

REGIONAL AUTONOMY IN THE POLITICAL SYSTEM AND AUTHORITY IN INDONESIA

Abdul Rahman Sabara

Doctoral Study Program of Law, Universitas Katolik Parahyangan
Jl. Ciumbuleuit No.94, Bandung 40141, West Java, Indonesia
info@arsabara.com

Abstract

This article examines how the Regional Autonomy in the Political System and Authority in Indonesia. Political System and Authority in Indonesia greatly influence the implementation of the Regional Autonomy in Indonesia. When the Political System and Authority are more directed towards centralized control, the implementation of the Regional Autonomy will weaken, conversely when division of authority from the central government to the regions occurs, the Regional Autonomy should function according to the principle of decentralization. When the position of the Regional Autonomy strengthens, euphoria of the elites in the regions would emerge. With the increase of regional sentiment and ethnocentrism local kings and various other bad effects would also arise. The implementation of the Regional Autonomy should function optimally if the Political System and Authority work in equilibrium, when the central and regional elites have the same focus and orientation on the welfare and social justice for all people of Indonesia.

Keywords: *Regional Autonomy; Political System; Authority; Welfare; Justice*

1. Introduction

In its implementation, the Regional Autonomy in Indonesia has not functioned in accordance with the formulation of the basic idea of decentralization, which is based on the Welfare State Theory, and in accordance with the state principles of Indonesia.¹ The administration of the government should guarantee the fulfillment of people's welfare, as mandated by the 1945 Constitution as the basis of the state to provide the welfare to its people.²

In other words, the purpose of the establishment of the Republic of Indonesia is basically to provide welfare to all people without exception.³ While the purpose of national development is to increase social welfare, not only economic growth but also to meet various basic social and economic needs of every citizen in order to achieve the minimum living standard.⁴

¹ Edgar Rangkasa, "Penyelenggaraan Otonomi Daerah Guna Mewujudkan Kesejahteraan Masyarakat," *Lex Librum: Jurnal Ilmu Hukum* 4, no. 1 (2017): 624, <https://www.lexlibrum.id/index.php/lexlibrum/article/view/98>.

² Chazali Husni Situmorang, "Kebijakan Pemerintah Kaitannya Dengan Kesejahteraan," *Jurnal Social Security*, last modified 2017, <http://litasipublik.or.id/news/kebijakan-pemerintah-kaitannya-dengan-kesejahteraan.html>.

³ Elviandri Elviandri, Khuzdaifah Dimiyati, and Absori Absori, "Quo Vadis Negara Kesejahteraan: Meneguhkan Ideologi Welfare State Negara Hukum Kesejahteraan Indonesia," *Mimbar Hukum* 31, no. 2 (2019): 253–254, <https://journal.ugm.ac.id/jmh/article/view/32986negara>.

⁴ B. F. Sihombing and Adnan Hamid, "Impact of the Omnibus Law/Job Creation Act in Indonesia," *International Journal of Scientific Research and Management (IJSRM)* 8, no. 10 (2020): 7, <https://www.ijrm.in/index.php/ijrm/article/view/2961>.

This is in line with the initiators of the Welfare State Theory, such as R. Kranenburg who revealed that the State must actively strive for the welfare, act justly which can be felt by all people equally.⁵ Not only for the welfare of particular groups but also for all people.

The implementation of Regional Autonomy in Indonesia, which was initially centralized, has shifted to decentralization, whereby the central government formally handed over part of its authority to the regions to manage their own affairs and meet their needs according to the aspirations of the people. Through this autonomy policy, the regional governments are expected to have the authority to advance democracy in their regions, by implementing a system of information disclosure and better public services, in accordance with the initial purpose of the regional autonomy, that the regional governments must be able to accommodate all the requirements and interests of their people for the realization of the welfare of the people.

The initial objective of the establishment of the Regional Autonomy was to fulfill the welfare of the general public and social justice for all Indonesian people, in accordance with the objectives of the establishment of the Republic of Indonesia as stated in the fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia, namely: (1) protecting all the Indonesian nation and people; (2) promoting public welfare; (3) providing education to the people; and (4) participating in the implementation of world order based on freedom, eternal peace and social justice.⁶ These national objectives are inspired by the principles of Pancasila as the state principles, particularly the fifth principle of social justice for the whole people of Indonesia and the second principle, just and civilized humanity. The fifth principle of Pancasila is a reflection of Indonesia as a welfare state that aspires to fulfill public welfare. In addition, Pancasila also comprises a guarantee of the fulfillment of human rights, especially to be treated fairly and humanely (civilized) or what is known as the second principle of Pancasila, just and civilized humanity.

In the application of regional autonomy, however, there are many legal products which have been applied in Indonesia. At the implementation stage, there are many distortions, and the reality is quite the opposite to the spirit of implementing the principles of Pancasila which in fact is the source of all sources of law. The most striking impact of the application of regional autonomy, is the emergence of oligarchy, clientelism, and regional fanaticism which is very

⁵ Masyhar Masyhar, "PKH, Biological Child of Welfare State," *Ministry of Social Affairs Republic of Indonesia*, last modified 2020, <https://kemensos.go.id/en/pkh-biological-child-of-welfare-state>.

