

AUTHORITY FOR THE DEVELOPMENT AND SUPERVISION OF REGIONAL LEGAL PRODUCTS FROM REGIONAL AUTONOMY PERSPECTIVE

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ABSTRACT

Law Number 23 of 2014 requires local governments to obtain a register number in the formation of the Perda (regional regulation) as part of supervision. Furthermore, Law Number 15 Year 2019 requires Regional Governments to harmonize, unify, and implement conceptions of the formation of Regional Regulations as part of coaching. In the context of regional autonomy, the constitution gives authority to the regions to regulate and manage government affairs by themselves according to the principles of autonomy and duty of assistance as well as to carry out the broadest possible autonomy. The research aims to study and explain the methods and stages used by the central government in fostering and supervising regional legal products from the perspective of autonomy and their material boundaries. The method used in this research is normative legal research method.harmonizing, rounding off and stabilizing conception. While supervision by giving register numbers, clarifications, and cancellations.The limitation of guidance and supervision material is based on the category of legal products classified as facilitation or evaluation.

Key Words: regional autonomy perspective; regional legal product.

INTRODUCTION

Article 242 paragraph (3) of Law Number 23 of 2014 concerning Regional Government requires that the Governor is required to submit a draft Provincial Perda to the minister no later than three days from receiving the draft Provincial Perda from the leadership of the Regional People's Representative Council (DPRD) province to obtain a Perda register number. The minister is the minister who holds domestic government affairs. From these provisions, it can be interpreted that for Provincial Perda after obtaining joint approval between the Governor and the Provincial DPRD, it is submitted to the Minister of Home Affairs in order to obtain a register number to be promulgated in regional papers. The same mechanism for the enactment of a Regency/City Regional Regulation must also obtain a register number.

As also regulated in Article 245 of the Regional Government Law, draft Provincial Perda which regulates the Long-Term Regional Development Plan, Regional Medium-Term Development Plan, Regional Revenue and Expenditure Budget (APBD), APBD amendments, accountability for implementation. APBD, regional taxes, regional levies and regional spatial planning must be evaluated by the Minister before they are determined by the governor. The same is true for Regency/City Regional Regulations concerning the same matter, it's just that the same as giving a register number, the governor as the representative of the Central Government conducts an evaluation of the intended Draft Perda (Perkada). Regarding Perkada, the Regional Government Law in Article 246 paragraph (1) states that to implement the Regional Regulation or with the power of statutory regulations, the regional head determines the Perkada. The provisions regarding the principles of formation and content, as well as the formation of regional regulations as stipulated in the Regional Government Law apply *mutatis mutandis* to the principles of formation and content, as well as the formation of Perkada. Cancellation of Perda and Perkada is also regulated in the Regional Government Law. The governor is obliged to convey the provincial regulation and governor regulations to the Minister of Home Affairs no later than 7 days after being enacted. The governor who does not submit the provincial regulation and governor regulation to the Minister of Home Affairs as referred to above will be subject to administrative sanctions in the form of a written warning from the Minister. This is based on Article 249 of the Regional Government Law.

In Article 251 of the Regional Government Law, Provincial regulations and governor regulations that are contrary to the provisions of higher laws and regulations, public interest, and/or morality are canceled by the Minister of Home Affairs. Regency/City Regional Regulations and regent/mayor regulations that contradict the provisions of higher laws and regulations, public interest, and/or morality are canceled by the governor as the representative of the Central Government. However, the phrase Provincial Perda and the phrase Regency/City Perda in the Article referred to have been canceled by the Constitutional Court through Decision Number 137/

PUU-XIII/2015 and Decision Number 56/PUU-XIV/2016. The notion that is contrary to the public interest is a policy which results in disruption of harmony between members of the community, disruption of public order / peace, and policies that are discriminatory in nature (Abdullah, 2010).

