REGIONAL AUTONOMY INCONSISTENCY IN INDONESIA POST AMENDMENT TO THE 1945 CONSTITUTION

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ABSTRACT

Background: Since 1980 by the Pro-democracy circles, and only reached its peak in 1998. These changes strengthen the system of checks and balances in the life of the nation and state. One of the fundamental changes is the restructuring of the implementation of regional autonomy through articles 18, 18A and 18B concerning Regional Government in Indonesia. These articles are expected to improve the governance of Regional Autonomy in Indonesia, in line with the demands of the Reform, namely, to make Indonesia a democratic country based on the Rule of Law. This is also summarized in the TAP MPR. No. XV/MPR/1998 concerning the Implementation of Regional Autonomy, Regulation, Distribution and Utilization of Equitable National Resources, as well as Budget Balance between Central and Regional Governments within the framework of the Unitary State of the Republic of Indonesia.

Objective: The aim of this research is to analysis the inconsistencies in the implementation of Regional Autonomy in Indonesia after the amendment to the 1945 Constitution.

Theoretical framework: This article will discuss and analysis the dilemma of Centralization or Decentralization, discusses and examines two things: first, looks at the paradigm between centralization and decentralization which is fundamental in regional autonomy policies. Second, the impact of regional autonomy is the emergence of political elite groups and oligarchs, as previously flourished under the New Order Regime. This literature is different from the discussion and analysis in this study. They both choose the word inconsistency, however, in their discussion and analysis they are different.

Method: This research uses normative legal methods or often referred to as doctrinal legal research in its discussion and analysis. To ensure that this method can be used effectively, the researcher conducted a comparison of construction between the 1945 Constitution and regulations on Regional Autonomy implementation.

Keywords: autonomy, amendment, state, rule of law.

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INCOERÊNCIA DA AUTONOMIA REGIONAL NA INDONÉSIA APÓS EMENDA À CONSTITUIÇÃO DE 1945

RESUMO


Objetivo: O objetivo desta pesquisa é analisar as inconsistências na implementação da Autonomia Regional na Indonésia após a emenda à Constituição de 1945.

Estrutura teórica: Este artigo irá discutir e analisar o dilema da Centralização ou Descentralização, discute e examina duas coisas: primeiro, olha para o paradigma entre centralização e descentralização, que é fundamental nas políticas de autonomia regional. Segundo, o impacto da autonomia regional é o surgimento de grupos de elites políticas e de oligarcas, como anteriormente floresciam sob o Regime da Nova Ordem. Esta literatura é diferente da discussão e análise deste estudo. Ambos escolhem a palavra inconsistência, no entanto, em sua discussão e análise eles são diferentes.

Método: Esta pesquisa usa métodos legais normativos ou muitas vezes referidos como pesquisa legal doutrinária em sua discussão e análise. Para garantir que esse método pudesse ser usado efetivamente, o pesquisador fez uma comparação da construção entre a Constituição de 1945 e os regulamentos de implementação da Autonomia Regional.

Palavras-chave: autonomia, emenda, estado, estado de direito.

1 INTRODUCTION

The 1998 reforms that took place in Indonesia became the starting point for changes in the Indonesian state administration after 32 years of the New Order Regime exercising authoritarian rule. One of the fundamental changes in the Indonesian state administration is the amendment of the 1945 Constitution which has been carried out four times. Reform is a demand from the Indonesian people who reject authoritarian rule by the New Order Regime (Orde Baru). This also shows the weakness in the legal and constitutional system that allows the authoritarian system to take place. The idea for change has been going a long process and long time, started since 1980 by the Pro-
democracy circles, and only reached its peak in 1998. These changes strengthen the system of checks and balances in the life of the nation and state.

