International Journal of Scientific Engineering and Science
Volume 3, Issue 3, pp. 34-40, 2019. ISSN (Online): 2456-7361

Constitutionalism of Deconcentration Arrangements in Law Number 23 Year 2014 Concerning Regional Government

Suhariningsih[1], Abdul Rahmat Budiono[2], Iwan Permadi[3], Firmansyah Lumban Tobing[4]
[1]Professor of Agrarian Law, Faculty of Law, Brawijaya University, Indonesia
[2]Professor of Labor Law, Faculty of Law, Brawijaya University, Indonesia
[3]Associate Professor of Agrarian Law, Faculty of Law, Brawijaya University, Indonesia
[4]PhD. Candidate, Faculty of Law, Brawijaya University, Indonesia

Abstract— *The regulation on deconcentration contained in Law Number 23 of 2014 (hereinafter referred to as Law No. 23 of 2014) which is a change from Law Number 32 Year 2004 concerning Regional Government This research is focused on analyzing the existence of deconcentration arrangements that apply to regency regions and the City based on Law No. 23 of 2014 where previously deconcentration was only applied to the Province. At present, the position of the Regency and City is not only an Autonomous Region which has the authority to regulate the affairs that exist in its area, but also as an administrative area that can carry out delegation of authority from the Central Government. Meanwhile, when viewed from its constitutional basis, the provisions of Articles 18, 18A and 18B of the 1945 Constitution of the Republic of Indonesia (the 1945 Constitution of the Republic of Indonesia) do not regulate matters concerning deconcentration. In addition, with the re-strengthening of the regulation regarding deconcentration, the existence of Law No. 23 of 2014 is considered to be a centralized pattern. The approach used is in the form of approaches: historical, conceptual, statutory and philosophical. This study uses primary, secondary and tertiary legal materials. Meanwhile, analysis of the subject matter and legal material was carried out in a descriptive analytic manner. The results of this study indicate that deconcentration in its implementation can be juxtaposed with decentralization, even the existence of deconcentration complements the existence of decentralization and co-administration tasks. Deconcentration can be used to organize Central Government affairs in the regions which also aim to supervise, supervise and strengthen the Republic of Indonesia. In addition, deconcentration arrangements relate to the unity and unity of the state, which is the responsibility of the Central Government and Regional Government as part of the Republic of Indonesia.*

Keywords— *Deconcentration, regional government, autonomous region, constitution, centralized, decentralized.*

I. INTRODUCTION

Since the formation of the Republic of Indonesia, the founders of the nation have realized that the Republic of Indonesia has a vast area, which is separated by the ocean and each region has its own unique characteristics and diverse potential. By realizing this, the Indonesian state was formed into a unitary state divided into regions where each region was given the authority to regulate and manage its own region, in accordance with the potential and distinctiveness of their respective regions. This paradigm is at the same time the background of the formation of a regional government based on the provisions of Article 18 of the 1945 Constitution of the Republic of Indonesia which aims to accelerate the realization of the welfare of regional communities by means of equitable development to the regions.

Post-independence of the Republic of Indonesia in 1945, several regulations concerning Regional Government that had once prevailed, the majority of regions in Indonesia still experienced lags and did not even feel significant development and development. Therefore, it is not surprising, when the amendments to the 1945 Constitution of the Republic of Indonesia were carried out (1999-2002), one of the agenda priorities and the main agenda was about Regional Government. The peak was in 2000, the second amendment was implemented specifically to the provisions of Article 18 of the 1945 Constitution of the Republic of Indonesia. The changes were carried out both structurally and substantially, which subsequently consisted of Articles 18, 18A of the 1945 Constitution of the Republic of Indonesia which also brought As a result of the Elucidation of the 1945 Constitution of the Republic of Indonesia which has been a reference in regulating regional government becomes invalid, thus the constitutional source of regional government in Indonesia is only found in the provisions of Article 18, 18A and Article 18B of the 1945 Constitution of the Republic of Indonesia (Huda, 2009).