⁶ Kokom Komalasari, "Preface Proceedings of the 2nd Annual Civic Education Conference (ACEC 2019)," 2019, <https://www.atlantis-press.com/proceedings/acec-19/preface>.

prominent, particularly observed in the election process, where the issue of “native citizen” is always highlighted, and an increasing number of petty kings in the regions.⁷

Furthermore, the impact of the regional autonomy implementation has resulted in what John T. Sidel calls, local bossism or in the terms Migdal and Vedi Hadiz referred to as local strongmen,⁸ where regional autonomy is used by some local political elites to build political and economic oligarchies, thus creating strong people at the local level.⁹ These local strongmen often take advantage of the bureaucracy to raise votes, collect funds from government projects and arrange for the officials to fall into their families or cronies and build close ties with local election administrators with the aim of making profit for themselves from the natural resource management licensing businesses. In other words, what has happened is that regional autonomy has become a rent-seeking mechanism. Cases such as Ratu Atut Chosiyah, and Zumi Zola who inherited the political blood of his father, Zulkifli Nurdin, are a series of examples that have emerged of the transformation of regional autonomy into local bossism.¹⁰

From the paragraph above, it is observed that there is a connection between the implementation of regional autonomy and the political system and authority that prevailed in a given period. If regional autonomy aims for the welfare of the people, by exploring the potential of the region and maximizing the results for the benefit of the people, the impact that occurs is the 'powerlessness' of the legal product itself called regional autonomy is in the midst of the pressure of the political system and authority that does not side with the people, and the sense of justice that resulted in the distrust to the law itself.

Based on the background of the description above, it is important to conduct research on Regional Autonomy In The Political System and Authority In Indonesia reviewed by The Welfare and Justice Theories. This study aims at providing information to the public about regional autonomy in the political system and authority in Indonesia reviewed by the welfare and justice theories, the role of the political system in the dynamics of regional autonomy in Indonesia, and power influence in the formation of the law.

⁷ Boyke Ledy Watra, “Kuasa Berlebih Raja Kecil Otonomi Daerah,” *Antara*, last modified 2019, <https://www.antaraneews.com/berita/980054/kuasa-berlebih-raja-kecil-otonomi-daerah>.

⁸ Erond L. Damanik, *Politik Lokal: Dinamika Etnisitas Pada Era Desentralisasi Di Sumatera Utara* (Medan: Simetri Institute, 2018), 72–90.

⁹ Prawira Yudha Pratama, Budiman Budiman, and Mia Sarmiasih, “A Comparative Political Analysis Between the New Order Regime and The Reformed Era in Indonesia: A Case Study of Oligarchy Politics in the Mining Industry of East Kalimantan,” *Jurnal Studi Pemerintahan* 10, no. 3 (2019): 196, <https://journal.umy.ac.id/index.php/jsp/article/view/6818>.

¹⁰ Arjuna Putra Aldino, “20 Tahun Reformasi: Dari Oligarki Menuju Plutokrasi?,” *Indoprogress*, last modified 2018, <https://indoprogress.com/2018/05/20-tahun-reformasi-dari-oligarki-menuju-plutokrasi/>.

2. Method

This is a normative research which conceptualize the law as statute dan principles. Based on that type, this research use statutory approach. The statute approach is carried out by learning the ontological basis for the birth of laws and regulations, the philosophical foundation of legislation, laws and regulations, regional regulations. The kind of data which is used in this research is secondary data which consist of primary legal material (related regulations), secondary legal material (book, article and report). Those data are collected through literature research. Then, collected data are analyzed by using content analysis.

3. Results and Discussion

3.1. Regional Autonomy During the Old Order and New Order Eras

During the Old Order and New Order Eras, the concept of Regional Autonomy was very centralized, then in the Reformation Era, it was expected that the implementation of Regional Autonomy would lead to decentralization. However, in reality, the stages of implementing authority relations between the central and regional governments tended to lead towards centralization.¹¹ Although Law No. 22 of 1999 at the minimal level has tried to shift the pendulum from centralization to decentralization, but Law No. 32 of 2004 to Law No. 23 of 2014 concerning Regional Government (revision of Law No. 32 of 2004) tends to return to its original position of the Old Order era or a centralized New Order. Regional Autonomy, which is applied with the objective of realizing a stable, efficient, and democratic regional government administration, but in reality, the authority given is very limited and the control is very tight from the central government.¹²

In terms of relations and interactions between the center and the regions, during the Old Order and New Order eras, the central government official was considered as gods when visiting the regions. In addition to official 'deposits' from the regions to the center, a 'tribute' to the central government officials should be allocated in every visit to the region.¹³ Meanwhile in the Reformation Era, relations and interactions between the center and the regions, especially the

¹¹ Mursyidin Mursyidin, "Geneologi Kebijakan Desentralisasi Dari Kolonialistik Hingga Pascakolonialistik Demokratik Di Indonesia," *Source : Jurnal Ilmu Komunikasi* 4, no. 2 (2018): 90–108, <http://jurnal.utu.ac.id/jsourc/article/view/924>.