One of the fundamental changes is the restructuring of the implementation of regional autonomy through articles 18, 18A and 18B concerning Regional Government in Indonesia. These articles are expected to improve the governance of Regional Autonomy in Indonesia, in line with the demands of the Reform, namely, to make Indonesia a democratic country based on the Rule of Law. This is also summarized in the TAP MPR. No. XV/MPR/1998 concerning the Implementation of Regional Autonomy, Regulation, Distribution and Utilization of Equitable National Resources, as well as Budget Balance between Central and Regional Governments within the framework of the Unitary State of the Republic of Indonesia.

The concept of Regional Autonomy post the Amendment of the 1945 Constitution shows a longing to make Indonesia a unitary state with the division and distribution of power and authority between the Central and Regional Governments based on the spirit of checks and balances. As a state in the form of a unitary state, the amendment to the 1945 Constitution is a significant progress in the life of the Indonesian nation state. In fact, many experts say that the amendment to the 1945 Constitution after the reformation has given birth to a Unitary State of the Republic of Indonesia (NKRI) which has adopted the principles of Federalism. This is then elaborated in the regulation of relations between the Central Government and Regional Governments, particularly in Articles 18, 18A and 18B. Wasistio said that Regional Autonomy which adopted the concept of Federalism provided a wide space for regions to develop themselves as widely as possible. Adopting the principles of federalism does not mean that regions turn into states. The Central Government remains the main power holder in the framework of the governance of the country's life system that applies checks and balances, including to achieve justice. Thus, the spirit of autonomy will be realized.

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5Jimly Asshididiqie, Impikasi Perubahan UUD 1945 terhadap Pembangunan Nasional (Implications of Amendment to the 1945 Constitution on National Development), Mahkamah Konstitusi Republik Indonesia (MKRI), Jakarta, 21 Nopember 2005
6Taufiqurrohman Syah, Amandemen UUD Negara RI tahun 1945 menghasilkan Sistem Check and Balances Lembaga Negara (Amendments to the 1945 Constitution of the Republic of Indonesia resulted in a Check and Balances System for State Institutions), Biro Rekrutmen, Advokasi dan Peningkatan Kapasitas Hakim, KYRI, Bengkulu 9 September 2009
7Wasistio Raharjo Jati, Inkonsistensi Paradigma Otonomi Daerah di Indonesia: Dilema Sentralisasi atau Desentralisasi (The Inconsistency of the Paradigm of Regional Autonomy in Indonesia: The Dilemma of Centralization or Decentralization), Jurnal Konstitusi, Volume 9, Nomor 4, Desember 2012
According to Jimly Asshiddiqie, this condition is a logical and reasonable choice, and is in line with global developments. Currently the concept of people's sovereignty in a unitary state can no longer be interpreted in a monoistic manner where the actualization of power is solely by the Central Government. In its development, currently sovereignty is understood by the government as something plural where the need for division becomes the main choice, especially in relation to power and authority. The development of a democratic rule of law, the concept of pluralist sovereignty becomes an option, and in a unitary state this condition must naturally occur. When referring to the amendments to the 1945 Constitution, the existence of articles 18, 18A, and 18B, the concept of pluralist and federalist sovereignty becomes an option to be adopted in Regional Autonomy in Indonesia. This model is certainly a fundamental change in the post-reform Indonesian state administration where the power and authority held by the Central Government are divided and distributed to the regions with the aim of realizing Article 1 paragraph (3) of the 1945 Constitution.

Unfortunately, the implementation of Regional Autonomy in Indonesia is not in line with the spirit and vision that has been built in accordance with articles 18, 18A, and 18B. It is still implemented with the old pattern, where the pattern of power that is monoistic, centralized and does not want any division of power or authority is still carried out. Recently, the central government has been increasingly aggressive in taking back the authority that had previously been distributed to and owned by the regions. The enactment of Law Number 20 of 2020 concerning Job Creation or known as the Omnibus Law shows these conditions. Although there were rejections of the Omnibus Law Bill from various parties because it was known from the start that its contents were contrary to the 1945 Constitution, the Central Government and the Indonesian House of Representatives still did not budge and believed in the name of effectiveness that the Law was needed. This refusal was later proven correct when the Constitutional Court of the Republic of Indonesia, through its decision Number 91/PUU-XVIII/2020, stated that this law was unconstitutional or contrary to the 1945 Constitution. This proves that the Central Government and the Indonesian House of Representatives have made mistakes in drafting the law even though it has been warned beforehand.

