

Conflict Resolution between the Main and Expansion Regions in the Administration of Local Government in Indonesia

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Abstract

Regional expansion has two sides, that is, the positive and negative sides; it can be looked at from the viewpoint of the regions' interests and also from the viewpoint of the centre. Regional expansion is relatively able to bring construction of new roads to isolated areas. However, such expansion often leads to conflict, such as the conflict between the main local government and the expansion areas of North Halmahera. Though the expansion was approved as a means of conflict resolution, more care should be taken so as not to excessively simplify and generalize the issues affecting the regions in Indonesia which are socio-culturally, politically, economically and geographically very heterogeneous. The results of this research show that the disputes between the main areas and the expansion areas were caused by unclear boundaries/regions. The division of regional assets are not fully supported by clear ownership data, and financing from the main regions to the expansion areas are not sustainable.

The resolution of the dispute between the main and expansion regions was aided by the following: Government Regulation No. 27 Year 2012 about the Establishment and Assertions of the village boundary; Government Regulation No. 78 of 2007 on the Procedures for the Establishment, Removal and Merging of Regions; Law No. 23 Year 2014 on Regional Government and Public Participation in disputes resolution of area boundary. The ideal model of dispute resolution was through the Ministerial Regulation No. 19 Year 2010 about the assertion of area borders and through the resolution at the governor's level and at the ministerial level.

Keywords: Expansion, Boundaries, Dispute resolution.

A. INTRODUCTION

The conception of the Unitary State of the Republic of Indonesia is a basic principle in local governance. The conception on one hand confirmed the existence of the area to be under the national level but on the other hand, gives a stimulant for local people to articulate all their interests including issues of regional autonomy in the legal system and national policies. The regions also cannot deny their identity as part of the Unitary Republic of Indonesia and so all their behavior, policies and local actions should not be contrary to the policy of the centre.¹

Regional expansion in philosophical order is intended to improve the welfare of the community;² this is expressly stipulated in Government Regulation No. 78 of 2007.³ Another reason that was also put forward was that the division will develop local democracy through the sharing of power at a smaller level.⁴ The description reflects that the demand for expanded area is generally related to economic reasons and equitable development.

In this regard, Max Pohan said that about 80% of new autonomous region performed poorly and are unable to collect local revenue because they were busy forming a government and incurring equipment expenditure, but ignored increase in service to the community. Based on the description of the results of the evaluation of the central government, of the 31 areas evaluated, there are 14 new autonomous regions or 45.16% of the total sample performance which is not good. Approximately 80% of new autonomous regions depend on transfer of funds from the central government. Most of the funds are used to pay the salaries of government employees and to procure equipment but not to improve the public service; hence, the improvement of public services to the targeted autonomous region is not met.⁵

The province of North Moluccas is also not spared from the conflict of area expansion. At least there are some points of conflict that up till now have not shown signs of ending. One conflict-prone area is between North and West Halmahera involving six villages, namely: the Pasir Putih Village, Bobane Igo Village, Tetewang Village, Akelamo Kao Village, Akusahu village, and the Dum-Dum village. This conflict has been going on for years since the formation of North Halmahera in 2003 till date. Conflict can occur during

¹. Hari Sabarno.2007. *Untaian Pemikiran Otonomi Daerah Memandu Otonomi Daerah Menjaga Kesatuan Bangsa*. Sinar Grafika.Jakarta.hal.1-2

². Hari Sabarno.2007. *Untaian Pemikiran Otonomi Daerah Memandu Otonomi Daerah Menjaga Kesatuan Bangsa*. Sinar Grafika.Jakarta.hal.1-2

³. Hari Sabarno.2007. *Untaian Pemikiran Otonomi Daerah Memandu Otonomi Daerah Menjaga Kesatuan Bangsa*. Sinar Grafika.Jakarta.hal.1-2

⁴. Hari Sabarno.2007. *Untaian Pemikiran Otonomi Daerah Memandu Otonomi Daerah Menjaga Kesatuan Bangsa*. Sinar Grafika.Jakarta.hal.1-2

⁵. Hari Sabarno.2007. *Untaian Pemikiran Otonomi Daerah Memandu Otonomi Daerah Menjaga Kesatuan Bangsa*. Sinar Grafika.Jakarta.hal.1-2

interaction between the two sides (action-reaction) in an effort to reach an agreement that is necessary to achieve peaceful resolution of contentious issues. The intensity of the conflict increased during the regional autonomy era when North Halmahera Regency government began to intensify boundary resolution activities and the Government of West Halmahera reacted in form of the agreement on the border point.