In general, the guidance and supervision of regional government administration is regulated in Article 373 of the Regional Government Law, which states that the guidance and supervision of the implementation of regional governance nationally is coordinated by the Minister of Home Affairs. All forms of supervision carried out by the Ministry of Home Affairs, the Ministry of Finance and the Supreme Court are supervision carried out, among other things, to compare what is wanted carried out, implemented, or carried out according to what is desired, planned, or ordered through laws and regulations that are formed in the context of conformity and achievement of the expected goals. However, the supervision of the Supreme Court will be more of a juridical nature regarding the judicial process in order to test the laws and regulations (Rizky, 2019). Based on Government Regulation Number 12 of 2017 concerning Guidance and Supervision of Regional Government Administration, The Minister of Home Affairs conducts general guidance and supervision of affairs that fall under the authority of the provincial and district/city governments, including facilitating the resolution of problems with regional regulations and regional head regulations. Aceh, which is a special area defined by Law Number 11 of 2006 concerning Aceh Government in Article 235 paragraph (1) states that government supervision of qanuns is carried out in accordance with statutory regulations. Furthermore, Article 235 paragraph (4) of the Aceh Government Law states that the qanun which regulates the implementation of Islamic law can only be canceled through a judicial review by the Supreme Court.

Thus, apart from qanuns that regulate the implementation of Islamic syari'at which can only be canceled by the Supreme Court through a judicial review process (judicial review), in general the supervision of legal products in Aceh is guided by the provisions of laws and regulations of a general nature.

The Minister of Home Affairs in the context of implementing the provisions of Article 243 paragraph (3) of the Regional Government Law, which regulates the procedures for granting regional regulations register numbers which are part of the formation of regional legal products and the dynamics of the development of laws and regulations regarding regional legal products, has stipulated Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products as amended by Regulation of the Minister of Home Affairs Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products (Permendagri Number 80 of 2015). This is as stated in the preamble to the said Ministerial Regulation.

The definition of regional legal products regulated in Permendagri Number 80 of 2015 is legal products in the form of regulations including regional regulations (perda) or other names, regional head regulations (perda), DPRD regulations and in the form of decisions covering regional head decrees, DPRD decisions, decisions of the DPRD leadership and decisions of the DPRD honorary bodies. Permendagri Number 80 of 2015 is also stipulated on the grounds that to guarantee legal certainty for the formation of regional legal products, guidelines are needed based on definite, standardized and standardized methods and methods so that they do not conflict with higher legislation, public interest and/or morality. On 23 August 2018, the Minister of Law and Human Rights promulgated the Regulation of the Minister of Law and Human Rights Number 22 of 2018 concerning Harmonization of the Draft Legislation Formed in Regions by the Drafters of Legislation (Permenkumham Number 22 of 2018). Permenkumham Number 22 Year 2018 comes into force no later than 60 days from the date of promulgation. Permenkumham Number 22 of 2018 is stipulated against the background that draft Perda, draft Perkada or other draft laws and regulations established in the regions, must be harmonized by the drafters of statutory regulations" as stipulated in Article 3 paragraph (2) Government Regulation Number. 59 of 2015 concerning the Participation of Legislative Drafters in the Formation of Laws and Regulations and their

Development (PP Number 59 of 2015). Article 2 Permenkumham Number 22 of 2018 requires the designer must harmonize the draft laws and regulations that are formed in the region. This harmonization is one of the stages that must be fulfilled in the formation of laws and regulations.

Regarding Permenkumham Number 22 of 2018, the Minister of Home Affairs (Mendagri) has sent a letter to the Minister of Law and Human Rights (Menkumham) Number 180/7182/SJ dated September 19, 2018 regarding the Request for Revocation of Permenkumham Number 22 Year 2018 and Permenkumham Number 23 2018. Based on the letter of the Minister of Home Affairs, Permenkumham Number 22 of 2018 is considered to be beyond authority and contradicts higher laws and regulations so it needs to be revoked.

Several reasons deemed by the Minister of Home Affairs to exceed their authority and contradict higher laws and regulations, among others, regarding the provisions for the involvement of drafters of legislation. The involvement of drafters of legislation has been accommodated previously in Article 25 paragraph (3), and Article 30 paragraph (1) and paragraph (2) of the Minister of Home Affairs Regulation Number 80 of 2015, which states that the involvement of drafters of legislation is included in the membership of the Team. For the preparation of the Draft Regional Regulation, the Head of the Provincial Legal Bureau on the assignment of the Regional Secretary to act as the coordinator in carrying out harmonization, unification and consolidation of the conception of content/content of the draft Perda. Then in harmonizing, rounding off, and stabilizing the conception of the contents/material of the content referred to, The Head of the Legal Bureau can include the vertical agencies of the Ministry of Law and Human Rights. The definition of the designer in Government Regulation Number 59 of 2015 states that Civil servants who are appointed in functional designer positions are not limited to only coming from the vertical agency of the Ministry of Law and Human Rights so that the Regional Government can involve designers from the Provincial Legal Bureau or the Regency/City Legal Section for the formation of designs. Perda.