The description above shows that the Regional Autonomy that has been implemented so far has had problems. This problem is clearly not in accordance with the constitutional system that has been agreed upon through the amendments to the 1945
Constitution, especially related to the vision and concept of Regional Autonomy. The spirit of reform that wants Indonesia to become a democratic country based on law by putting checks and balances on power and authority is half-heartedly implemented. Various facts and conditions that currently occur are still placed in a centralized and monopolistic concept and this will clearly become a threat in the life of a democratic country. Besides, we certainly don't want to go back to the situation when the New Order Regime was in power.

2 THEORETICAL FRAMEWORK

According to Adithya Tri Firmansyah and his friends, the presence of Law 11 of 2020 concerning Job Creation reduces Regional Autonomy. This law removes the foundations and principles of democracy which have been explicitly regulated in the amended 1945 Constitution. Furthermore, according to Tamahana, if it is related to the perspective of the Rule of Law, the relationship that has developed between the Central Government and Regional Governments in Regional Autonomy that has occurred so far is still limited to the thinnest version of the rule of law. This means that Regional Autonomy is only at the level of formal legality or regulation but in substance, the practices shown are still problematic.

Wasisto Raharjo Jati, in his research entitled, *Inkonsistensi Paradigma Otonomi Daerah di Indonesia:Dilema Sentralisasi atau Desentralisasi* (Inconsistency of the Paradigm of Regional Autonomy in Indonesia: The Dilemma of Centralization or Decentralization), discusses and examines two things: first, looks at the paradigm between centralization and decentralization which is fundamental in regional autonomy policies. Second, the impact of regional autonomy is the emergence of political elite groups and oligarchs, as previously flourished under the New Order Regime.

This literature is different from the discussion and analysis in this study. They both choose the word inconsistency, however, in their discussion and analysis they are different. This research looks more in the context that has been regulated by the amended 1945 Constitution, especially articles 18, 18A, and 18B, and is linked to article 1

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9Budiyono, Muhtadi, Ade Arif Firmansyah, Dekonstruksi Urusan Pemerintahan Konkuren dalam Undang-Undang Pemerintahan Daerah, Deconstruction of Concurrent Government Affairs Based of Law, Kanun Jurnal Ilmu Hukum, No. 67, Th. XVII (Desember, 2015), pp. 419-432, ISSN: 0854-5499
paragraph (3), which should be the main reference or guideline for regional autonomy. The starting point for the analysis of the 1945 Constitution is the basis of this article and is clearly different from what Wasisto Raharjo Jati has discussed.

3 METHODOLOGY

This research uses a normative legal method in its analysis and is supported by an empirical approach, where relevant data are used. The Normative Legal Method, also known as doctrinal legal research, is a research method by examining various relevant literature, regulations, and secondary data. In essence, through this method the objective is substantially to see the law that is in the regulations or that has been conceptualized as a norm to be used as a benchmark or guide by the community, government, and other components of the state.

For that there are two conditions that must be met, namely, understanding the basic concepts of science and research methods applied in these disciplines, such as Law. Based on the description above, this article examines whether the implementation of Regional Autonomy that has been implemented so far is in line with the spirit of the ideal vision and concept that was built in accordance with the amended 1945 Constitution. Several criteria to support the built analysis include the contents of the regulation of Regional Autonomy in the 1945 Constitution, in particular article 1 paragraph (3), article 18, 18A, and 18B. Then, look at the synchronization with the regulations below, among others: Law Number 23 of 2014 concerning Regional Government as has been amended twice and most recently became Law Number 2 of 2015, Law Number 21 of 2001