¹² La Ode Bariun, "Laporan Penelitian : Masa Depan Otonomi Daerah Terhadap Keberlakuan Undang-Undang Cipta Kerja (Resentralisasi Ataupun Desentralisasi)" (Pusat Penelitian dan Pengkajian Perkara, dan Pengelolaan Perpustakaan Kepaniteraan dan Sekretariat Jenderal Mahkamah Konstitusi, 2021), 30, https://www.mkri.id/public/content/infoumum/penelitian/pdf/hasilpenelitian_112_Laporan_Akhir_unSultra.pdf.

¹³ Yusuf Adam Hilman, *UPETI Dalam Perspektif Teori Hegemoni* (Ponorogo: Calina Media, 2017), 22–40.

community were no longer completely marginalized, both in the decision-making process and in policy implementation, although the role of the community was not yet in accordance with civil society, it was mostly represented by the elites.¹⁴ Under these circumstances, it would be difficult to avoid if the decision-making process, at the national and regional levels, had been colored more by coalitions and bargaining of interests between the community elites on the one hand and the state administration elites on the other.

The noble objective of the regional autonomy system is to provide opportunities for the regions to manage their own affairs, include optimization the potential of their regions for the welfare of the people.¹⁵ However, looking at the phenomenon in the autonomous regions, the more widespread oligarchy, clientelism, corruption, and the increasing number of petty kings in the regions, the noble objective of regional autonomy has not been achieved.¹⁶

From the results of literature research on articles/journals related to Regional Autonomy in Indonesia, the Smeru Team conducted research in the North Sulawesi Regional Government in three districts on the implementation of Regional Autonomy. The research concluded that in general, the public is concerned about the slow completion of various supporting regulations which has become the main obstacle to the implementation of autonomy in the regions.¹⁷ The central government is considered half-hearted, while the regional governments are seen as always waiting for directives from the central, this means that they have no initiatives.¹⁸ If this condition occurs, creating a conducive business climate as a prerequisite for inviting investors will never happen.

3.2. Regional Autonomy and Its Supporting Theories

3.2.1. The Theory of Welfare State

The application of Regional Autonomy in Indonesia is the formulation of the basic idea of decentralization based on the Welfare State theory, which is very synchronous with the basis of

¹⁴ Hendrawati Hamid, *Manajemen Pemberdayaan Masyarakat* (Makassar: De La Macca, 2018), 80.

¹⁵ Abdul Sani, "Otonomi Daerah Esensi, Tujuan Dan Manfaatnya Bagi Provinsi Kepulauan Bangka Belitung," *BKPSDMD Provinsi Kepulauan Bangka Belitung*, last modified 2017, <https://bkpsdmd.babelprov.go.id/content/otonomi-daerah-esensi-tujuan-dan-manfaatnya-bagi-provinsi-kepulauan-bangka-belitung>.

¹⁶ Agus Budijarto, "Pengaruh Perubahan Sosial Terhadap Nilai-Nilai Yang Terkandung Dalam Pancasila," *Jurnal Kajian Lemhannas RI* 34, no. Juni (2018): 34–35, [https://www.lemhannas.go.id/images/Publikasi_Humas/Jurnal/Jurnal Edisi 34 Juni 2018.pdf](https://www.lemhannas.go.id/images/Publikasi_Humas/Jurnal/Jurnal%20Edisi%2034%20Juni%202018.pdf).

¹⁷ Syaikhu Usman et al., "Pelaksanaan Desentralisasi Dan Otonomi Daerah: Kasus Tiga Kabupaten Di Sulawesi Utara Dan Gorontalo" (Lembaga Penelitian SMERU, 2001), 4–7.

¹⁸ Usman et al., "Pelaksanaan Desentralisasi Dan Otonomi Daerah: Kasus Tiga Kabupaten Di Sulawesi Utara Dan Gorontalo."

the Indonesian State and the administration of its government which should guarantee the achievement of people's welfare, where the 1945 Constitution is used as a basis for the state to provide welfare to its people.

In other words, the purpose of the establishment of the Republic of Indonesia is basically to prosper all the people without exception, and the objective of national development is to increase social welfare, not only economic growth, but to meet various basic social and economic needs of every citizen in order to achieve a minimal living standard. This is in line with the initiators of the Welfare State Theory, Prof. Mr. R. Kranenburg who revealed that the State must actively strive for prosperity, act fairly that can be felt by all people equally, not for the welfare of certain groups but all the people.

The theory of Welfare State broadly consists of 4 (four) meanings:¹⁹ 1) **As a condition of welfare (well-being)**, where social welfare is a condition for the fulfillment of material and non-material needs. Prosperity occur when human life is safe and content because their basic needs such as nutrition, health, education, housing, and income are fulfilled and when people are protected from the main risks that threaten their lives; 2) **As a social service**, generally includes five forms, which are social security, health services, education, housing and personal social services; 3) **As social benefits**, social welfare provided to the poor. Because most of the welfare beneficiaries are the poor, disabled, unemployed, this situation creates a negative connotation in the term welfare, such as poverty, laziness, dependence, and so on; 4) **As a process or planned effort**, a process carried out by individuals, social institutions, communities and government agencies to improve the quality of life through the provision of social services and social benefits.