Further arrangements regarding the current Regional Government are through Law No. 23 of 2014 which supersedes Law No. 32 of 2004 which produces quite a number of changes. one of the changes is regarding deconcentration, which in the previous law was declared as the delegation of government authority by the Government to the Governor as the representative of the government and / or to vertical agencies in certain regions (Article 1 number 8 of Law No. 32 of 2004), in other words deconcentration is only carried out or held by the Governor as a representative of the Central Government and only vertical status. Whereas according to the provisions contained in Law No. 23 of 2014, the deconcentration notion is the delegation of government authority by the Government to the Governor as the representative of the government and / or to the vertices of certain regions and / or Governors and Regents / Mayors as responsible for general government affairs (Article 1 number 9

of Law No. 23 of 2014). This means that in this provision it is stipulated that deconcentration is not only carried out by the Governor as a representative of the Central Government and only vertical agencies, but the Regent or Mayor can also organize Central Government affairs through deconcentration. This also implies that the position of the regency and city regional governments is not only an autonomous region through decentralization, but also as an administrative region with deconcentration in Article 1 number 13 of Law No. 23 of 2014).

According to Amrah Muslimin, quoted by Iskatrinah (2015) in his dissertation, deconcentration as a partial delegation of the authority of the Central Government to the existing central equipment in the region or the implementation of Central Government affairs that are not handed over to regional government units, carried out by Central Government organs in the regions . In essence, the tools of the Central Government carry out self-government in the regions and have the authority to make their own decisions to a certain extent based on responsibility to the Central Government, as bearers of costs and final responsibility regarding deconcentration affairs (Iskatrinah, 2015), through administrative deconcentration. Furthermore, Juniarto referred to the term administrative local government, where his government was formed because the implementation of all Central Government departments domiciled in the national capital would not be fully implemented by the Central Government.

In its development, the authority in implementing deconcentration experienced ups and downs in changes in the governance structure in Indonesia. In line with national needs, changes in government structures through existing laws and regulations have undergone eight changes since Indonesia's independence. Basically, the deconcentration policy received attention in the changes in 1945 and 1965. While a balanced change between decentralization and deconcentration was carried out three times, namely in 1957, 1974, and in 2004. Finally, with the enactment of Law No. 23 of 2014 which also incorporates decentralization, deconcentration and co-administration policies.

A very interesting issue regarding deconcentration is that the frequent deconcentration is contrasted with decentralization, in a sense, the existence of deconcentration will threaten decentralization and be judged as if it is re-centralized. Even though deconcentration is intended as a way to maintain and maintain the integrity of the unitary state. However, in the spirit of broad autonomy it is often interpreted that deconcentration will undermine autonomy. In Abdulrahman's note cited by Iskatrinah, states that: "... on the one hand, the government carries out a form of autonomy that does not endanger the position of the Central Government as the decision holder and the person in charge of the unitary state system, on the other hand. curb freedom and the development of regions in the framework of achieving national goals."

This view also occurred at the birth of Law No. 23 of 2014 which regulates the expansion of deconcentration coverage from previously only applied to the Provincial Government which is led by a Governor who has a position as the Head of the Autonomous Region as well as the Deputy Central Government in the region who then applies the District and City Governments Public Government Affairs. Therefore, Law No. 23 of 2014 is considered to be a centralized pattern.

II. Research Method

This type of research is normative legal research, this research is also inter and multi-disciplinary in nature, all of which are seen as a system (Rasjidi & Putra, 2003). The research approaches used include historical approaches, conceptual approaches, legislative approaches, and philosophical approaches. The type of legal material in this study consists of primary, secondary and tertiary legal materials (Soekanto & Mamuji, 1990). Primary sources consist of laws and regulations, official records or minutes in the making of laws and judges' decisions. Secondary sources consist of all legal publications which are not official documents. Legal publications can be legal dictionaries, legal journals, and books related to defense and security. Tertiary legal sources in the form of legal encyclopedias are used to understand the definition or understanding of technical terms used in scientific writing.

