

THE EFFECT OF REGIONAL AUTONOMY LAW AND POTENTIAL OF REGIONAL EXPANSION STUDY: POTENTIAL FORMATION OF TAPANULI PROVINCE

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INTRODUCTION

Background

The demands from various communities of the importance and immediate require the realization of regional autonomy, as part of the democratization that rampant since the Reform Era. It is not only because of the influence of global tendency¹, but also the fundamental need of change to the realities of the national system built by the New Order regime. This regime was crippled in the political system, in addition to the economic system and legal system. The New Order's political system was centralized, authoritarian, repressive, antiparty, non-aspirational, relying on its dynamism on the government bureaucracy and did not on the political forces living in society, and the dominance of the executive power over the legislative institutions². The New Order's political system built by the regime aimed to create stability to support economic development, inspired by a spirit of unity and based on a centralized pattern of power. Everything including culture had to be uniform, lack the tolerance of diversity, with deep understanding of the objective conditions of Indonesian society as a plural society both plurality of horizontal and vertical³, which in turn only adds to the burden of stability. It was created by the New Order regime which was essentially a "sterile stability" of the National Stability. It was turned out to be a "collapse Stability" that eventually collapsed, beginning with the 1997 monetary crisis, which continued into the total crisis of 1998, with the collapse of the New Order regime, followed by the emergence of the Reform Order or the Reform Era.

As mentioned at the beginning of this paper, the demand for the realization of regional autonomy is as part of democracy in the country. Furthermore, this problem is a "regional problem", as a result of the centralized, authoritarian and repressive political system. Such a trend, it is not only in Indonesia, but also in global era. Since the last decade of the twentieth

century, the global geopolitical stage has been colored by "regional problems", which ended with the occurrence of national disintegration such as in the former Soviet Union, Yugoslavia and Czechoslovakia.⁴

The emergence of such regional problems can be caused by regional imbalance⁵; it may also be due to the objective conditions of the regions concerned such as economic zoning conditions. It can be more developed, if it is formed a province. With the establishment of a Province, regional empowerment or potential empowerment of the region will have greater possibilities and opportunities for growth.

To anticipate the new trend, the Government and the People's Representatives Council have drafted legislation, namely:

- Law Number 22 Year 1999 regarding Regional Government and has been amended by Law Number 32 Year 2004 regarding Regional Government and Law Number 12 Year 2008 regarding the amendment to both Law Number 32 Year 2004 regarding Regional Government
- Law Number 25 Year 1999 on Financial Equilibrium between Central and Regional Government and has been amended by Act No. 33 of 2004.

Followed by the rules of implementation which include:

- Government Regulation No. 16/2000 on the distribution of PBB revenue proceeds between the central and regional governments
- Government Regulation No. 25/2000 on the authority of the Government and the Authority of Provinces as Autonomous Regions.
- Government Regulation No. 129/2000 on Requirements for Establishment and Criteria of Regional Expansion, Elimination and Merger.
- Presidential Decree No. 67 of 1999 on Coordination Team Follow-up Implementation of Law No. 25 of 1999 on Financial Balance of Central and Regional
- Presidential Decree No. 49/2000 on Regional Autonomy Advisory Council.
- Several Decrees of the Minister of Home Affairs.

Need to be added, Law 22 Year 2004 has been changed into Law no. 32 of 2004 on Regional Government as a revision of Law no. 22 of 1999 on Regional Government, as well as Law No.33 of 2004 on the financial balance between the Central Government and Local

Government as a revision of Law no. 25 of 1999. This study focuses on Government Regulation (PP) no. 129 of 2000 on Requirements for Establishment and Criteria for the Expansion, Elimination and Merger of Regions in relation to the possibility of establishment of "Tapanuli Province". If PP. 129/2000 has not yet been replaced by the new government regulation, then the regulations in question will still apply. Suppose a new PP issued to replace PP no 129/2000, the results of this study will be a legal history study in accordance with the focus and object studied. For this study, the publication of PP NO 32/2004 and PP No.33 / 2004 intended to enrich of study results especially in macro perspective.