Another provision which is deemed contradictory is Article 10 Permenkumham Number 22 of 2018. Article 10 regulates that the Director General of Legislation at the Ministry of Law and Human Rights as the designer of the designer can assign high-ranking senior officers and/or administrator officials. in the field of laws and regulations at the Ministry of Law and Human Rights to coordinate and chair harmonization meetings. The assignment of senior high ranking officers and/or administrators in the field of laws and regulations is carried out in the framework of the function of guidance and supervision. In addition to providing guidance and supervision, senior high ranking officers and/or administrators in the field of legislation can provide input and substance considerations in the harmonization meeting.

Regarding this provision, the Minister of Home Affairs through letter Number 180/7182/SJ dated 19 September 2018 considered that the provision was against the Regional Government Law. Article 8 paragraph (1), paragraph (2), and paragraph (3) of the Regional Government Law states that the guidance and supervision of the national administration of Regional Government is coordinated by the minister who is in charge of domestic affairs. Article 242 paragraph (5) of the Regional Government Law states that the minister in charge of domestic affairs carries out guidance and supervision of the draft provincial regional regulation by providing a register number. Furthermore, in Article 245, the minister in charge of domestic affairs evaluates the draft Perda which is evaluated,

On October 4, 2019, the Government has enacted Law Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning the Formation of Laws and Regulations (Law Number 15 of 2019). One of the amendments to the provisions is in Article 58 paragraph (2) which regulates that Harmonization, unification and consolidation of conception of the Draft Provincial perda originating from the Governor is carried out by the ministry or institution that administers government affairs in the field of the Formation of Legislation. This provision applies *mutatis mutandis* to regental/municipal regulations.

Article 99A of Law Number 15 of 2019 explains that at the time of the formation of ministries or institutions that carry out government affairs in the field of Formation of Laws and Regulations not yet formed, the duties and functions of the Formation of Laws and Regulations are still carried out by the minister who carries out government affairs in the field of law, "in this case the Ministry of Law and Human Rights. With the stipulation of several statutory regulations as described above, there has been a dynamic arrangement regarding the procedures for the formation of regional laws or regional legal products. The implementation of guidance and supervision of regional legal products is lengthy and inefficient, Regional Governments are required to follow the guidance and supervision process in 2 (two) different ministries. The required guidance and supervision results in long stages and requires a relatively short time for a region to be able to determine its regional legal products as the basis or legality of policies to be implemented.

From the perspective of regional autonomy, based on Article 18 paragraph (6) of the 1945 Constitution of the Republic of Indonesia (UUD 1945), regional governments have the right to stipulate regional regulations and other regulations to carry out autonomy and assistance tasks. Etymologically, autonomy comes from Greek, namely "auto" which means itself, and "nomos" which means regulation. So it can be interpreted as autonomy as its own rules, or "autonomia" which means one's own decisions. Syahda Guruh interpreted it as a condition or characteristic not to be controlled by other parties or outside forces (Jeddawi, 2011). Autonomy is understood by the community and elites in the regions not as a form of responsibility, but as a mere right (Wignyosoebroto, 2005). Autonomy has another meaning than sovereignty (*souveriniteit*), where autonomy is an attribute of the State and not an attribute of parts of the State such as *Gemeente*, *Provincie* and so on (Sholikin, 2011).

If it is related to the regions, there are many constitutional experts who try to define what regional autonomy is, such as Bagir Manan with his opinion that regional autonomy is ways of dividing authority, duties and responsibilities in regulating and managing government affairs

between the center and the regions. So with that, the regions will have a number of governmental affairs, either on the basis of submission or recognition, or left as regional household affairs (Manan, 1994). One of the powers that the regions have under the concept of autonomy and decentralization is the regional authority in issuing regional regulations (Kurniawan, 2013).

Based on the problems as outlined above, it is important to examine the authority for the guidance and supervision of regional legal products from the perspective of regional autonomy. Based on this description, the problem to be investigated is what is the authority of the central government in terms of guidance and supervision of regional legal products from a conceptual perspective. regional autonomy, and what are the material limitations that can be carried out in the guidance and supervision of regional legal products from the perspective of regional autonomy.