To elaborate further, Social Welfare is the condition in which a decent life needs are met for the people, so that they are able to develop themselves and can carry out their social functions which are carried out by the government, regional government and the community in the form of social services including social rehabilitation, social security, social empowerment, and social protection (Law No. 11 of 2009 articles 1 and 2).

According to Bappenas, welfare status can be measured based on the proportion of household expenditure. A household can be categorized as prosperous if the proportion of expenditure for basic needs is equal to or lower than the proportion of expenditure for non-basic

¹⁹ Prabu Kresno, "Konsep 'Welfare State Theory' Maksimalkan Peran Pemerintah," *Kumparan*, last modified 2018, <https://kumparan.com/bathara-kresno/konsep-welfare-state-theory-maksimalkan-peran-pemerintah>.

needs.²⁰ Conversely, households where the proportion of expenditures for basic needs is greater than those for non-basic needs, can be categorized as households with low welfare status.²¹ Welfare is an order of social, material and spiritual life and livelihood followed by a sense of safety, decency and tranquility of oneself, household and community both physically and spiritually which enables every citizen to make the best possible fulfillment of physical, spiritual and social needs for themselves, households, and society by upholding human rights.²²

Prosperous conditions, if possible, is when every citizen can make efforts to fulfill the best possible of the physical, spiritual and social needs for themselves, households, and society by upholding human rights.

The demands of the welfare state are oriented toward attainment people prosperity. The 1945 Constitution, both in its preamble and in its body, contains various provisions that place an obligation on the state or government to realize the welfare of the people. As the fifth principle of Pancasila clearly states the principle of "social justice for all Indonesian people".

The demands of diversity, the people or the nation of Indonesia, socially, economically and culturally are pluralistic societies which have different characteristics and needs. To realize justice, welfare and security, it is impossible to force uniformity because any uniformity can increase the disturbance of a sense of justice, welfare and security. The autonomous region is a means of accommodating these differences with the principle of *Bhineka Tunggal Ika* (unity in diversity).

3.2.2. The Theory of Justice

John Rawls's Theory of Justice in general is very relevant to the developing countries like Indonesia, as most Indonesians still live below the poverty line. Rawls's presentation of the Theory of Justice is very much in line with the determination of the Indonesian nation to establish the basis of national and state life based on social justice. The determination of the Indonesian nation is applied to the Regional Autonomy System.

The founding fathers of Indonesia, have put Social Justice as one of the basic foundations of the objectives and ideals of the state (*staatsidee*) as well as the philosophical basis of the state

²⁰ Rohana Widhi Lestari and Abu Talkah, "Analisis Pengaruh Bantuan Sosial Pkh Terhadap Kesejahteraan Masyarakat Pkh Di Kecamatan Panggungrejo Kabupaten Blitar," *REVITALISASI: Jurnal Ilmu Manajemen* 9, no. 2 (2020): 232, <https://ejournal.uniska-kediri.ac.id/index.php/Revitalisasi/article/view/1367>.

²¹ Lestari and Talkah, "Analisis Pengaruh Bantuan Sosial Pkh Terhadap Kesejahteraan Masyarakat Pkh Di Kecamatan Panggungrejo Kabupaten Blitar."

²² Ibid.

(filosofische grondslag) as contained in the fifth principle of Pancasila. The Preamble of the 1945 Constitution, stated the term "social justice" twice. This means that since the beginning, the founding parents had built Indonesia on a foundation to fulfill social justice for their own citizens as well as the world community.²³

According to Rawls, social justice can be enforced through corrections to the achievement of justice by improving the basic structure of major social institutions, such as courts, markets, and the state constitution.²⁴ If we align Rawls's principle of justice and the constitution, the two principles of justice which are the main premises of Rawls's theory are also stated in the Indonesian constitution, especially after the amendment of the 1945 Constitution through four stages from 1999 to 2002.²⁵ Thus we can say that intentionally or not, Indonesia has actually included the principles of justice proposed by John Rawls into the body of the Constitution, which will be applied to the regional autonomy system in Indonesia.

3.3. The Role of Political System in the Dynamics of Regional Autonomy in Indonesia

The spirit contained therein the Regional Autonomy is the growth of creativity in the autonomous regions to encourage and accommodate the aspirations of the community in the framework of regional development to achieve common welfare. Based on this, the community can take the initiative to determine the methods and fill these methods for the welfare of the people. This can be done if the political system in the era of the reigning government in Indonesia can accommodate it.

The flexibility to set policy priorities as the main condition for the birth of initiatives and creativities in the regions still depends heavily on the central government.²⁶ As a result, tardiness often occurs when problems occur in the regions. So that this condition makes the political participation of the community in the regions very weak. On the other hand, people's political participation is only needed during the general election process, the community is being used only as an object by the government.

The Reformation Era has given birth to various changes in legal politics, such as changes from a centralized system to decentralization through the widest possible regional autonomy.

²³ Septi Nur Wijayanti, *Menagih Komitmen Pemerintah Mewujudkan Keadilan Sosial* (Yogyakarta: LP3MUY, 2019), 9–12.

²⁴ Pan Mohamad Faiz, "Teori Keadilan John Rawls (John Rawls' Theory of Justice)," *Jurnal Konstitusi* 6, no. 1 (2009): 145.