As stated in article 2 of PP 129/2000, that regional expansion aims to improve the welfare of the community through: a. Improving public services; b. Accelerating the growth of democratic life; c. Accelerating the implementation of Regional economic development; d. Accelerating Brightness Management; e. Improving security and order; f. Improving harmonious relationship between the center and the region.

As seen in Article 13 of Government Regulation (PP) RI No. 129 of 2000, that the expansion of regions can be done based on the following criteria: a. Economic ability; b. Regional potential; c. Socio-cultural ; d. Social politics; e. Total population; f. Area of Area; g. Other considerations that enable the implementation of regional autonomy.

The seven criteria are equipped with 19 indicators and 43 sub indicators (See RI No. 129 Th 2000, December 13, 2000). The seven criteria, indicators and sub indicators are the terms of reference (TOR) to conduct preliminary research on the implementation by the Regional Government or other appointed Institution/Agency, as one of the principal points for proposing the Formation or Regional Expansion.

Because the Province of Tapanuli entered into the territory of North Sumatra Province, in accordance with Article 1 paragraph 4 No. 129 Th.2000 stating that "the expansion of the region is the splitting of the status as the province of and so on", which is why the formation of Tapanuli Province is the process of expansion of a region of North Sumatera Province is divided into two provinces, namely North Sumatra Province itself and Tapanuli Province.

In addition, as stated in the Explanation of PP NO. 129/2000, in part I. General, it is mentioned that: "..... Regional establishment also means that the Region shall also

implement its regional autonomy according to the condition, potential, needs and capability of the Region concerned. Establishment of a New Autonomous Region may not result in the parent region being unable to carry out its Regional Autonomy.

According to the results of preliminary research which the authors did with the provincial division team of Tapanuli, that the territory of Tapanuli Province, which includes North Tapanuli Regency, Humbang Hasundutan Regency, Tobasa Regency, Samosir Regency, Central Tapanuli Regency, Sibolga Municipality, Nias Islands, Dairi Regency, economic capability, regional potency, social culture, social politics, and population, with indicators and sub indicators attached to it, deserve to be Province, ie Tapanuli Province, on one side of the new Province (ie Tapanuli Province) will be able to carry out regional autonomy, the other side of the parent province (Java province, North Sumatra) will also be able to carry out its own regional autonomy.⁶

In the process of Regional Expansion, as set forth in Article 16 paragraph (2) Procedure of Regional Expansion, PP. 129/2000, inter alia stated that: a. there is political will from the local government and the community concerned; In the explanation PP. 129/2000, Article 16 paragraph (1) letter a, is mentioned; "Which means the political will of the Local Government and the public is the existence of public statements through NGOs, political organizations and others, the declaration of the Governor, the Regent / mayor concerned, which is further formally stipulated in the form of written consent, either through the head of the Region and the relevant DPRD ".

Problem Formulation

By looking at the reality (*das sein*), that the area of Tapanuli Province 15 consists of 14 districts and one city area, has the potential of a relatively large area, both cultural and political economic potential. However, from the various potentials, there is no empowerment of coordinated regional potentials among regencies / municipalities in the region. In the empowerment of coordinated regional potentials in the Tapanuli Province, it is necessary to have a fundamental change in nature (*das sollen*), by developing the possibility to make Tapanuli Province more advanced.

With the existence of these problems, they can be broken down into several issues as follows:

1. What is meant by empowerment of law of regional autonomy and region potential as the focus of this study, as well as its relation to the object under investigation that is Possibility of Tapanuli Province
2. What is the possibility of new areas (read "Tapanuli Province") and main regions (North Sumatera Province), if there is a split into two provinces?
3. What benefits can be given by the results of this study, whether those interested in the formation of "Tapanuli Province" or for the purpose of improving the regional autonomy law?