RESEARCH METHODS

This research the author uses normative legal research which is carried out by first examining the relevant laws and regulations by looking at the law from a normative aspect. The statutory regulations in question are Law Number 12 of 2011 concerning the Formation of Laws and Regulations as amended by Law Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning the Formation of Laws and Regulations, Law Law Number 23 of 2014 concerning Regional Government as amended several times, most recently by Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014 concerning Regional Government, as well as Law Number 11 of 2006 concerning Aceh Government.

DISCUSSIONS AND ANALYSIS OF RESULTS

1) Central Government Authority in Fostering and Supervision of Regional Legal Products

The provisions of Article 18 paragraph (1) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) states "that the Unitary State of the Republic of Indonesia is divided

into provincial areas and provincial areas are divided into regencies and cities, each of which is a province, districts and cities have regional governments, which are regulated by law. Furthermore, paragraph (2) explains that provincial, regency, and municipal governments regulate and manage their own government affairs according to the principles of autonomy and co-administration. Then paragraph (5) emphasizes that regional governments carry out the widest possible autonomy, except for governmental affairs which are determined by law as the affairs of the Central Government.

Regional government has the right to stipulate regional regulations and other regulations to carry out autonomy and co-administration, this is as emphasized in paragraph (6) of Article 18 above. Finally, paragraph (7) states that the structure and procedures for the administration of regional governments are regulated in law. The concept of regional autonomy in the Republic of Indonesia Indonesia which divides authority between central and regional with the aim of all affairs either compulsory or optional implemented in accordance with their respective authorities.

At this time, to implement the provisions of Article 18 paragraph (7) of the 1945 Constitution of the Republic of Indonesia, Law Number 23 of 2014 concerning Regional Government has been enacted as amended several times, the latest by Law Number 9 of 2015 concerning the Second Amendment to the Law. 23/2014 on Regional Government (Regional Government Law). This is also as stated in the preamble of letter a of the Regional Government Law.

The Regional Government Law divides government affairs into 3 (three), namely absolute government affairs, concurrent government affairs and general government affairs. Absolute governmental affairs are government affairs which are fully under the authority of the Central Government. Concurrent governmental affairs are governmental affairs that are divided between the central government and provincial regions and regency/city regions. Concurrent governmental affairs submitted to the Regions are the basis for the implementation of Regional Autonomy. General government affairs are Government Affairs which fall under the authority of the President as head of government.

Regional authority in the implementation of this autonomy has been indicated by the Regional Government Law in the general explanation that the region as a legal community unit which has autonomy, has the authority to regulate and administer its region according to the aspirations and interests of its people as long as it does not conflict with the national legal order and public interest.

The elucidation of the Regional Government Law states that in order to provide wider space for the regions to regulate and manage the lives of their citizens, the central government in forming policies must pay attention to local wisdom and vice versa when forming regional policies in the form of regional regulations and other policies. Also pay attention to national interests. Thus a balance will be created between synergistic national interests and still paying attention to conditions, peculiarities, and local wisdom in the overall administration of government.

Furthermore, it is explained that “the regions implement regional autonomy which comes from the authority of the president who holds the governmental power. Considering that the final responsibility for administering the government rests with the president, the logical consequence is that the authority to cancel legal products rests with the president. It is not efficient if the president immediately cancels regional law products. The President delegates the authority to cancel the cancellation to the Minister as an assistant to the president who is responsible for regional autonomy.

One of the duties of a regional head as regulated in Article 65 paragraph (1) of the Regional Government Law, namely lead the implementation of governmental affairs become a regional authority based on the provisions laws and regulations and policies set together with the DPRD. To carry out the aforementioned tasks, the regional head has the authority to submit a draft regional regulation, stipulate a regional regulation that has been approved by the DPRD, and stipulate a regional regulation and regional head decrees.

In the case of the formation of Perda and Perkada which are statutory regulations or regional legal products, the Regional Government Law also regulates planning up to the stipulation of Perda

and Perkada. In fact, the Regional Government Law regulates the process of assigning register numbers to Perda. Regulations for granting register numbers to Perda are regulated, among others, in Article 242 and Article 243 of the Regional Government Law.