²⁵ Faiz, "Teori Keadilan John Rawls (John Rawls' Theory of Justice)."

²⁶ Amelia Haryanti, *Sistem Pemerintahan Daerah* (Tangerang Selatan: UNPAM PRESS, 2019), 1.

In its application in the field, through implementation of Regional Autonomy, it is expected that the government can implement an ideal Political System for the people: 1) Mutual respect on *Bhinneka* (diversity) in order to remain *Tunggal Ika* (unity). With this spirit of diversity, it is hoped that the implementation of a political system will be able to diminish very high regional sentiments, with the emergence of petty kings, clientelism, and oligarchy; 2) Channeling public aspirations that are wide open and opening up dialogues, to erase the political trauma of the past, where people's aspirations were silenced; 3) The principle of aspiration which is not only top down, but also bottom up versus the fact that the policy is top down regardless of the aspirations of the people.

Daniel S. Lev explained that the political system will run smoothly if you pay attention to the scope or area of legal politics of the followings:²⁷ 1) The process of extracting the values and aspirations that develop in the society by state officials who are authorized to formulate legal politics; 2) The process of debate and the formulation of these values and aspirations into a draft of laws and regulations by state administrators who have the authority to formulate and determine legal politics; 3) State officials authorized to formulate and determine legal politics; 4) Laws and regulations containing legal politics; 5) The factors that influence and determine a political law that will be, is being, and has been determined; and, 6) Implementation of laws and regulations which are the implementation of the legal politics of a country.

The political law implemented in regional government laws during the Old Order, New Order and Reformation Era, proves that democratic governance will give birth to responsive laws. Conversely an authoritarian rule, is likely to will give birth to orthodox laws.²⁸ Political Law is a legal policy or official policy line regarding laws that will be enforced either by making new laws or by replacing old laws, in order to achieve the objectives of the state. Thus, political law is a choice concerning laws which will be enforced as well as options concerning laws to be revoked or not enforced, all of which are intended to achieve the objectives of the state as stated in the preamble to the 1945 Constitution.²⁹

Michael D. Bayles perceives the political and legal relationship from the three patterns of interaction that are built between the two. The first pattern, called the empirical pattern, is a pattern in which politics has a very large influence in the constitution-forming process. Here we

²⁷ Daniels S. Lev, *Hukum Dan Politik Di Indonesia: Kesenambungan Dan Perubahan* (Jakarta: LP3ES, 1990), 126.

²⁸ Muhammad Eriton, "Konfigurasi Politik Dan Karakter Produk Hukum," *Eritonime (Muhammad Eriton Blog)*, last modified 2020, <http://eriton.staff.unja.ac.id/2020/03/31/konfigurasi-politik-dan-karakter-produk-hukum/>.

²⁹ Ibid.

can say that politics shapes the law. The second pattern is a relationship pattern that is analytical in nature, namely a pattern that describes the law requiring political power in order to be effective. The third pattern is a normative relationship pattern. In this pattern, politics must provide normative power for the enforcement of law.³⁰

This can be achieved in the Regional Autonomy System in Indonesia, if the political law that is applied is in line with the application of regional autonomy which is carried out effectively for community empowerment, to accommodate the interests of the people and the implementation of governance carried out in a democratic manner.

In the past, the portion of regional autonomy that was 'given' by the central government was broad and responsible regional autonomy, but in post-Reformation by respecting the uniqueness of the Indonesian nation with its Unity in Diversity philosophy, to create diversity in order to remain *Tunggal Ika* (unity), it should be implemented in the widest possible regional autonomy format.³¹ If there is a interpretation that does not agree with the term of broadest autonomy because it is feared that the term will have the connotation of building an image of the emergence of a state in a federal state, it will be broken if the welfare state can be achieved. Whatever political system is applied, but the implementation of the policy does not pay attention to the sense of justice for the people, does not aim for the welfare of the people, then the rejection of the people towards the policies implemented will certainly occur.³²

3.4. Power Influence in the Formation of the Law

In Indonesia, the formation of law is a product of authority, in this case the role and product of the House of Representative and the President, that the character of each legal product is colored by authority and political configuration in the era of the temporary regime in power. The formation of law in the regime is a crystallization of political thought that interacts between the rulers who sit in the legislature and those in the executive branch.³³

The elected House of Representative and the President members and the President are the result of the role of political parties. After being elected, they automatically have political power

³⁰ M. Rifqinizamy Karsayuda, "Politik Hukum Nasional Legislasi Hukum Ekonomi Syariah," *De Jure : Jurnal Hukum dan Syariah* 7, no. 1 (2015): 40, <http://ejournal.uin-malang.ac.id/index.php/syariah/article/view/3510>.

³¹ Muhammad Risal, "Kearifan Lokal Dalam Pembentukan Daerah Otonomi Baru Di Era Otonomi Daerah (Studi Kasus: Kearifan Lokal Di Daerah Apau Kayan Kabupaten Malinau)," *JAR (Jurnal Administrative Reform)* 4, no. 2 (2016): 112, <http://e-journals.unmul.ac.id/index.php/JAR/article/view/597>.