Objective of the Research

The basic consideration to develop Tapanuli region into a Province is not apart from the purpose of the expansion of the Region which is to improve the welfare of the community through various ways as stated in Article 2, PP No. 129 of 2000. Further, it has been mentioned at the beginning of this proposal. But in order to be closer to the existing realities and problems faced, and in accordance with the objectives of the expansion of the Region, some of the basic considerations for the development of the Tapanuli region into a Province are as follows:

1. Shortening the range of government bureaucracies both in terms of geographical and hierarchical, so that the empowerment of government bureaucracy is more likely.
2. Coordination between districts and cities is more effective and intensive.
3. Increasing sources of development financing
4. Increased public participation, including in decision-making processes
5. Improving the quality of executive and legislative institutions in realizing good and responsible governance (good governance)

Research Method

This research is a qualitative research, although this study tended to be a stellar study, but the holistic nature still accompanies the research process. This research went from micro symptom to macro, which also from macro to micro. Thus the thinking pattern in this study is inductive-deductive, which is furthermore deductive-inductive.

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symptom to macro, which also from macro to micro. Thus the thinking pattern in this study is inductive-deductive, which is furthermore deductive-inductive. The research process is as follows:

DISCUSSION

Legal science consists of three sciences, namely: 1. The science of rules or *normwissenschaft* or *sollenwissenschaft*; 2. Science of understanding; and 3. The science of reality or *tatsachenwissenschaft* or *senwissenschaft*, which highlights law as behavior or attitude of action. The science of reality consists of Sociology of Law, Law Anthropology, Legal Psychology, and Comparative Law.⁷

Satjipto Raharjo explains, that Sociology of law is the study of the phenomenon of law in terms of empiric that is how the law is run / work in everyday life. Study with the approach Sociology of law has a special characteristic, in contrast to the normative approach. Characteristics of the approach of Sociology of Law are as follows:

1. Sociology of Law aims to provide an explanation of legal practices. The sociology of the law seeks to explain why such a practice of law takes place, what causes, what factors influence, background, etc. Max Weber calls such an approach with interpretative understanding by explaining causation, social behavior.
2. The sociology of the law constantly tests the validity of empiric from a rule / statement of law
3. Sociology The law does not assess the law. Behavior to obey the law and deviate from the law is equally observational objects. He does not judge one over the other. The main concern is to provide an explanation of that object studied. Thus, Sociology of Law approaches objective and law approaches objectively and gives a description of the reality of law.⁸

George Ritzer explains that sociology is a social science that has double paradigm. It consists of Social fact paradigm, social definition paradigm, and social behavior paradigm. Sociologists working on the social fact paradigm focus on the macro-structure of society, making Durkheim's work as a cop, using structural functionalism and conflict theory, tend to use interviews and questionnaires. The sociologist who follows the social definition paradigm focuses on the actions and social interactions generated by the thinking process, accepting the

work of social action as exemplars using several theories (such as action theory) symbolic interactionism and phenomenology), and tends to use the method of observation in research activities. Sociologists who accept the social behavior paradigm devote their attention to "behavior and behavioral view" as the subject, using exchange theory, and tend to use the method of experimentation.⁹

This study is a case study, which is why the theories of macro sociology will be more appropriate as a backdrop of analysis. The theories used was micro sociology, the paradigm that followed tends to be in the social definition paradigm. However, since the problems studied in addition to micro dimension are also of macro dimension, although this research is moving from a social definition paradigm, with theories of micro sociology, it is possible to develop into an integrated sociology paradigm, with integrated theories as well.