Law Number 12 of 2011 concerning the Formation of Legislative Regulations as amended by Law Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning the Formation of Legislation (Law Establishing Legislation) as a positive law, it does not regulate the granting of register numbers in the formation of Perda, both Provincial Perda and Regency/City Perda. Provincial Perda and Regency/City Perda are types and hierarchies of statutory regulations as emphasized in Article 7 paragraph (1) of the Law on the Establishment of Legislation.

The limitation of the definition of Perda in the Law on the Establishment of Legislation, namely Regulations Legislation established by the Provincial/District/City DPRD with joint approval of the Governor/Regent/Mayor. In the preamble to the Law on the Formation of Laws and Regulations, it is stated that The regulation on the formation of Perda in the Law on the Formation of Legislation is an arrangement to meet the needs of the community for good laws and regulations, which are implemented in a definite, standardized manner and method. and standards that bind all institutions authorized to form laws and regulations. Meanwhile, the formation of regional regulations in the Regional Government Law regulates the formation of regional regulations as the basis for the implementation of autonomy and co-administration as stipulated in Article 18 paragraph (6) of the 1945 Constitution of the Republic of Indonesia.

Regulations for granting register numbers in the formation of regional regulations stipulated in the Regional Government Law are part of the arrangements for the administration of regional governance as regulated in the Law as stipulated in Article 18 paragraph (7) of the 1945 Constitution of the Republic of Indonesia. In Article 373 of the Regional Government Law It is stated that the provision of register numbers is part of the guidance and supervision of the implementation of regional government by the central government to the provincial government.

The Governor as the representative of the Central Government carries out guidance and supervision of the administration of district/city Regional Government, national guidance and supervision is coordinated by the Minister of Home Affairs. To carry out the guidance and supervision of regional legal products as part of the authority mandated in Article 373 of the Regional Government Law, the Minister of Home Affairs stipulates Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products as amended by Regulation of the Minister of Home Affairs Number 120 of the Year 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products (Permendagri Number 80 of 2015). Permendagri Number 80 of 2015 regulates guidance in the form of facilitation and regulates supervision in the form of giving register numbers. Based on Article 1 number 30 Permendagri Number 80 of 2015 explains that "facilitation is written guidance for regional legal products in the form of regulations on content materials and techniques for drafting before stipulation. Meanwhile, the definition of a register number as regulated in Article 1 point 23 is giving a number in the framework of supervision and administrative order to determine the number of draft perda issued by the regional government prior to enactment and promulgation.

Guided by Chapter VII of the Minister of Home Affairs, the form of guidance is only carried out on the design of regional legal products in the form of regulations. The legal products referred to in this Permendagri are Perda, Perkada, and DPRD Regulations, this is as stipulated in Article 3 of the mentioned Permendagri. As regulated in Article 87, development of regional legal product designs in the form of provincial regulations is carried out by the Minister of Home Affairs through the Director General of Regional Autonomy. Meanwhile, the governor provides guidance for the design of regional legal products in the form of regulations in regencies/cities. Furthermore, in Article 88 and Article 89 it is stated that coaching is carried out in the form of facilitation of the draft Perda, draft Regional Headquarters and/or draft Regulation, and the facilitation is mandatory which is carried out no later than 15 working days after receiving the request for facilitation.

Apart from facilitation, in terms of coaching, Permendagri Number 80 of 2015 also regulates the evaluation of draft Perda. Article 91 of the Minister of Home Affairs stipulates that The Minister of Home Affairs evaluates the draft provincial perda and the Governor evaluates the draft district/city perda accordingly laws in the field of local government and other laws and regulations.

Furthermore, Article 92 states that the draft Perda which must receive an evaluation which has been mutually approved before being stipulated by the Governor or Regent/Mayor is not later than 3 days submitted to the Minister of Home Affairs or the Governor for evaluation. The evaluation is stipulated in the form of a Decree of the Minister of Home Affairs or the Governor concerning evaluation. The Governor as the representative of the Central Government in evaluating the draft district/city regulations on regional taxes and levies, as well as regional spatial planning is also required to consult with the Minister of Home Affairs.