³² Ismail Ismail, *Etika Pemerintahan* (Yogyakarta: Lintang Rasi Aksara Books, 2017), 25–26.

³³ Finradost Yufan M., "Perangai Politik Dan Hukum," *Badiklat Kejaksaan RI*, last modified 2019, <https://badiklat.kejaksaan.go.id/artikel/detail/583>.

in the formation and implementation of laws, as well as being able to intervene in politics, so that the implementation of legal policies is strongly influenced by politics, in this case politics is identified with policy.³⁴ Furthermore, at the level of concept and implementation of law in Indonesia, it is strongly influenced by the legal theory of positivism, where this can be seen in the domination of the concept of codification of law in various types of law that apply in Indonesia.³⁵

To ensure the proper implementation of legal functions, authority must be obeyed to achieve order, stability and mainly welfare of the people.³⁶ This authority is then used to achieve the main essence of law, which is justice. The relevance of authority, according to the viewpoint of the Positivism Legal Theory, authority is used to monopolize the purpose of law, the sanctions that can be used by the authorities to enforce the law and apply justice to the people.³⁷

From the point of view of political science, law is a means of the elites in power and it is "commonly" used as a tool to maintain, increase, and/or develop authority.³⁸ From a sociological point of view, these elites are small groups of a society who have high or highest positions in society and who usually come from the upper or upper middle classes.³⁹

Authority can be perceived as good or bad, it really depends on when it is used, whether it is focused on the objectives which have been agreed upon or it deviates far from the original objectives. This is an essential element for an orderly public life and even for any organized form of organization. However, due to its nature, in order to be useful, the scope, direction and boundaries of the authority must be determined. For this reason, a law stipulated by the rulers themselves should be adhered to firmly, in this case the regional autonomy law which has a noble purpose for the welfare of the people by maximizing regional potential.⁴⁰

³⁴ Nuraini Nuraini, "Pengaruh Kekuasaan Politik Terhadap Pembentukan Hukum Di Indonesia," *Jurnal Hukum Volkgeist* 2, no. 2 (2018): 103, <http://www.jurnal-umbuton.ac.id/index.php/Volkgeist/article/view/91>.

³⁵ I Dewa Gede Atmadja and I Nyoman Putu Budiarta, *Teori-Teori Hukum* (Malang: Setara Press, 2018), 115.

³⁶ Nuraini, "Pengaruh Kekuasaan Politik Terhadap Pembentukan Hukum Di Indonesia," 98.

³⁷ Fais Yonas Bo'a, "Pancasila Sebagai Sumber Hukum Dalam Sistem Hukum Nasional," *Jurnal Konstitusi* 15, no. 1 (2018): 27–49, <https://jurnalkonstitusi.mkri.id/index.php/jk/article/view/1259>.

³⁸ Bagir Manan, "Nilai-Nilai Dasar Keindonesiaan Dan Negara Hukum," in *Bunga Rampai: Memperkuat Peradaban Hukum Dan Ketatanegaraan Indonesia* (Jakarta: Sekretariat Jenderal Komisi Yudisial Republik Indonesia, 2019), 23–24, <https://komisiyudisial.go.id/storage/assets/uploads/files/Buku-Bunga-Rampai-KY-2019.pdf>.

³⁹ Mahatva Yoga Adi Pradana, "Relasi Sosial Elit Politik Dan Sesepeuh Desa Melalui Langgar Di Kabupaten Malang," *Jurnal Sosiologi Agama* 13, no. 1 (2019): 183–184, <https://ejournal.uin-suka.ac.id/ushuluddin/SosiologiAgama/article/view/131-07>.

⁴⁰ Budijarto, "Pengaruh Perubahan Sosial Terhadap Nilai-Nilai Yang Terkandung Dalam Pancasila," 34–35.

4. Conclusion

Regional Autonomy in Indonesia is strongly influenced by the political system and authority in Indonesia, where the condition that occurs is the result of its legal product, namely Regional Autonomy which is heavily dominated by political elements, consequently the product it's produced is nothing more than a crystallization of bargaining between political elites. Whereas the state should actively strive for the welfare of the people, act fairly that can be felt by all people equally, not for the welfare of certain groups but for all people of Indonesia.

Regional autonomy established by the central government which has the authority is a product of political activity, which is read from the context and interests that gave birth to the law and how the law is implemented. People's welfare and fair treatment from the authorities to the society can be realized if political activities that give birth to legal products are indeed in favor of the values of justice itself.

The Unity in Diversity philosophy is unique to the Indonesian people, and not owned by any other country in the world. So the application of Regional Autonomy is a must and always prioritize and respect that each region in Indonesia has its own uniqueness, so it is impossible if the application of regional autonomy and uniformity are enforced without considering local wisdom.

The establishment and implementation of Regional Autonomy in Indonesia, must take into account and have a big vision, that is a focus on social justice for all the people of Indonesia, with the initial step that this legal product can provide comfort to the Indonesian people, not the other way around becoming a 'trigger' to the emergence of regional sentiment, and so forth. To achieve this, the formation and implementation of Regional Autonomy in Indonesia, should consider the main element of the unique national identity, which is the diversity (*bhinneka*) to achieve the unity (*tunggal ika*).