10Regarding the term normative legal research, there is no uniformity among legal experts. Among the opinions of several legal experts, namely: Soerjono Soekanto & Sri Mamudji, mention the term as normative legal research method or library law research method (Soerjono Soekanto & Sri Mamudji, Penelitian Hukum Normatif (Suatu Tinjauan Singkat) (Normative Legal Research (A Brief Overview)), Rajawali Pers, Jakarta, 2001, pp. 13-14); Soetandyo Wignjosoebroto uses the term of doctrinal legal research method (Soetandyo Wignjosoebroto, Hukum, Paradigma Metode dan Dinamika Masalahnya (Law, Method Paradigm and Problem Dynamics), Editor: Iidhal Kasim et.al., Elsam and Huma, Jakarta, 2002, p. 147); Sunaryati Hartono calls it the normative legal research method (C.F.G. Sunaryati Hartono, Penelitian Hukum Di Indonesia Pada Akhir Abad Ke-20 (Legal Research in Indonesia at the End of the 20th Century), Alumni, Bandung, 1994, p. 139); and the late Ronny Hanitjo Soemitro, called it a normative legal research method or a doctrinal legal research method (Ronny Hanitjo Soemitro, Metodologi Penelitian Hukum dan Jurimetri (Legal and Jurimetrics Research Methodology), Cetakan Kelima, Ghalia Indonesia, Jakarta, 1994, p. 10).


concerning Special Autonomy for Papua Province, as amended several times and most recently by Law Number 2 of 2021, and Law Number 11 of 2006 concerning the Government of Aceh.

4 RESULTS AND DISCUSSION
4.1 REGIONAL AUTONOMY IN THE AMENDMENT OF THE 1945 CONSTITUTION

The reforms in 1998 have encouraged changes in the Indonesian state administration, including on Regional Autonomy, which is based on the spirit to make Indonesia a democratic legal state. As a state of law (Rechtsstaat), the power and authority that is built are also based on the spirit of democracy (democratische rechtsstaat), not on authoritarianism, monopolistic, let alone arbitrariness. Therefore, the pinnacle of power and authority in a state of law should be built and placed on the constitution, which is an agreement built by the people as a representation of sovereignty.¹³

In the amendments to the 1945 Constitution, Regional Autonomy is regulated in articles 18, 18A and 18B, which explicitly state that Indonesia is a unitary state divided into provinces, districts, and cities. Then, regional autonomy is also explicitly defined as self-regulating and self-governing, democratic, and broadly. Furthermore, the relationship of authority between the central and regional governments is built in a fair, harmonious manner, and with due regard to pluralism. Referring to these arrangements, the vision and concept of regional autonomy is the spirit to share power and authority in the concept of a unitary state. In addition, Regional Autonomy also adopts the principles of federalism and pluralism. Likewise, the concept of devolution as well as asymmetry has become a strategic choice that is integrated into it.

The analysis provided by Bertus De Villiers is interesting. The concept of federalism is currently attractive to countries that develop democracy because the principles are in line, and because of that, the choice of federalism in various models of government becomes strategic to implement.¹⁴ Another example, as applied in India. As a country that has a federal system, India applies an asymmetric model with the concept of pluralism as the foundation. This model can provide space for the regions to develop

¹³Zulkarnain Ridwan, Negara Hukum Indonesia, kebalikan Nachtwacherstaat (Indonesia the rule of law state, the opposite of Nachtwacherstaat), Fiat Justitia Jurnal Ilmu Hukum Volume 5 No. 2 Mei-Agustus 2012, ISSN 1978-5186 p. 143
their authority and the federal government has a commitment and implements it consistently. This then makes the asymmetrical model able to run on the federal system in supporting the implementation of regional autonomy in India.\textsuperscript{15}

Referring to the analysis and description above, Indonesia's choice to adopt and put the concept of federalism in the implementation of regional autonomy is strategic and appropriate to support the growing Indonesian state. On the other hand, such a commitment, vision and concept is believed to be able to prevent the emergence of authoritarian and dominant power.\textsuperscript{16} In this way, Indonesia will not fall back into a situation as experienced during the New Order era.