In terms of supervision as stipulated in Article 100 Permendagri 80/2015, The Governor or Regent/Mayor is obliged to submit the draft Provincial/Regency/City Perda to the Minister of Home Affairs or the Governor no later than 3 working days counted since receiving the Provincial/Regency/Regional Regulation. City from the DPRD leadership to get a register number. Furthermore, in Article 100 and Article 101, The Minister of Home Affairs and the Governor in providing the register number verify the draft Perda which has been revised. In the case of verification states that the draft Perda is not in accordance with the results of the evaluation and the results of facilitation, the draft Provincial/Regency/City Regional Regulation is not given a Register Number.

In addition to providing register numbers, another form of supervision regulated in Permendagri Number 80 of 2015 is the clarification of local regulations. Article 127C states that the result of the clarification contains a statement whether it is appropriate or not. The results of the clarification stating that it is not appropriate contain recommendations from the local government to amend the Perda or revoke the regional regulations no later than the formation of the Propemperda in the following year.

Other forms of supervision are regulated in Permendagri Number 80 of 2015, namely the cancellation of Perkada and DPRD Regulations. Article 129 paragraph (2) states that the cancellation of the Perkada and DPRD Regulations shall be carried out after obtaining a recommendation from the review team which is stipulated by a Decree of the Minister of Home Affairs/Governor. In addition to the authority to develop and supervise regional legal products that are carried out by the Minister of Home Affairs and the Governor as Representatives of the Central Government as described above, Law Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning the Formation of Legislation which is enacted on October 4, 2019, it has also regulated the development of regional legal products.

In Article 58 paragraph (2) of the Law provides that harmonizing, rounding off and stabilizing the conception of the Draft Provincial Perda originating from the Governor implemented by the ministry or institutions that carry out affairs governance in the field of rule formation legislation. This provision applies *mutatis mutandis* to harmonization, unification and consolidation the conception of the draft District/City Perda originating from the Regent/Mayor.

The Minister of Law and Human Rights has stipulates Regulation of the Minister of Law and Human Rights Number 22 of 2018 concerning Harmonization of the Draft Legislation Formed in Regions by the Drafters of Legislative Regulations (Permenkumham Number 22 of 2018). Article 2 Permenkumham Number 22 of 2018 states that harmonization is one of the stages that must be fulfilled in the formation of laws and regulations. Among the laws and regulations referred to in Article 2 are Perda and Perkada.

From the aforementioned rules, it has strengthened the position and role of the designer in the formation of legal products in the regions and helped ease the work of the regions to prepare a draft qanun. This means that the involvement of drafters of legislation is very helpful for regions in reducing the cancellation of regional regulations (Isa, Efendi, & Suhaimi, 2020).

Qanun is a statutory regulation similar to a Perda that applies in Aceh based on Law Number 11 of 2006 concerning Aceh Government (Aceh Government Law), its guidance and supervision also applies as described above. This is in accordance with the provisions of Article 235 of the Aceh Government Law which states that Government oversight of qanuns is carried out in accordance with regulations legislation. Except qanun which governs the implementation Islamic law can only be canceled through a judicial review by the Supreme Court.

2) Limitations of Dilable MaterialAkukan Guidance and Supervision of Regional Legal Products from the Perspective of Regional Autonomy

Based on the provisions of Article 18 paragraph (5) of the 1945 Constitution of the Republic of Indonesia, it is stated that regional governments carry out the widest possible autonomy, except for governmental affairs which are determined by law as the affairs of the Central Government. In the case of granting autonomy to regions, it certainly implies the right of each region to manage and regulate regional government independently or independently. One of the implications is that regions are given the right to form and stipulate Regional Regulations and other regulations to implement, regional autonomy (Sulistyo, Antikowati, & Indrayati, 2014). Autonomy is the freedom and independence of lower government units to regulate some government affairs. From the point of view of Indonesian Constitutional Law. Too tight supervision carried out by the Central Government can certainly reduce freedom in the context of implementing autonomy. Local governments will feel shackled and limited working space for decentralization to work optimally to empower local stakeholders in managing their potential to serve and meet community needs. Meanwhile, on the other hand, if the supervision is not carried out appropriately and proportionally by the Central Government, the regions can move beyond the limits of their authority so that they have the potential to threaten governance within the framework of the Unitary State system (Sulistyo, Antikowati, & Indrayati, 2014).

Freedom in autonomy does not mean without supervision. There should not be an autonomous system that completely eliminates supervision. Freedom of autonomy and control are two sides of one sheet in autonomy. These two sides maintain a pendulum balance between the tendency of decentralization and centralization which can swing excessively (Manan, 2001).