Taking into account the condition of Indonesia nation, which started to be apathetic to the legal products being formed and implemented, experiencing a crisis of trust in their leaders, since there is no leader whom they can look up to, the doctrine of national character building has become a very urgent matter to be implemented in all lines, starting from early childhood education level up to the university level. From the application of this doctrine, the professional and moral integrity, especially those who sit in a position, can be witnessed by the people. Corrective measures from the laws and regulations regarding the regional government and its autonomy should be built on the foundation of jurisprudence as activity of theorizing, so that if

the legal product is associated with the government's efforts to implement national character building, it is expected that the formulation of legal products on regional autonomy always uses a method characterized by Pancasila.

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References

- Aldino, Arjuna Putra. "20 Tahun Reformasi: Dari Oligarki Menuju Plutokrasi?" *Indoprogress*. Last modified 2018. <https://indoprogress.com/2018/05/20-tahun-reformasi-dari-oligarki-menuju-plutokrasi/>.
- Atmadja, I Dewa Gede, and I Nyoman Putu Budiarta. *Teori-Teori Hukum*. Malang: Setara Press, 2018.
- Bariun, La Ode. "Laporan Penelitian : Masa Depan Otonomi Daerah Terhadap Keberlakuan Undang-Undang Cipta Kerja (Resentralisasi Ataupun Desentralisasi)." Pusat Penelitian dan Pengkajian Perkara, dan Pengelolaan Perpustakaan Kepaniteraan dan Sekretariat Jenderal Mahkamah Konstitusi, 2021. https://www.mkri.id/public/content/infoumum/penelitian/pdf/hasilpenelitian_112_Laporan_Akhir_unSultra.pdf.
- Bo'a, Fais Yonas. "Pancasila Sebagai Sumber Hukum Dalam Sistem Hukum Nasional." *Jurnal Konstitusi* 15, no. 1 (2018): 27–49. <https://jurnalkonstitusi.mkri.id/index.php/jk/article/view/1259>.
- Budijarto, Agus. "Pengaruh Perubahan Sosial Terhadap Nilai-Nilai Yang Terkandung Dalam Pancasila." *Jurnal Kajian Lemhannas RI* 34, no. Juni (2018): 34–35. https://www.lemhannas.go.id/images/Publikasi_Humas/Jurnal/Jurnal_Edisi_34_Juni_2018.pdf.
- Damanik, Erond L. *Politik Lokal: Dinamika Etnisitas Pada Era Desentralisasi Di Sumatera*

- Utara. Medan: Simetri Institute, 2018.
- Elviandri, Elviandri, Khuzdaifah Dimiyati, and Absori Absori. "Quo Vadis Negara Kesejahteraan: Meneguhkan Ideologi Welfare State Negara Hukum Kesejahteraan Indonesia." *Mimbar Hukum* 31, no. 2 (2019): 252–266. <https://journal.ugm.ac.id/jmh/article/view/32986negara>.
- Eriton, Muhammad. "Konfigurasi Politik Dan Karakter Produk Hukum." *Eritonime (Muhammad Eriton Blog)*. Last modified 2020. <http://eriton.staff.unja.ac.id/2020/03/31/konfigurasi-politik-dan-karakter-produk-hukum/>.
- Faiz, Pan Mohamad. "Teori Keadilan John Rawls (John Rawls' Theory of Justice)." *Jurnal Konstitusi* 6, no. 1 (2009): 135–149.
- Hamid, Hendrawati. *Manajemen Pemberdayaan Masyarakat*. Makassar: De La Macca, 2018.
- Haryanti, Amelia. *Sistem Pemerintahan Daerah*. Tangerang Selatan: UNPAM PRESS, 2019.
- Hilman, Yusuf Adam. *UPETI Dalam Perspektif Teori Hegemoni*. Ponorogo: Calina Media, 2017.
- Ismail, Ismail. *Etika Pemerintahan*. Yogyakarta: Lintang Rasi Aksara Books, 2017.
- Karsayuda, M. Rifqinizamy. "Politik Hukum Nasional Legislasi Hukum Ekonomi Syariah." *De Jure: Jurnal Hukum dan Syariah* 7, no. 1 (2015): 39–46. <http://ejournal.uin-malang.ac.id/index.php/syariah/article/view/3510>.
- Komalasari, Kokom. "Preface Proceedings of the 2nd Annual Civic Education Conference (ACEC 2019)," 2019. <https://www.atlantis-press.com/proceedings/acec-19/preface>.
- Kresno, Prabu. "Konsep 'Welfare State Theory' Maksimalkan Peran Pemerintah." *Kumparan*. Last modified 2018. <https://kumparan.com/bathara-kresno/konsep-welfare-state-theory-maksimalkan-peran-pemerintah>.
- Lestari, Rohana Widhi, and Abu Talkah. "Analisis Pengaruh Bantuan Sosial Pkh Terhadap Kesejahteraan Masyarakat Pkh Di Kecamatan Panggungrejo Kabupaten Blitar." *REVITALISASI: Jurnal Ilmu Manajemen* 9, no. 2 (2020): 229–241. <https://ejournal.uniska-kediri.ac.id/index.php/Revitalisasi/article/view/1367>.
- Lev, Daniels S. *Hukum Dan Politik Di Indonesia: Kesenambungan Dan Perubahan*. Jakarta: LP3ES, 1990.
- Manan, Bagir. "Nilai-Nilai Dasar Keindonesiaan Dan Negara Hukum." In *Bunga Rampai: Memperkuat Peradaban Hukum Dan Ketatanegaraan Indonesia*, 23–24. Jakarta: Sekretariat Jenderal Komisi Yudisial Republik Indonesia, 2019.