The period after the enactment of Law No. 22, 1999 in Indonesia is often referred to as the era of regional autonomy. Autonomous regions are given the authority to broad principles, real and responsible. Likewise, after the Law on Local Government was replaced by Law No. 23 In 2014, broad principles, real and responsible remain a principle in the administration of the autonomous regions. Various implications of the new Act emerged during implementation such as the great importance attached to the assertion of the border by the regions.

The issue of the border area caused a prolonged institutional conflict between the Governments of North Halmahera regency and West Halmahera. Conflicts involving Six Post regional expansion villages in North Maluku province remains unresolved till date even though the various parties have been trying to facilitate its resolution. The splitting of districts caused border conflicts during the formation of Malifut district.

Six villages were rejected due to lack of desire to be a part of Malifut sub region. But the rejection of these six villages have received no response from the government. The impact of social conflicts due to the slow response of the government on the aspiration of the people of the six villages was that the rural communities refused to receive service from the district of Malifut but from the district of Jailolo. Nevertheless, in reality the six villages became part of the district of Malifut and came under its administration. Because the rejection of the six village communities was based on the fact that from the beginning they refused to join Malifut district and opted to remain part of Jailolo district, people reasoned that it would be preferable if the six villages became part of West Halmahera district. On this basis, the West Halmahera district government provides services to the six villages.¹

Regional expansion cannot be separated from the issue of determining the boundaries. Determination of the boundary line between two autonomous regions requires consideration of various aspects for the purpose of decentralization and regional autonomy to be achieved. At the level of the State, the territorial boundaries reflect sovereign territory and it has sovereign rights over it. The principles of the boundary region is an important factor in regional expansion. The boundary line shows the sovereignty and sovereign rights within the scope of duties and obligations under the law.² The phenomenon has led to positive and negative issues involving various politicians, community leaders, and government officials among other experts. They debated the merits and demerits arising from the number of the divided region. Various views and opinions were submitted to support the stand of each party. There are many arguments put forward to support the expansion, among others, the need to address the distance between government and society, as well as provide opportunities to regions for equitable development.

The importance of a clear boundary line in terms of legal and technical issues, the system limits of the construction area, in addition to reducing potential disputes can also be used as a measurement of the performance of heads of regions in developing regions. Assessing the success of the regional heads can be done by taking into account indicators of environmental quality, land use, availability of basic data both spatial and non-spatial, as well as the achievement of an increase in economic, social, cultural, political and security indicators.

The main goal of regional autonomy is to bring government services closer to the community it serves, making the public service more controlled and community supervision of the government more effective. The substance of the implementation of regional autonomy is itself growing community empowerment initiative and creativity to develop and increase active community participation in all areas and aspects of national life.³

Community rejection of six villages and five villages on the idea of splitting and merging areas caused

¹. <http://beritasore.com/2007/12/10/depdagri-11-provinsi-yang-menyelesaikan-batas-daerah/Depdagri>: 11 Provinsi Yang Menyelesaikan Batas Daerah Posted by Redaksi on Desember 10, 2007. dalam acara Lokakarya Penataan Batas-batas Daerah dan Pengembangan Daerah Perbatasan Negara di Anyer Sabtu (8/12) sampai Minggu (9/12) tahun 2007. Diakses tanggal 18-02-2011 Pk. 13.57.

2. EP Utomo (editor) 2004. I Maritime Boundaries. Proc.Nat.Workshop.LIPI. Bandung Fitriani. Fitri.Hofman Bert Kaikase. 2005. *Unity In Diversity The Generation Of New Lokal Government In a Dezentralising Indonesia. Buletin Indonesia Economic Studie*.57. Ida Laode. 2005. *Permasalahan Pemekaran Daerah Di Indonesia*. Media Indonesia. Jakarta. 42.

3. Soetndoyo Wignosubroto dkk. 2005. *Pasang Surut Otonomi Daerah Sketsa 100 Tahun*. Institut For Local Development. Jakarta. Hal.3. Oeanto Usman Mawardi. 2004. Kebijakan desentralisasi dan otonomi daerah implementasi masalah dan solusi dalam desentralisasi pemerintahan NKRI implementasi anrevitalisasi lembaga administrasi negara pusat kajian kerja otonomi daerah. Jakarta.hlm.3

more community aspirations of the six and five villages since from the beginning they refused to be part of the Malifut district but forced by the government to remain part of the district, which was formed through Government Regulation No. 42 of 1999. This rejection is also associated with a variety of reasons including emotional closeness, history and identity of the area.