Kelik Iswadi said that the spirit of reform that occurred in Indonesia in 1998 really wanted a reorganization of the Indonesian state administration. One of them is to ensure that the concepts of separation, division, and distribution of power and authority are interpreted at the vertical level, not horizontally.\textsuperscript{17} At this point we see the presence of Article 18, Article 18A, and Article 18B in the implementation of Regional Autonomy which explicitly states that there is a vertical division and separation of powers between the Central and Regional Governments. Furthermore, according to Kelik Iswadi, after the amendment to the 1945 Constitution, the authority in the Indonesian state administration system is divided into two (2) parts, namely the constitutional state organ and the state auxiliary organ. For constitutional state organs, it is stated that their authority is stated and regulated in the constitution. Meanwhile, for the state auxiliary organ, its authority is not regulated through the Constitution but through laws and regulations. Indonesia adheres to both models, constitutional state organs and state auxiliary organs.\textsuperscript{18}

Referring to The Pure Theory of Law developed by Hans Kelsen, the two parts must be interconnected and related. The Constitution as the highest norm system (*grundnorm*) in the constitutional state must be used as a reference and guide in developing the authority for state auxiliary organs. This is then known as the hierarchy of norm systems, and later this was further strengthened by Hans Nawiasky in his *Stufenbau* theory. According to this theory, the hierarchy of the norm system starts from the

\begin{thebibliography}{9}
\bibitem{15}Kham Khan Suan Hauing, Asymmetric Federalism and the Question of Democratic Justice in Northeast India, India Review, Volume 13, 2014 - Issue 2, https://doi.org/10.1080/14736489.2014.904151
\bibitem{16}Kelik Iswandi dan Nanik Prasetyoningsih: Kedudukan State Auxiliary Organ dalam Sistem Ketatanegaraan di Indonesia (The Position of State Auxiliary Organs in the State Administration System in Indonesia), Jurnal Penegakan Hukum dan keadilan, Vol. 1 No. 2, September 2020, P-ISSN: 2746-0967, E-ISSN: 2721-656X
\bibitem{17}Ibid.
\bibitem{18}Ibid.
\end{thebibliography}
Constitution as the highest norm and is then followed by the norms below it. This highest norm is then called the *Grundnorm*, while the one below it is called the general norm and the lowest is the individual norm.\(^{19}\)

In the context of the Indonesian state administration, this theory is also adopted and implemented through Law Number 12 of 2011 concerning the Establishment of Legislations as amended into Law Number 5 of 2019 concerning Amendments to Law Number 12 of 2011. Article 3 of this law explicitly states that the 1945 Constitution is the basic law in statutory regulations, and furthermore, Article 7 concerning the types and hierarchy of laws and regulations places the 1945 Constitution at the top. If you follow this theory, in the context of Regional Autonomy in Indonesia, articles 18, 18A, and 18B, including their relation to article 1 paragraph (3), become the foundation and reference for their implementation in Indonesia. The various laws mentioned above must and may not conflict in their regulation and implementation with the 1945 Constitution which is the basic norm or reference in the implementation of Regional Autonomy.

### 4.2 REGIONAL AUTONOMY INCONSISTENCY

Unfortunately, what is the vision and concept that is explicitly regulated in the amended 1945 Constitution does not seem to be in line with the existing derivative regulations under it in relation to the implementation of regional autonomy. There are inconsistencies in the implementation of Regional Autonomy in Indonesia. On this side, efforts to realize a Constitutional State, where the division and distribution of power and authority in the Constitution or the constitution have been carried out. But on the other hand, at the level of state auxiliary organs, the implementation of Regional Autonomy in Indonesia is inconsistent with the vision and concept developed through the amendments to the 1945 Constitution. Its implementation shows the dominance, centrality and monopolistic of the Central Government over the Regional Government. Various regulations that have become the implementation of Regional Autonomy in Indonesia are inconsistent and not in line with the spirit that has been built in Articles 18, 18A, and 18B of the 1945 Constitution.