Collection of legal materials is done by studying documents or library materials in several libraries. Research is also carried out by collecting articles in scientific journals relating to research, official documents issued by the government and internet searches (Ibrahim, 2006). To analyze legal material, firstly, fact qualifications and legal qualifications are carried out which will produce headings (problems or legal events) by looking at the index of problems examined separately (Hartono, 1994). Legal materials obtained in the next study are described in accordance with the subject matter under study. Descriptions are carried out on "the content and positive legal structure" relating to the relationship of authority between the central government and local governments in the use of natural resources, especially in the forestry sector (Hadjon, 1994). Legal materials that have been described are then determined by means of interpretation in an effort to provide an explanation of the word or term whose purpose is less clear in a legal material related to the subject matter of the problem, so that other people can understand it (Ardhiwisastra, 2000).

III. Results and Discussion

a. Constitutional Meanings Article 18 of the 1945 Constitution of the Republic of Indonesia

To interpret the arrangements of the Regional Government, especially those listed in Article 18 of the 1945 Constitution of the Republic of Indonesia, cannot be separated from the basis of the form of a unitary state. Regulations concerning the Unitary State of the Republic of Indonesia in the 1945 Constitution of the Republic of Indonesia can be found in a number of articles, among others:

a. Article 1 paragraph (1) of the 1945 Constitution of the Republic of Indonesia: The State of Indonesia is a Unitary State, in the form of a Republic;

b. Article 25A: The Unitary State of the Republic of Indonesia is an archipelago characterized by an archipelago with territories whose rights and rights are determined by law; and
c. Article 37 Paragraph (5): Specifically regarding the form of the Unitary State of the Republic of Indonesia, changes cannot be made.

Meanwhile, the regulation regarding Regional Government in the 1945 Constitution of the Republic of Indonesia was regulated in the provisions of Articles 18, 18A and 18B of the 1945 Constitution of the Republic of Indonesia.

In the context of the form of the state, even though the Indonesian people chose the form of a Unitary State, in it a mechanism was established which enabled the growth and development of diversity among regions throughout Indonesia. Natural and cultural wealth between regions should not be uniform in the structure of the Unitary State of the Republic of Indonesia. In other words, the Form of The Unitary State of the Republic of Indonesia was held with the guarantee of the widest possible autonomy for the regions to develop in accordance with the potential of their natural wealth, which of course with encouragement, support, assistance provided by the Central Government (Asshiddiqie, 2005).

The term "divided up" (not consisting of) in the provisions of Article 18 paragraph (1) of the 1945 Constitution of the Unitary State of the Republic of Indonesia is not a term used by chance. The term directly explains that the country of Indonesia is a Unitary State where state sovereignty is in the hands of the Central Government. This is consistent with the agreement to maintain the form of the Unitary State. This is different from the term "consisting of" which shows the substance of federalism because the term indicates the location of sovereignty in the hands of the states (The People's Consultative Assembly (MPR RI) Secretariat, 2003). The substance of the regional division in the Unitary State of the Republic of Indonesia regulated in the provisions of Article 18 paragraph (1) of the 1945 Constitution of the Republic of Indonesia is intended to further clarify the division of regions within the Unitary State of the Republic of Indonesia which covers the provincial area and in the provincial regions.

Jimly Asshiddiqie affirmed the new provisions of Articles 18, 18A and 18B of the 1945 Constitution of the Republic of Indonesia. The format of the form of the Indonesian state has changed from a form of a rigid unitary state to a dynamic unitary state. That is, First, it is possible to conduct federalistic arrangements in relations between the Central Government and the Regional Government. Second, in the dynamics of relations between the Central Government and Regional Government it is also possible to develop a pluralistic economic policy, in the sense that different autonomy patterns can be applied for each region. The diversity of patterns of relations is evidenced by the acceptance of the principles of special autonomy in the Provinces of Nanggroe Aceh Darussalam and Papua Province, both of which have different government institutional formats than other Regional Governments in general.