The approach to dispute resolution of the expansion areas was conducted through the Government Regulation No. 27 Year 2006 on the Establishment and Assertions of village limits, Government Regulation No. 78 of 2007 on the Procedures for the Establishment of Regional Removal and Merger, Law Number 23 Year 2014 about Local Government and community participation in border dispute resolution. The ideal model of dispute resolution was through the implementation of Ministerial Regulation No. 76 Year 2012 on Guidelines for the affirmation of Boundaries which consists of the implementation at the governor's and ministerial level. The method used in this research is empirical law. Source of data is secondary and primary.

2. Problems

Based on what has been described above, this study focuses on the reasons behind the dispute between the area divisions and the main area in the administration of local government; the ideal model of dispute resolution between the expansion areas and the main area in the administration of local government. This results of this research is expected to be useful theoretically as a constructive input into government policy to improve the implementation of regional autonomy, particularly in North Moluccas. For practical use, the results are expected to provide options for problem resolution mechanism for local government in resolving dispute.

B. DISCUSSION

1. Background of The occurrence of Regional Expansion Dispute

a. Boundary of Region

The emergence of Government Regulations No 42 of 1999 is regarded as the trigger of the dispute that occurred in six villages which were contested by the Governments of North Halmahera district and West Halmahera district and is still on till date. Rejecting residents of the six villages on the idea of splitting and merging regions caused more community aspirations as the six villages from the beginning refused to be part of Malifut district which then became the administrative area of North Halmahera regency but were compelled by the government to remain part of the district.

According to Ichwan Hamza (Government Bureau of North Maluku):

"The cause of the dispute in the six villages and the surrounding area is the emergence of Government Regulations 42 of 1999 on the establishment of the District Malifut of the six villages enter into administrative regions. While residents of the six villages refused entry to the township Malifut for the reasons of historical factors and emotional closeness. "

The promulgation of Law No. 1 of 2003 on the Establishment of North Halmahera again brought up some previously unaddressed issues like the conflict over the six villages. The issuance of Government Regulation No. 42 of 1999 on the Establishment of the Malifut district dated 7 October 1999 still raises controversy up till now on the pros and cons.

b. Implementation of Main Region Assets Distribution in Regional Expansion

The implementation of the regional administration on the formation of North Halmahera regency raised some issues; one of the issues that emerged was the division of the assets of the region, and the delivery of West Halmahera district to North Halmahera. Regional asset is an important resource for the local government as the main support revenue. The ability of new autonomous regions to thrive is affected by problems regarding the transfer of assets such as lack of assets accessories documents and the absence of an official submission because the troubled assets and the delivery is done gradually. Also, the main regions have not completed P3D (finance, personnel, equipment and documents), the new autonomous regions do not yet have clear boundaries, main regions have not provided financial support to the new autonomous region, civil servants (PNS) are difficult to move from the main division.

c. Local Government Funding Allocation

Financing expansion areas are not regulated clearly in the law that formed the new autonomous regions and are not adequately documented. Autonomous regions showed that there was inadequate source documents regarding the financing commitments from provincial and main local governments. Physical transfer of assets is not supported by the minutes of the delegation and adequate documentation. Test results on the area division which indicates that the physical transfer of assets owned by the main regions does not run smoothly because of

lack of agreement on the number and value of the assets given, incomplete minutes of the devolution of the assets, as well as supporting documents from the main region. Setting of boundaries is not explicitly and formally regulated by the Regulation of the Minister of Home Affairs.

2. Resolution of Regional Expansion Dispute

By reviewing some provisions and the findings of authors in the field, the authors suggests that the **resolution** of boundary disputes can be done in two ways, namely, legal **resolution** and **resolution** outside the law. Article 9 of Government Regulation No. 27 Year 2006 stipulates and emphasizes that village boundary disputes between villages in one district be settled by deliberation facilitated by the Head. While village boundary disputes between villages in different districts be settled by deliberation facilitated by elements of district/city governments. If the attempt to deliberate referred to in paragraph 1 and 2 is not reached, the dispute should be resolved by the Regent/Mayor and its decision is final.