There are several regulations for implementing Regional Autonomy in Indonesia, among others, Law Number 23 of 2014 concerning Regional Government as has been

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\(^{19}\) I Dewa Gede Atmadja dan I Nyoman Putu Bidiartha: *Teori-Teori Hakum* (Legal Theories), Setara Press, Malang, 2018, p. 151.
amended twice and most recently became Law Number 2 of 2015, Law Number 21 of 2001 concerning Special Autonomy for Papua Province as amended several times and most recently by Law Number 2 of 2021, and Law Number 11 of 2006 concerning the Government of Aceh. These various regulations, when viewed from the articles in them, are inconsistent with the 1945 Constitution which should be the basic norm. Or in other words, these various regulations are inconsistent with the 1945 Constitution.

At least there are several things that show inconsistencies, including: first, the interpretation of the concept of Regional Autonomy which is different between those regulated by the 1945 Constitution and the laws under it. In other words, there are differences in the interpretation of the constitution and the interpretation of regulations by policy makers, namely the Government and the DPR, with those that have been constructed in the 1945 Constitution. The interpretation developed in the implementing regulations for Regional Autonomy should refer to articles 18, 18A and 18B, in accordance with the theory *Groundnorm* (basic norm). In fact, there are different interpretations of the meaning of "self-regulating and self-managing", "general elections and democratic", "local governments set local regulations", "specificity and diversity", "fair and harmonious", "specialty and privileges", and “customary law communities and local wisdom”. Referring to various laws for implementing Regional Autonomy in Indonesia, the central government defines the things above as "NSPC(NSPK), Guidance, and supervision" which means control, domination and monopolistic. How ironic!

It is ironic because when referring to Law Number 5 of 2019 concerning Amendments to Law Number 12 of 2011 concerning the Establishment of Legislations, various regulations regarding the implementation of Regional Autonomy should be in accordance with Article 3 of Law Number 5 which states that the 1945 Constitution as basic law, as well as Article 7 concerning the hierarchy of legislation, explicitly does not want different interpretations by legislation. In fact, there is a different interpretation, when the Central Government and the DPR interpret that the relationship between the Central and Regional Governments is still placed in a centralized and monopolistic position, and the Central Government within the framework of the main holder of power and authority, can act authoritarian. Whereas in articles 18, 18A and 18B there is no such mention. In fact, what is built in these articles is the principle of checks and balances and good governance is the spirit. These different interpretations clearly show inconsistencies in Regional Autonomy in Indonesia.
Second, the implications of different interpretations have led to the emergence of centralized, monopolistic, and authoritarian articles in the implementing regulations for Regional Autonomy in Indonesia. Some of these provisions include: the existence of articles that regulate the NSPC (norms, standards, procedures and criteria) in various laws and regulations. For example, in the Law Number 23 of 2014 concerning Regional Government as has been amended twice, it is regulated in article 16. Then in the Law Number 11 of 2006 concerning the Government of Aceh, it is in article 11.

The NSPC (NSPK) regulation is often used by the central government to limit the authority possessed by the regions. Moreover, the NSPC was determined and compiled by the central government without involving the local government, and in the implementation of the article that regulated it did not involve the regions. With this provision, the central government can again carry out and enforce its will. Moreover, if it is related to the use of the budget, the NSPC is always used as a controlling tool by the central government to regions that are considered non-compliant. Until now it is not clear how the NSPC was created, what the reference is and what the mechanism is. Various regulations for implementing regional autonomy are entirely up to the central government. The Central Government is explicitly called the party with the highest authority in the preparation of the NSPC. This condition is inconsistent with the concept of good governance which is the spirit of the 1945 Constitution.