In the provisions of Article 18, 18A, and 18B of the 1945 Constitution of the Republic of Indonesia, it does not provide confirmation of deconcentration in the implementation of Regional Government. For example Article 18 paragraph (2) changes to the 1945 Constitution of the Republic of Indonesia stipulates that Provincial Governments, District Regencies, Municipalities regulate and manage their own affairs according to the principle of autonomy and co-administration. On the other hand, it is stated that regional governments carry out the broadest possible autonomy, except for government affairs which by law are determined as Central Government affairs (Article 18 paragraph (5) of the 1945 Constitution of the Republic of Indonesia), but in practice, deconcentration remains in the regions.

According to Jimly Asshidiqie, the provisions of Article 18 paragraph (2) of the 1945 Constitution of the Republic of Indonesia should also contain provisions regarding the principle of deconcentration, not just the principle of autonomy and assistance. Even though in a federal system, such as the United States and Australia, the principles of regional government always consist of three principles, namely decentralization (autonomy), deconcentration, and co-administration. On the contrary, according to Benyamin Hoessein, quoted by Ni'matul Huda, it was different in opinion. According to him, the provisions of Article 18 paragraph (2) incorrectly refer to autonomy as a principle, however, in this paragraph it is implied that it is only followed by decentralization (autonomy) and co-administration. Deconcentration principles are not mentioned or regulated in the 1945 Constitution of the Republic of Indonesia. Such an attitude is very wise, because deconcentration is a refinement of centralization. The principle of absolute centralization is embraced in state organizations. In addition, the principle of deconcentration is almost never regulated in the constitution, especially the Fragmented Field administration System.

In line with this opinion, According to Bagir Manan in a general sense, decentralization is any form or action to spread the power or authority of an organization, position or official. Thus, deconcentration in the general sense can also be seen as a form of decentralization, because it implies power dispersion (Manan, 2001). Van der Pot describes decentralization by mentioning that not all regulations governing governance are carried out from the central (central). The implementation of government is carried out both by the center and various autonomous bodies. These autonomous bodies are distinguished between decentralization based on territorial (territorial decentralization) and functional decentralization (functioneele decentralisatie). According to Van der Pot, this form of decentralization can be distinguished between autonomy and co-administration.

Decentralization is not the same as autonomy. Decentralization is not a principle but a process. Things that are the principle are autonomy and co-administration. Deconcentration is not a principle, but is a process or way of organizing something. Deconcentration is a centralized sub-system, namely, how to implement a centralized system. Therefore, it is very wrong to place in a systematic Regional Government the antithesis of centralization.

b. Deconcentration in Regional Government Systems

Indonesia is a unitary state, namely a country whose state power is in the hands of the Central Government, but also has

a Regional Government that obtains power of authority from the Central Government through the surrender of a part of a clearly determined power, a system of centralization / deconcentration, decentralization and assistance tasks (medebewind). In the centralized / deconcentration system, state sovereignty, both in and out, is handled by the Central Government and delegated through the Central Government organs in the region (deconcentration). However, because of the vastness of the territory of Indonesia which is divided into several provinces, districts and cities that have plurality, specificity, distinctiveness and great potential that cannot only be regulated and managed by the Central Government. These regions have Regional Governments through decentralization or the transfer of authority from the Central Government with the intention of regulating and managing their own government affairs in accordance with their specificity and regional potential for the welfare of the people in their regions.

In practice, decentralization which is interpreted as "submission" of some authority has overlapped with the duties and authorities of the Central Government in the form of deconcentration or "delegation" of part of the authority of the Central Government to Regional Governments (especially districts / cities) and co-administration tasks. Strengthening the duties of the Central Government with deconcentration implicitly is not merely adding to the previously diminished role, but is further based on forward thinking, namely maintaining the sovereignty of a nation state (nation-state).