The essence of integrated social paradigm (integrated sociological paradigm). As explained by Ritzer, lies in the relationship between social stages, namely: (1) macro-objective, eg law, bureaucracy, technology and so on; (2) subjective macros, such as culture, values, norms and so on; (3) micro-objectives, for example various forms of social interaction such as conflict, cooperation and competition; (4) micro-subjective, such as thought processes and social construction.¹⁰

The approach in this study employs an interdisciplinary approach, while still moving and ending in the approach of legal sociology, which refers to an integrated sociology paradigm. It concerns on proceeding to the integrated sociology paradigm, moving from social definition. Hence on the other hand it can also be seen, that this study refers to the paradigm of constructive constructivism in the social sciences. Furthermore, we can see the comparison between interpretive paradigm interpretative with positivism and post positivism paradigm and paradigm critical theory in the following table.

The development of the region is the enhancement of activities to the elements within the territory covering institutions, economic, social and ecological in an effort to increase the level of quality of life of society (Mahali, 2010). While Hadjisaroso (1993) said that the development of the region is an act of building the region / region in order to improve the welfare of people's lives.

The development of the region can be formulated as a series of efforts to realize the integration in the use of various resources, gluing and balancing the national development and unity of national territory, increasing harmony between regions, integration between development sectors through the process of spatial planning in order to achieve sustainable development goals in the Unitary State Republic of Indonesia. The development of a region related to its potential and optimization of the potential utilization.

The development of a region is an integral growth of each system consisting of social, economic, infrastructure, reduced disparities between regions, and preservation of environmental sustainability in a region (Riyadi, 2002). The development of the area according to Schumpiter in (Jhingan, 2010) is a spontaneous and discontinuous change in the stationary state which constantly changes and replaces the existing equilibrium situation, where it can be assumed that the regional development indicator can be observed from the development of infrastructure, economic and social aspect. The criteria chosen to state the level of development of a region is the level of convenience for the community in getting the needs of life, both in the form of necessities of life and the need to conduct business activities.

a. Aspects of Infrastructure

The success of development can be measured from the availability and adequacy and ability of facilities and infrastructure that have an important role to improve the welfare of the community. Some indicators that empirically and theoretically have important roles include transportation facilities and infrastructure as well as facilities and infrastructure of lighting. Success in the transportation sector, among others, can be seen from the length of the road, the higher the access of the community to various life activities including economic activities, so that the mobilization of population between regions or between cities or between villages is also higher. Still in relation to the indicators for measuring development performance in the field of basic facilities and infrastructure, the electricity sector is an important sector to provide a great boost to the economic activities of the community and accelerate the improvement of people's welfare. On the basis of this, the ratio of the number of electricity subscribers to the entire household is one of the indicators of development success.

Infrastructure systems can be defined as basic facilities or structures, equipment, installations built and required for the functioning of social systems and economic systems of society. The engineering definition also specifies what the infrastructure system does and says

the infrastructure is a physical asset designed within the system, providing important public services.

Infrastructure refers to the physical system that provides transportation, irrigation, drainage, building buildings and other public facilities needed to meet basic human needs in the social and economic sphere. The infrastructure system is a major supporter of the functions of social systems and economic systems in people's lives.

Components of infrastructure is a physical asset designed in the system, so as to provide excellent service to the community. Infrastructure refers to the physical system that provides transportation, irrigation, drainage, building buildings and other public facilities needed to meet basic human needs in the social and economic sphere (Grigg,in Kodoatie, 2005). The infrastructure system is a major supporter of the functions of social systems and economic systems in the daily life of society.

The regency/municipality resulting from expansion in North Sumatera Province will actively undertake infrastructure development, as well as the regency / city resulted from the expansion in North Sumatera Province. With the formation of Districts / Cities division will get the budget from the Central Government namely General Allocation Fund (DAU), Special Allocation Fund (DAK), Balancing Fund and Profit Sharing Fund (DBH) that can be used for infrastructure development. Regency / City of expansion will build office buildings, hospitals, schools, stadiums and sports hall, water treatment, roads and bridges, markets and other public facilities which basically is an effort to improve the quality and intensity of services to the community.

b. Economic Aspect

With other reconstruction of other public structures and facilities, economic Aspects Achievement of development objectives can be seen, among others, from per capita national income, reduction of the number of poor, and unemployment rate. The higher level of income per capita shows the more successful development achieved. Meanwhile, the less number of poor people, the more successful the development. In practice the calculation of per capita income in an area is often represented by the Gross Regional Domestic Product per capita. Regional income is the entire income earned by a population of a region within a given year. On the other hand, per capita regional income is regional income divided by population.

