ferizaldi (2016) also revealed other problems that arise from the implementation of regional autonomy with the construction of Law Number 22 of 1999 and Law Number 25 of 1999, which are related to the Division of Authority, Division of Sea Territory, Role of DPRD as a superpower, Issues of Regional children, and Nepotism, Disparity between regions.

After Law Number 22 on Regional Government went into force in 1999, and it was still seen as incompatible with the development of state administration and aspirations for autonomy, the government repealed the Law and replaced it with Law Number 32 of 2004 concerning Regional Administration. According to Syarif (2013), Because Law Number 22 of 1999 is considered incapable of setting up democracy for the achievement of people's welfare in the regions in line with the mandate of the 1945 Constitution, the government feels it essential to replace it with Law Number 32 of 2004 concerning Regional Administration.

3.10. Law Number 32 of 2004

Based on the problems that arose during the implementation of Law Number 22 of 1999, including conflicts of authority, division of sea areas, disharmony relations between the executive and legislature, as well as between regents/mayors and governors, regional fiscal management, and other issues, the effectiveness of regional government administration was affected (Ferizaldi, 2016). The substance of regional government implementation was reconstructed in Law Number 32 of 2004 in line with the purpose of the 4th Amendment to the 1945 Constitution and corrections made by the Ministry of Home Affairs. Sufianto (2020) mentions that in this Law, the Unitary State of the Republic of Indonesia is divided into provincial areas, and provinces are divided into regencies/cities. The granting of regional autonomy is adhered to by the principle of autonomy as comprehensive as possible, concrete, and responsible. Widest possible autonomy means that the regions are given the authority to manage all government affairs except those the center still holds.

The implementation of regional autonomy in line with Regional Government Law Number 32 of 2004 is guided by three principles:

a. Decentralization means the transfer of government authority by the government to autonomous regions to govern and manage administrative affairs within the Unitary State of the Republic of Indonesia.

b. Deconcentration means the transfer of government authority by the Government to Governors as representatives of the government and to vertical agencies in certain areas.

c. Help task means the assignment from the government to region or villages, from the provincial government to regencies/municipalities, and villages to carry out specific tasks accompanied by financing the development of infrastructure facilities and human resources with the obligation to report and account for its implementation to those who assigned it.

The issuance of Law Number 32 of 2004 concerning Regional Administration is a complete correction of the shortcomings of Law Number 22 of 1999. It was immediately followed by the issuance of Law Number 33 of 2004 concerning the Financial Balance between the Central Government and the Regional Government, which took place on October 15, 2004 (Muntoha, 2010; Safitri, 2016).

Ferizaldi (2016) added that through Law Number 32 of 2004, the emphasis on autonomy stays in the districts/cities under the direct coordination of the governor, thereby strengthening the governor's function and authority as the central representative government in the regions. The planning for implementing and reporting the district/city Regional Budget Revenues and Expenditures (APBD) must

go through the governor. Meanwhile, the financial relationship between the central and regional governments was improved by Law Number 33 of 2004 concerning the Financial Balance between the Central Government and the Regional Government, with an emphasis on financial distribution based on the concept of balance between the center and the regions, where APBD and APBN (State Budget) form an essential part of an integrated national development planning system between the center and the regions. Furthermore, it explained the arrangement again in Permendagri Number 13 of 2006 concerning Guidelines for Regional Financial Management. Law Number 33 of 2004 and Permendagri Number 13 of 2006 improved regional economic management over Law Number 22 of 1999.

Jati (2012) finds a striking difference between Law Number 32 of 2004 and Law Number 22 of 1999 related to a regional authority. Law Number 22 of 1999 deals with the transfer of authority, while Law Number 32 of 2004 describes that the delegation of affairs is more decentralization. This confirms that the control of power relations between the center and the regions under Law Number 22 of 1999 still needs to be clarified by ambivalence between the intention to realize decentralization and centralization principles.

Based on the government's statement to the legislature (DPR-RI) on the draft Regional Government Law that it was agreed to split Law Number 32 of 2004 into three laws, namely the Law concerning Regional Government, the Law concerning Villages, and Law concerning Regional Elections, the agreement was used as a reference to change the Regional Government Law. Law Number 32 of 2004 became the new Law on Regional Government, which was supported by enacting two added laws to strengthen governance at the center and in the regions.

3.11. Law Number 23 of 2014

The dynamics of local government administration in Indonesia are constantly changing in response to changes in the government and public criticism and aspirations. Furthermore, the results of the government's internal examination of government administration led to several revisions and adjustments to the state order, including the Law on Regional Government. Responding to numerous challenges that developed during the enforcement of Law Number 32 of 2004, modifications are needed to achieve an ideal government condition that meets the community's expectations. Law Number 32 of 2004 explains that, as said in the preamble to Law Number 23 of 2014, Law Number 32 of 2004 concerning Regional Administration is no longer in conformity with the change of circumstances, state administration, and demands for regional government administration and so must be amended.

The Unitary State of the Republic of Indonesia is divided into provincial regions, and the provincial regions are divided into regencies and cities. In contrast,

regency/city areas are divided into sub-districts, and sub-districts are divided into sub-districts and villages, referring to Law Number 23 of 2014. According to Sufianto (2020), the principle of the transfer of regional autonomy in Law Number 23 of 2014 is the broadest possible autonomy based on the principle of a unitary state. In a unitary state, sovereignty is limited to the state or national governments, with no sovereignty over the regions. As a result, regardless of the degree of autonomy provided to the regions, the Central Government will keep fundamental responsibility for administering Regional Government. As a result, in a unitary state, the Regional Government is an integral part of the National Government. Law Number 23 of 2014 concerning Local Government is the latest statutory provision related to post-reform decentralization or regional autonomy. National Government mentions several impacts of post-reform regional autonomy: a). Significant gaps and disparities exist between the development of big cities, especially the capital city of Jakarta, b). Mass exploitation of natural resources is inversely proportionate to development in areas such as Papua, and c). There is a notion that regional autonomy refers to unrestricted freedom to rule upon people's hopes and dreams.

Safitri (2016), in her study, has found several problems caused by the implementation of regional autonomy; a). The gap in development progress between regions rich in natural resources and regions poor in natural resources, b). The corruption, money politics, and political pragmatism in local communities, and c). Political legitimacy and stability have yet to be completely realized, d). horizontal and vertical conflict, and e). Local community welfare has not been completely fulfilled. Arguments against implementing regional autonomy for the reasons such as 1) fragmentation and disunity, 2) deteriorating governance, and 3) disparities between regions. Regardless of the problems that may arise because of the implementation of regional autonomy, regional autonomy is a government decree that has become a mandate of Law to be implemented in support of the interests of regional governments, the central government, and the community on an equal basis. As a result, the regional autonomy policy must be reformulated to overcome many issues arising from the implementation of regional autonomy.

4. Conclusion

The following are some conclusions drawn from the study’s findings are implementing Regional Autonomy in Indonesia is constantly changing and improving in response to government situations; and several policies or laws that serve as the legal basis for regional autonomy in Indonesia are Article 18 of the 1945 Constitution, Law Number 1 of 1945, Law Number 22 of 1948, Law Number 1 of 1957, Law Number 6 of 1959, Law Number 18 of 1965, Law Number 5 of 1974, Law Number 22 of 1999, Law Number 32 of 2004, and Law Number 23 of 2014.

Declaration of Competing Interest

The author declares that it has no competing interests.

Compliance with Ethical Standards

The researcher obtained Ethical Approval from the University before this research (UMJ - Rector No. 028/DPP-91-2021).

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