For this reason, the legislation provides the basis that the Central Government has the right to intervene in the form of supervision, guidance, supervision and evaluation of the performance of autonomy in Regional Governments. The right of the Central Government is carried out directly by the central level agency (Non-Departmental Government Institution / LPND), or indirectly with the delegation of authority through its apparatus in the region, namely the Governor. That is, the position of the Provincial Government in the regional autonomy corridor has two positions, namely as a representative of the Central Government by making deconcentration apparatus and becoming the implementer of regional autonomy itself (decentralized apparatus). Whereas the Regency / City Regional Government is positioned to have a double function, such as the province, namely as the executor of regional autonomy and as a deconcentration apparatus.

According to Jimly Asshidiqie in various legal literature, local government units as state organs at the regional level are known to have 2 (two) types, namely the Administrative and Ootonom Regional Governments. The Government of the Administrative Region is formed because the Central Government is deemed unable to carry out all state government affairs from the Center. Therefore, it is deemed necessary to establish government units in the regions that will carry out all matters of the Central Government in the regions. The regional government unit functions as a representative of the Central Government in the region with the task of organizing all matters of the Central Government in the region. The regional government unit functions as a central government representative in the area with the task of organizing regional government on orders or instructions from the Central Government. Therefore, the task of the Regional Government unit only functions as an administrative organizer, so that the regional government unit is referred to as the Administrative Regional Government.

The Administrative Region Government is led by a head of government who is domiciled as a Central Government employee placed in the administrative area concerned with the assistance of other central government employees stationed in the central offices or offices in the area (Asshidiqie, 2007). In other words, the principle that applies in the Administrative Regional Government system is the deconcentration principle. In contrast, in the system of the autonomous region that applies is the principle of decentralization that has existed since the entry into force of Desentralisatie Wet in 1903.

In a unitary state, the responsibility for implementing governmental duties basically remains in the hands of the Central Government. However, because the Indonesian Government system adheres to the principle of a decentralized Unitary State, there are certain tasks which are managed by themselves, giving rise to reciprocal relations that give birth to a relationship of authority and supervision. Regarding this, Bagir Manan argues that the Unitary State is the boundary of the contents of the meaning of autonomy. Based on this boundary, various rules (rules) were developed which regulated the mechanism that would manifest a balance between the demands of unity and demands for autonomy. In such cases the possibility of spanning arises from the attractive conditions between the two trends (Manan, 1993).

According to Ni'matul Huda, the attraction between the two tendencies is not something that needs to be removed. Efforts to eliminate it will never succeed because it is something natural. The life of the state and government has never been separated from the lives of the people, both the people themselves and the people outside. A good country or government is one that works according to the dynamics of the community. In this condition it can be seen the direction of the tendency of unity or autonomy. In fact, if everything is returned to the interests of society and a healthy government is realized, the attraction should not be seen as spanning, namely when one endangers the other, but a form of natural dynamics that will always exist at every level of state or government development . In addition, it is important to create a reasonable mechanism for each attraction not only as a warning, but also as input for others. At present the unitary state must be interpreted as unitary, namely a unitary state that does not eliminate the diversity of the elements that are united. Unity in which there are differences (Nasution, 2007).

Based on the above opinion, it can be said that the attraction of the decentralization and deconcentration mechanism does not need to be eliminated, but what must be done is to make adjustments to the conditions and needs of the country, region, and society. That is, in certain circumstances, deconcentration can be strengthened in addition to strong decentralization as well, or vice versa, deconcentration can also be extended to the district / city area, or conversely deconcentration is only applied to the Provincial Government, as it applies to Law No. 32 of 2004.