Furthermore, it can be seen on the level of income distribution, among others with gini ratio, the area under the curve of lorenz, the number of people who are below the poverty line and others. In this study, the number of poor people is the most representative indicator used to see this level of equity. The greater the number of poor people means less successful development, or lower development performance. Regional development is an integral part of economic growth which is continuously a major factor affecting the development of a region. Measurable and objective economic developments, the expansion of labor, capital, and the volume of trade and consumption, economic development can be used to illustrate the underlying determinants of economic growth, such as changes in production techniques, public attitudes and institutional institutions (Jhingan, 2010). The economic activity of the people in the real sector will increase the family income, especially the base economy (Ricardson in Tarigan, 2005). This is an economic activity that can affect the development of a region.

c. Social Aspects

The success of achieving development goals can be seen in the education and health sectors. The success of development seen from the indicators of the performance of the education sector is the opportunity for educated people to get a decent education in quality and quantity. In terms of quality, this indicator is operationally can be seen from the ratio of teachers to students. This ratio is theoretically positively correlated with students' absorption of the given teaching material. This means that the higher the ratio of teachers to students, the better the student's absorption of the material taught so the higher the quality of education obtained. The most important health indicator is health distribution for the community. This indicator can be seen in the ratio of health workers to the entire population. The higher the ratio of health workers to the population, the greater the chances of society in general to get better health services. Human factor is the most important factor in economic growth that emphasizes on efficiency. Modern economists mention the formation of human capital, namely the process of increasing the knowledge, skills and abilities of the entire population of the country concerned. In recognizing the development of a region from the social aspect, poverty (poverty) is an indicator used in assessing the development of a region. According to Anwar and Rustiadi (2000), each region has superior sectors that have a significant impact on regional economic development. The impacts of these sectors can be direct or indirect. In relation to direct and indirect impacts, the development of these leading sectors will lead to

the development of other relevant sectors in a particular region. Thus the development of the region needs to pay attention to the leading sectors that exist in order to prioritize so that it becomes more focused. The existence of regional development policy based on priority can result in a more directed policy that reduces the risk of waste of resource utilization. In the context of the current era of regional autonomy, especially regarding the autonomy of districts and cities, regional development should be a very important issue in order to prosper the community. Therefore, the existing districts and municipalities, both old and new autonomous regions, should have a regional development spirit that is more viscous than just the euphoria of "independence" which certainly will not lead to a better change for the region and its people especially in the context of achieving independence areas such as the early philosophy of regional autonomy. Thus, one of the challenges faced by districts and cities today and in the future is the ability to realize appropriate regional development so that the objectives of regional autonomy can be realized. Referring to Law Number 3 Law No. 2 of 2004 on Regional Government and Law Number 25 Year 2004 regarding National Development Planning System which affirms that each region has greater authority in the development of its territory, Regency / City also has obligations with wider authority so as to be able to apply the right regional development strategy in order to prosper the society. Regional expansion basically cannot be separated from the current trend where some areas (with the issue of access to minimal public services and issues of community welfare are still low) prefer to divorce themselves rather than reoriented regional development based on territorial. From the glimpse of the potential that exists, Regency / City of expansion in North Sumatera Province has some famous area, such as Regency of Mandailing Natal with result of rubber plantation and its mining, Samosir regency which is known for its natural attraction that is Lake Toba, South Nias Regency also known as natural attraction that is Lagundri Beach and Sorake Beach are beautiful and well used for surfing sports, Coal Regency is known for its marine products and potential for the development of ports in the East Coast, Labuhan Batu Utara Regency with the results of oil palm plantations and rubber, Serdang Bedagai Regency with the result of p agriculture, marine products and snack production and Pakpak Bharat District with its very famous coffee products and other expansion areas. However, in general, the potential area and human resources of the Regency / City are still considered minimal so that its development takes a long time to be parallel to other areas. The challenge (both internal and external) Regency / City as new autonomous regions need to be balanced with regional development strategies can capture the reorientation of regional-based territorial development