The third inconsistency is the regulation regarding the guidance and supervision that exist in these various regulations. Provisions on guidance and supervision are the same as for the NSPC, they can be a means of control, coercion and limitation for the authority possessed by the regions. Often the regions cannot do much when these provisions are used as a means of control. Things such as contradicting Pancasila, the 1945 Constitution, and exceeding authority, are often used as excuses and justifications by the central government against local governments when using this provision, just like the NSPC. Arrangements regarding guidance, monitoring and supervision are widely spread in various Regional Autonomy regulations in Indonesia, including those regulated in Law Number 21 of 2001 concerning Special Autonomy for Papua Province as has been amended twice, control is carried out through articles that regulate supervision and monitoring.
Table 1. Articles concerning NSPC, Supervision and Guidance in Regulations related to Regional Autonomy

<table>
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<th>No</th>
<th>Regulation</th>
<th>Article</th>
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<tbody>
<tr>
<td>1</td>
<td>Law Number 21 of 2001 concerning Special Autonomy for the Province of Papua as amended twice</td>
<td>Article 34, Article 67, Article 68</td>
<td>Article 34 regulates funding or budget either through the mechanism of special autonomy funds, APBD (provincial budget), APBN (provincial budget), and others. Control is also carried out through the budget Article 68, The central government carries out: provision of guidelines, training, supervision, repressive supervision of Provincial Regulations called Perdasi, Special Regional Regulations called Perdasus, and governor's decisions. Then the central government is authorized to carry out functional supervision</td>
</tr>
<tr>
<td>2</td>
<td>Law Number 11 of 2006 concerning the Government of Aceh</td>
<td>Article 11, Article 14, Article 20, Article 40, Article 43, Article 178, Article 183, Article 190, Article 198, Article 235, Article 249</td>
<td>Article 11, The government determines the NSPC for the implementation of affairs carried out by the Aceh Government and the District/city Government The implementation of mandatory government affairs is guided by the minimum service standards set by the Government Article 40 have contradictory meanings. This article stipulates that the governor is the representative of the central government and is responsible to the president. But on the other hand, the governor is the result of general election and comes from a political party or independent. Article 43, as a representative of the central government, the governor is under supervision by his superiors, namely the president and the institution ordered by the president to evaluate the course of regional government Article 178, Article 183, Article 190, related to finance, Special Autonomy Fund, management of decentralized and deconcentrated funds, Article 235 about the cancellation of the qanun by the government Article 249 about supervision by the central government over the Aceh government</td>
</tr>
</tbody>
</table>
| 3  | Law Number 23 of 2014 concerning Regional Government as has been amended twice | Article 2, Article 7, Article 8, Article 16, | Article 7 and 8, The government carries out guidance and supervision of regional }
Article 17, administration, carried out by ministries/institutions
Article 25, Article 16 regulates about NSPC
Article 26, for the administration of government and the implementation of guidance and supervision
Article 29, Article 17, cancellation of regional policies if they are not in accordance with NSPC
Article 58, Article 17, cancellation of regional policies if they are not in accordance with NSPC
Article 73, Guidance and supervision are in line with Pancasila (national ideology), the 1945 Constitution, the nation motto Bhineka Tunggal Ika (unity in diversity), and the Unitary State of the Republic of Indonesia
Article 258, Article 260, Article 268, development at the provincial level must be synchronized and harmonized with national development. RPJPD (regional long-term development plan) must be in accordance with RPJPN (national long-term development plan)
Article 276, control, and evaluation of regional development is conducted by the central government through the Ministers
Article 279, Regional finances must relate to the Central Government regarding the central government’s control over DBH (profit sharing), DAU and DAK
Fourth, the next inconsistency, namely the relationship of authority between the central government and local governments, which is in accordance with article 18A paragraph (2), which is fair and harmonious, does not seem to be spelled out in lower regulations. Control remains with the central government. This control can be done through the NSPC, coaching and supervision. As a result, the authority that is actually owned by the regions cannot be exercised without the approval of the central government. In fact, there is an authority that should be carried out by the regions, is taken over by the central government. Reflecting on the drafting and enactment of Law Number 20 of 2020 concerning Job Creation, which was later deemed unconstitutional by the Constitutional Court through its decision Number 91/PUU-XVIII/2020, has confirmed the existence of this situation. According to Muhammad Ali Azhar, regional autonomy has given rise to conflicts of authority between the central, provincial and district/city governments and this is a very serious problem.\(^\textit{20}\)