It can also be interpreted that, the view that considers deconcentration as a threat to decentralization and will return this country to a centralized system is a wrong view, because deconcentration is basically a complementary / complementary mechanism of decentralization. The deconcentration existence that even to the district and city levels is a necessity, seeing the complexity of matters that must be held not only at the level of the Central Government but also national / central affairs up to the regions. In addition, it must be understood that there are several national affairs whose characteristics must be applied to all regions in Indonesia equally, without eliminating obligatory functions of the regions whose authority is fully regulated and administered by the Regional Government. Between decentralization and deconcentration in the Republic of Indonesia like two sides of a coin (with the task of co-administration being a triangle mechanism) one with the other is inseparable, not mutually threatening or debilitating, and does not need to be contested. All of that must be seen as a way or a set of sub-systems that complement one another, which also forms a whole system of governance in the Regional Government.

The expansion of deconcentration implementation up to the District and City levels as the person in charge of Public Government Affairs as contained in Article 1 number 9 of Law No. 23 of 2014 is a very reasonable matter. This is because of the increasingly complex need for the implementation of national affairs to the regions in the vast territory of Indonesia, coupled with the desire to accelerate development to the regions. Sometimes, in certain circumstances the Regional Government itself needs support and assistance from the Central Government to resolve some of the problems in the area. This regulation is a reaction to some of the phenomena of the development of the implementation of Regional Government in Indonesia over the past few years. One reason is because there are several national policies or programs taken by the Central Government at the time they will be implemented in the regions, and there are also some regions that actually refuse to implement the policy. In addition, with the increasing role of the Regional Government, the role of the Central Government must also be stronger in conducting oversight. One of them is through deconcentration so that Local Governments can organize and regulate regional affairs and their communities in the right corridors and in line with national policies.

In addition to these matters and in accordance with the deconcentration function to glue regions in The Unitary State of the Republic of Indonesia and organize national / central affairs in the regions, there is also a political goal of deconcentration, among others, to absorb regional interests and needs directly and provide "Image" that the Central Government is still paying attention to the Regional Government. This is important, because some regions, especially those in remote and remote locations, sometimes feel that the state / central government is not paying attention to the area or is never "present" in the area. This sometimes raises the desire to break away from The Unitary State of the Republic of Indonesia.

The regulation regarding deconcentration in Law No. 23 of 2014 concerning Regional Governments, including:

1. Article 1 number 9: Deconcentration is the delegation of part of government affairs which are under the authority of the Central Government to the Governor as the representative of the Central Government, to vertical agencies in certain regions, and / or to Governors and Regents / Mayors as responsible for Public Government Affairs;
2. Article 1 number 10: Vertical agencies of the ministry and / or non-ministerial government institutions that manage government affairs that are not submitted to autonomous regions in certain regions in the framework of deconcentration;
3. Article 1 number 13: Administrative region is the working area of the Central Government equipment including the Governor as the Deputy of the Central Government to administer government affairs which are under the authority of the Central Government in the regions and working areas of Governors and Regents / Mayors in implementing Regional Government Affairs;
4. Article 4 paragraph (1): The Province other than the status of a region is also an administrative area which is the working area of the Governor as the representative of the Central Government and the working area for the Governor in carrying out Public Government Affairs in the territory of the Province.;
5. Article 4 paragraph (2): Regency / City areas other than status as regions are also administrative areas which are the working area for Regents / Mayors in carrying out Public Government Affairs in the Regency / City area;
6. Article 5 paragraph (4): Implementation of Government Affairs as referred to in paragraph (2) in the regions shall be carried out based on the principles of decentralization, deconcentration and co-administration tasks;
7. Article 10 paragraph (1): Absolute Government Affairs as referred to in Article 9 paragraph (2) includes: foreign politics, defense security, justice, national monetary and fiscal, and religion;
8. Article 10 paragraph (2): In conducting Absolute Government Affairs as referred to in paragraph (1), the Central Government:
   a. implement itself; or
   b. delegate authority to vertical agencies in the area or the Governor as the representative of the Central Government based on deconcentration principles.
9. Article 25 paragraph (1): General government affairs as referred to in Article 9 paragraph (5) include:
   a. fostering national insight and national resilience in order to strengthen the practice of Pancasila, the implementation of the 1945 Constitution of the Republic of Indonesia, the preservation of Unity in Diversity and the preservation and maintenance of the integrity of the NKRI;
   b. fostering national unity and unity;
   c. fostering harmony between ethnic and intra tribal groups, religious, racial and other groups in order to create local, regional and national security stability;