so that the meaning and implementation of regional autonomy in the Regency / City in North Sumatra Province does not lose its essence. Thus, regional development is no longer interpreted as an equally broad development of the whole sector, but rather the way in which sectors are eminent and how they relate to the spatial, institutional, and important aspects of regional development.

CONSLUSION

Expansion of the region is a process of splitting the region, from a province, county, or city to more than one region. Tarigan stated that the division of regions is the division of administrative authority of a region into two or several areas. Expansion of the territory includes the division of the area and the potential of the natural resources contained in it and the population.

The reform era marked by the increasing demand for regional expansion goes hand in hand with the regulation of the formation of new autonomous regions which is considered easier than the previous time. Since regional autonomy and fiscal decentralization began on 1 January 2001, the expansion of regency or city and also province became very popular as the number continues to grow. In fact, the formation of new areas with consideration of approaching public service to the community or geopolitical and geo-economic strategic considerations has been done by the Government of Indonesia before the issuance of Law Number 22 Year 1999 regarding Regional Government which was enforced since January 2001. The issue of regional expansion and criteria has been established through Government Regulation No. 129/2000 on Criteria for Expansion and Requirements for the Establishment, Elimination and Merger of the Regions which are then amended by Government Regulation No. 78 of 2007 on Procedures for the Establishment, Removal and Merger of Regions. Law Number 22 Year 1999 opens opportunities for provinces, districts and municipalities to expand regions. The rules for the implementation of expansion are regulated in Government Regulation No. 129/2000 on Criteria for the Expansion and Requirements for Formation, Elimination and Regional Merger.

In PP Number 129 Year 2000 set some criteria of assessment indicators that must be fulfilled by the areas to be expanded. Although Law Number 22 Year 1999 has been revised into Law Number 32 Year 2004 which regulates 3 requirements for the establishment of new regions namely administrative, technical and physical requirements of territorial, but the

technical regulation of expansion area refers to Government Regulation Number 129 Year 2000 and subsequently revised to Government Regulation Number 78 Year 2007 on Procedures for Establishment, Elimination and Merger of Regions.

Since the process of democratization in Indonesia began in 1998, and coupled with the enactment of regional autonomy officially began on January 1, 2001, the desire of people in the region to expand the region increased sharply. As data from the Ministry of Home Affairs of the Republic of Indonesia the development of autonomous regions in Indonesia in 1999 to 2013 has formed 217 new autonomous regions consisting of 8 Provinces, 175 Regencies, and 34 Municipalities. Thus, the total autonomous region is currently 535 consisting of 34 Provinces and 501 Regencies and Municipalities. Meanwhile, DKI Jakarta Province consists of 1 administrative district and 5 administrative cities, because DKI Jakarta is a special area special.

Based on the results of the study, there are reasons underlying the implementation of regional expansion are:

- a. Reasons for closer service to the community. This is the main reason for the lack of geographical constraints, infrastructure and transportation facilities.
- b. Historical reason, the expansion of a region is done for historical reasons, namely that the region of pemekaran has a certain historical value.
- c. Cultural or cultural reasons (ethnicity), where pemekaran region occurs because it considers the cultural differences between the region concerned with the parent region.
- d. Economic reasons, where regional expansion is expected to accelerate development in the region.
- e. The reasons for the budget, regional expansion is done to get the budget from the government.
- f. The reason for justice, that pemekaran be used as an excuse to get justice. That is, the expansion of regions is expected to create justice in terms of filling public positions and equitable development.

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