Regulations with the centralistic, monopolistic, and authoritarian spirit of the central government in various implementing regulations for Regional Autonomy are scattered in various articles. Starting from the article on the NSPC, monitoring, coaching, supervision, budgeting, and so on, are forms of inconsistency. If we refer to articles 18, 18A, and 18B, there is not a single article and paragraph that leads to being centralized, monopolistic and authoritarian. In other words, the actual implementation of Regional Autonomy in Indonesia is not in line with the vision and spirit of reform. In a situation like this, it is very difficult to expect the presence of regions that are innovative, creative, and contribute to supporting Indonesia to become a democratic legal state that will ultimately create a just and prosperous Indonesia. On the contrary, Indonesia will be

\(^{20}\text{Muhammad Ali Azhar, Desentralisasi dan Konflik Kewenangan (Studi kasus konflik kewenangan antara Pemerintah Provinsi Sulawesi Tenggara dengan Pemerintah Kota Kendari dalam kasus pemberian izin investasi PT. Artha Graha Group) (Decentralization and Conflict of Authority (A case study of the conflict of authority between the Southeast Sulawesi Provincial Government and the Kendari City Government in the case of granting investment permits to PT. Arthgraha Group)), Jurnal Administrasi Negara (JAN), Volume III, Nomor 1, Juni 2012}
trapped again in a situation like it used to be when the New Order Regime was still in power.

With the various inconsistencies mentioned above, it is certain that regional autonomy in Indonesia is only at the level of formal legality and that is only at the level of regulation in the constitution.\(^\text{21}\) Obviously this is a big problem in the Indonesian constitutional system. Problems that have been tried to be fixed in the spirit of reform, which aspires to realize a democratic Indonesian state based on the rule of law. However, this goal will never be achieved if the big problems above are not resolved.

5 CONCLUSION

Based on the results of the discussion and analysis above, it can be concluded that Regional Autonomy in Indonesia has experienced various inconsistencies. If this continues, it will disrupt and damage the Indonesian constitutional system which wants the realization of a democratic Indonesia based on the Rule of Law. Indonesia is not a state of power, Indonesia is a state of law. For this reason, various inconsistencies in regional autonomy must be corrected so that the good state administration system that is intended to be realized can be achieved.

For this reason, it is recommended to the Central Government and various other state institutions such as The MPR, DPR and DPD, returned to their initial commitment to make the amended 1945 Constitution a reference, guideline, and basic norm in the Indonesian constitutional system. Centralism, monopolistic and authoritarianism must not be maintained, instead they must be eliminated within the framework of Indonesia as a unitary state. Furthermore, it is important to amend the 1945 Constitution to add and strengthen arrangements for division of authority between the Central and Regional Governments and prevent the emergence of different interpretations. Then, it is important for the Government, DPR and DPD to revise various laws and regulations related to the implementation of regional autonomy. Furthermore, the Central Government must have a strong and consistent commitment to collaborate with local governments in the implementation of Regional Autonomy. The spirit of division and distribution of authority from the Central Government to the Regional Government will not eliminate the important functions of the Central Government within the framework of the Unitary State of the Republic of Indonesia.

\(^{21}\)Budiyono, Muhtadi, Ade Arif Firmansyah, op-cit
CONFICTS OF INTEREST

The author in carrying out this research there is no conflict of interest. Funding, as well as the research process carried out is also not related or has nothing to do with conflicts of interest. Researchers are very independent in this study.

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