d. handling social conflicts in accordance with the provisions of laws and regulations;
e. coordinating the implementation of tasks among government agencies in the regions of the province and regency / city to solve problems that arise by taking into account the principles of democracy, human rights, equity, justice, privilege and specificity, potential and diversity of regions in accordance with the provisions of legislation;
f. development of a democratic life based on Pancasila; and
g. implementation of all government affairs that are not regional authority and are not carried out by vertical agencies.

10. Article 25 paragraph (2): Public Government Affairs as referred to in paragraph (1) shall be carried out by the Governor and Regent / Mayor in their respective working areas;
11. Article 25 paragraph (3): To carry out Public Administration Affairs as referred to in paragraph (2), the Governor, Regent / Mayor is assisted by vertical agencies;
12. Article 25 paragraph (4): In implementing Public Administration Affairs, the Governor is responsible to the President through the Minister, and the Regent / Mayor is accountable to the Minister through the Governor as the representative of the Central Government;
13. Article 25 paragraph (5): Governors, Regents / Mayors in implementing Public Administration Affairs are financed by the State Budget;
14. Article 25 paragraph (6): The Regent / Mayor in carrying out Public Administration Affairs as referred to in paragraph (2) at the District level delegates the implementation to the District Head; and
15. Article 25 paragraph (7): Further provisions regarding the implementation of Public Government Affairs as referred to in paragraph (2) to paragraph (6) are regulated in Government Regulations.

Based on the arrangements in several of these articles, it can be concluded that the Governor as the Provincial Government can implement Mandatory Government Affairs based on decentralization, Absolute Government Affairs (Central Government) based on deconcentration, and Public Government Affairs (Presidential authority) based on deconcentration (Article 9 paragraph (5) Law No. 23 of 2014). However, for regencies and cities with regional heads, Regents and Mayors, they can implement Mandatory Government Affairs based on decentralization and Public Administration Affairs based on deconcentration.

Judging from the details of Public Government Affairs in Article 25 paragraph (1) Law No. 23 of 2014, matters that are de-concentrated are related to fostering national unity, Pancasila, inter-ethnic harmony and inter-agency coordination, resilience, handling conflict and others that aim to strengthen national unity and integrity, so it is reasonable to implement deconcentration to the Regency / City area, because these are matters that are very important for the life of the nation and state. In addition, these matters must be a shared obligation between the Central Government and the Regional Government for the sake of a safe, secure and intact the Unitary State of the Republic of Indonesia.

IV. CONCLUSION

Arrangement of Article 1 paragraph (9), Article 4 paragraph (2) and Article 25 paragraph (1) of Law No. 23 of 2014 concerning deconcentration of the implementation of Public Government Affairs to the Mayor and / or Regent is a constitutional arrangement, although in the 1945 Constitution specifically Articles 18, 18A and 18B which are regulated on Regional Government, there is no regulation regarding deconcentration. This is because deconcentration is basically a very reasonable mechanism in the Regional Government system. Deconcentration in its implementation can be juxtaposed with decentralization, even the existence of deconcentration complements the existence of decentralization and co-administration tasks. Especially in Indonesia, with a very wide area, consisting of regions that have diversity and have the desire to accelerate development to the regions, deconcentration is one mechanism that can be used to organize Central Government affairs in the area which also aims to conduct supervision, supervise, and strengthen the Unitary State of the Republic of Indonesia.