Under Article 35 of Government Regulation No. 78 of 2007, affirmation of boundaries referred to in paragraph 1 and 2 completed no later than 5 (five) years since the establishment of provincial and district/city are concerned. (4) Confirmation of borders as referred to in paragraph 1 and 2 are definitely on the field, determined by the Minister. (5) In the event that resolution deadline no later than 5 (five) years as referred to in paragraph 3 are not met, affirmation of boundaries should be set by the Minister.

According to the provisions of article 370 of Law No. 23 Year 2014 about the local government, subsection 1 states, in the event of a dispute between the government affairs in the administration of the district/city in the province, the deputy governor of the Central Government is to resolve the dispute in question. Paragraph 2: in case of disagreement in the administration of government affairs between provincial governments, inter-provincial and district/city territory, provinces and districts, as well as between provinces and districts/cities outside its territory, the Minister is to resolve the dispute in question. Paragraph 3: the governor as a representative of the central government cannot resolve the dispute referred to in subsection 1. Paragraph 4: the minister's decision with regards to the resolution of disputes referred to in paragraph 2 and the handling of dispute resolution referred to as contemplated in paragraph 3 shall be final. Paragraph 4: Further provisions on procedures for the resolution of disputes between the regions in the implementation of government affairs are regulated by Ministerial regulations.

3. Ideal Model of Dispute Resolution

That Law Number 23 Year 2014 concerns a local government legislation that has the nature of *lex generalis* which is a guideline in the field of local governance. Meaning of disputes in the administration of government functions is the cover of implementation of the state administration in organization and authority.

Regulation No. 76 Year 2012 is the legislation that has properties associated with the affirmation *lex specialis* area boundary; the legal basis is from Law No. 23 Year 2014 about the Regional Government and Law No. 6 of 1996 concerning Indonesian Waters (State Gazette of the Republic of Indonesia Year 1996 Number 33, Supplement to State Gazette of the Republic of Indonesia Number 3647). In addition, it relates to the assertion of border related to Law No. 4 of 2011 on Geospatial Information.

Norms that exist in Minister of Home Affairs Regulation No. 76 of 2012 relating to norms setting more specific the nature of *lex specialis* are also listed in Chapter V, Facilitation of Regional Boundary Disputes Resolution. Meaning of boundary disputes between district/city is part of *lex specialis* understanding of the dispute in the discharge of government's activities. Page 25 paragraph 1, Government Regulation No. 76 Year 2012 on Guidelines for the affirmation of Boundary region: In the event of a dispute in the affirmation of the border, the border dispute resolution. Paragraph 2: Resolution of border disputes between districts/municipalities in the province is conducted by the governor. Paragraph 3: Resolution of border disputes between provinces and districts/cities in its territory, as well as between provinces and districts of the city outside its territory is carried out by the Minister of the Interior.

D. Closing

Based on the description of the results of the discussion above, the following conclusions can be reached:

A. Conclusion

1. The existence of the dispute associated with the autonomous regions and local main regions are due to unclear boundaries/regions. Also, division of regional assets are not fully supported by clear data ownership, and financing from main region to the expansion areas are not sustainable with the approval of the formation of autonomous regions.
2. Efforts were made to end the dispute between the main regions and expansion areas through Government Regulation No. 27 Year 2006 about the Establishment and Assertions of village limits, Regulation No. 78 Year 2007 about Procedures for the Establishment, Removal and Regional Pengabungan, Law Number 23 Year 2014 about the local government and the resolution of disputes through community participation in resolving the border dispute.

3. Ideal model of dispute resolution based on regional expansion Minister Regulation No. 76 Year 2012 about Guidelines for the affirmation of Borders includes the completion at the governor's level, and dispute resolution at Ministerial level.

B. Suggestion

1. The process of regional divisions should combine technocratic transition procedure (top/down) and democratic procedures (bottom/up). The combination of both procedures allow the emergence of a new model that is closer and accurate in the process of regional expansion. It is recommended that the aspirations of the people should be sought through opinion polls; assessment of the parent and the prospective potential of the deeper autonomous regions, and the need for the preparation of a more mature policy for the area to be self-sufficient.
2. Slow resolution of border dispute by the government certainly creates uncertainty for the people in the area. The Government is expected to move quickly to perform the resolution of disputes so that disputes do not drag on for too long.
3. Regional divisions that have an impact on border disputes is certainly a new issue in the euphoria of regional autonomy, so the solution also requires special attention given that this can bring negative consequences that could disrupt national stability.

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