- <https://komisiyudisial.go.id/storage/assets/uploads/files/Buku-Bunga-Rampai-KY-2019.pdf>.
- Masyhar, Masyhar. "PKH, Biological Child of Welfare State." *Ministry of Social Affairs Republic of Indonesia*. Last modified 2020. <https://kemensos.go.id/en/pkh-biological-child-of-welfare-state>.
- Mursyidin, Mursyidin. "Geneologi Kebijakan Desentralisasi Dari Kolonialistik Hingga Pascakolonialistik Demokratik Di Indonesia." *Source : Jurnal Ilmu Komunikasi* 4, no. 2 (2018): 90–108. <http://jurnal.utu.ac.id/jsource/article/view/924>.
- Nuraini, Nuraini. "Pengaruh Kekuasaan Politik Terhadap Pembentukan Hukum Di Indonesia." *Jurnal Hukum Volkgeist* 2, no. 2 (2018): 92–104. <http://www.jurnal-umbuton.ac.id/index.php/Volkgeist/article/view/91>.
- Pradana, Mahatva Yoga Adi. "Relasi Sosial Elit Politik Dan Sesepuh Desa Melalui Langgar Di Kabupaten Malang." *Jurnal Sosiologi Agama* 13, no. 1 (2019): 181–206. <https://ejournal.uin-suka.ac.id/ushuluddin/SosiologiAgama/article/view/131-07>.
- Pratama, Prawira Yudha, Budiman Budiman, and Mia Sarmiasih. "A Comparative Political Analysis Between the New Order Regime and The Reformed Era in Indonesia: A Case Study of Oligarchy Politics in the Mining Industry of East Kalimantan." *Jurnal Studi Pemerintahan* 10, no. 3 (2019): 196. <https://journal.umy.ac.id/index.php/jsp/article/view/6818>.
- Rangkasa, Edgar. "Penyelenggaraan Otonomi Daerah Guna Mewujudkan Kesejahteraan Masyarakat." *Lex Librum: Jurnal Ilmu Hukum* 4, no. 1 (2017): 617 –636. <https://www.lexlibrum.id/index.php/lexlibrum/article/view/98>.
- Risal, Muhammad. "Kearifan Lokal Dalam Pembentukan Daerah Otonomi Baru Di Era Otonomi Daerah (Studi Kasus: Kearifan Lokal Di Daerah Apau Kayan Kabupaten Malinau)." *JAR (Jurnal Administrative Reform)* 4, no. 2 (2016): 106–126. <http://e-journals.unmul.ac.id/index.php/JAR/article/view/597>.
- Sani, Abdul. "Otonomi Daerah Esensi, Tujuan Dan Manfaatnya Bagi Provinsi Kepulauan Bangka Belitung." *BKPSDMD Provinsi Kepulauan Bangka Belitung*. Last modified 2017. <https://bkpsdmd.babelprov.go.id/content/otonomi-daerah-esensi-tujuan-dan-manfaatnya-bagi-provinsi-kepulauan-bangka-belitung>.
- Sihombing, B. F., and Adnan Hamid. "Impact of the Omnibus Law/Job Creation Act in Indonesia." *International Journal of Scientific Research and Management (IJSRM)* 8, no.

- 10 (2020): 266–281. <https://www.ijsrm.in/index.php/ijsrm/article/view/2961>.
- Situmorang, Chazali Husni. “Kebijakan Pemerintah Kaitannya Dengan Kesejahteraan.” *Jurnal Social Security*. Last modified 2017. <http://litasipublik.or.id/news/kebijakan-pemerintah-kaitannya-dengan-kesejahteraan.html>.
- Usman, Syaikhu, Ilyas Saad, M. Sulton Mawardi, Nina Toyamah, Vita Febriany, and Pamadi Wibowo. “Pelaksanaan Desentralisasi Dan Otonomi Daerah: Kasus Tiga Kabupaten Di Sulawesi Utara Dan Gorontalo.” Lembaga Penelitian SMERU, 2001.
- Watra, Boyke Ledy. “Kuasa Berlebih Raja Kecil Otonomi Daerah.” *Antara*. Last modified 2019. <https://www.antaraneews.com/berita/980054/kuasa-berlebih-raja-kecil-otonomi-daerah>.
- Wijayanti, Septi Nur. *Menagih Komitmen Pemerintah Mewujudkan Keadilan Sosial*. Yogyakarta: LP3MUY, 2019.
- Yufan M., Finradost. “Perangai Politik Dan Hukum.” *Badiklat Kejaksaan RI*. Last modified 2019. <https://badiklat.kejaksaan.go.id/artikel/detail/583>.