In addition to the above, deconcentration arrangements in Law No. 23 of 2014 cannot be interpreted as a regulation that leads to re-centralization, because this deconcentration arrangement basically does not threaten the existence of decentralization, but to complement decentralization within the scope of the Unitary State of the Republic of Indonesia. In fact, if you look at general government affairs held by regencies and cities based on deconcentration as stipulated in Law No. 23 of 2014 are matters relating to the unity and unity of the state, of course this is not only the responsibility of the Central Government, but also becomes the obligation and responsibility of the Regional Government as part of the Unitary State of the Republic of Indonesia.

V. SUGGESTIONS

UU no. 23 of 2014 which attributed to the Government to establish Government Regulations concerning deconcentration and co-administration and Government Regulations concerning the implementation of Public Government Affairs, the Government must immediately make a Government Regulation so that the regulations regarding deconcentration and co-administration and the implementation of Public Government Affairs can be carried out structurally planned, systematic and effective and efficient based on the Government Regulation.

REFERENCES

[1] Ardhiwisastra, Y. B., "*Penasiran dan Konstruksi Hukum*", Bandung: Alumni, 2000.
[2] Asshidiqie, J., "*Konstitusi & Konstitusionalisme Indonesia*", Jakarta: Konstitusi Press, 2005.
[3] Asshiddiqie, Jimly, "*Pokok-Pokok Hukum Tata Negara Indonesia Pasca Reformasi*", Jakarta: PT. Bhuana Ilmu Populer, 2007.
[4] Bagir Manan, "*Menyongsong Fajar otonomi Daerah*", Yogyakarta: Pusat Studi Hukum FH UII, 2001.
[5] Bagir Manan, "*Perjalanan Historis Pasal 18 UUD 1945*", Jakarta: UNISKA, 1993.

[6] Hartono, C. F. G. S, "*Penelitian Hukum Pada Akir Abad 20*", Bandung: Alumni, 1994.
[7] Huda, N., "*Hukum Pemerintahan Daerah*", Bandung: Penerbit Nusa Media, 2009.
[8] Ibrahim, J., "*Teori dan Metode Penelitian Hukum Normatif*", Malang: Bayumedia Publishing, 2006.
[9] Majelis Permusyawaratan Rakyat Republik Indonesia, "*Panduan dalam Memasyarakatkan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*", Jakarta: Sekretariat Jenderal MPR RI, pp. 23, 2003.
[10] Nasution, A. B., "*Arus Pemikiran Konstitusionalisme*", Jakarta: Kata Hasta Pustaka, 2007.
[11] Soekanto, S. & Mamuji, S. "*Penelitian Hukum Normatif, Suatu Tinjauan Singkat*", Jakarta: CV. Rajawali print III, 1990.
[12] Hadjon, P. M., "*Pengkajian Ilmu Hukum Dogmatik (Normatif)*", in Jurisdiction Number 6 Year IX, November-December1994, pp. 6.
[13] Iskatrinah, "*Dekonsentrasi Dalam Penyelenggaraan Otonomi Luas Berdasarkan Undang-Undang Dasar 1945*", Dissertation of the Faculty of Law, Padjadjaran University, Bandung, pp. 1, 2015.
[14] Republic of Indonesia, 1945 Constitution before amendments.
[15] Republic of Indonesia, The 1945 Constitution after amendments.
[16] Republic of Indonesia, Law Number 32 Year 2004 concerning Regional Government.
[17] Republic of Indonesia, Law Number 23 Year 2014 concerning Regional Government.
[18] Republic of Indonesia, Law Number 1 Year 1945 concerning Regional Government.
[19] Republic of Indonesia, Law Number 22 of 1948 concerning Regional Government.
[20] Republic of Indonesia, Law Number 1 Year 1957 concerning Regional Government.
[21] Republic of Indonesia, Law Number 18 Year 1965 concerning Regional Government.