As stipulated in the Regional Government Law, in carrying out Government Affairs which become the authority regions, regional heads and DPRD as administrators regions make regional regulations as the legal basis for internal regions carry out Regional Autonomy in accordance with the conditions and aspirations society as well as the peculiarities of the area.

As explained in the General Elucidation of the Regional Government Law, Perda is made by region only applies within the boundaries of a regional jurisdiction concerned. However, the regional regulations are established by the regions may not conflict with the provisions of laws and regulations of a higher level in accordance with the hierarchy legislation. Besides, the local regulation is part of it from the statutory regulation system must not conflict with the public interest as regulated in the rules drafting a regional regulation.

As described in the above subtitles, the central government has the authority to carry out guidance and control of regional legal products, although in the context of regional autonomy, regional governments can carry out the widest possible autonomy and regional governments regulate and manage government affairs themselves according to the principle of autonomy and duties. assistance.

The Regional Government Law and the Act on the Establishment of Legislative Regulations as well as the implementing laws and regulations of the two laws do not regulate material limitations that can be carried out in the guidance and supervision of regional legal products. The statutory regulations above, regulate the types of material for regional legal products that are classified as facilitation or evaluation as a form of guidance. Meanwhile, the form of supervision of regional legal products which is carried out by providing a register number, cancellation, or

clarification is not carried out on the material of the regional legal product, but on the type of the regional legal product.

An evaluation of the draft *Perda* is subject to evaluation, so no guidance is applied in the form of facilitation. Likewise for the draft *Perkada* which was evaluated, coaching in the form of facilitation was not applied. The material for evaluating the draft *perda* is: (a) Long-term Regional Development Plans; (b) Regional Medium Term Development Plan; (c) Regional Revenue and Expenditure Budget (APBD), APBD amendments, accountability for APBD implementation; (d) Local tax; (e) Regional Retribution; (f) Regional Spatial Planning; g) industrial development plans; (h) formation, deletion, merging, and/or changing the status of a Village to become a sub-district or a sub-district into a Village.

Meanwhile, the material for which the *Perkada* design is evaluated is the elaboration of the APBD. Regarding the material for the draft District/City Regional Regulation concerning regional taxes and levies, as well as spatial planning, the form of guidance for these regional legal products is not only evaluated by the Governor as the Representative of the Central Government, but also consultation with the Minister of Home Affairs. In addition to the form of guidance in the form of evaluation and facilitation carried out by the Minister of Home Affairs and the Governor as the Representative of the Central Government, the Minister of Law and Human Rights also carries out guidance in the form of harmonizing, unifying, and consolidating the conception of the Draft *Perda* originating from the Governor. Harmonizing, rounding off, and stabilizing the conception of the Draft *Perda* is carried out on all types of material in the draft *Perda*, not limited to certain materials.

In addition to the above forms of guidance, the Minister of Law and Human Rights also harmonizes the draft *Perkada*, this harmonization is also not limited to the material of certain legal products, but the entire draft *Perda* and *Perkada*. This harmonization does not apply to the draft DPRD Regulation. For types of regional law products, supervision is carried out by providing a register number, that is, it is applied to all draft *Perda*, both the draft *Perda* which is subject to

evaluation and facilitation. In granting the register number, verification is made of the suitability of the evaluation or facilitation. Providing a register number is a requirement for regional heads to enact a regional regulation.

Another oversight for local regulations is clarification. Clarification is made of the regional regulations that have been promulgated. Perda clarification is applied to all materials of the regional regulation that have been promulgated, although previously there has been guidance in the form of facilitation and evaluation and even supervision has been carried out in the form of giving a register number. The form of guidance for Perkada and DPRD Regulations is by cancellation. The cancellation of the two legal products is carried out after receiving a recommendation from the review team appointed by the Minister of Home Affairs or the Governor. The study is carried out to assess the suitability of the regional law product, its compatibility between the results of facilitation or higher legislation, as well as public interest and/or morality. Cancellation of Perkada and/or DPRD Regulations does not limit certain materials.

For regional legal products in Aceh, qanuns which are statutory regulations similar to a regional regulation, central government supervision of qanuns is carried out in accordance with statutory provisions or as described above. As has been applied to the draft Perda, the formation of a Qanun can also be provided with guidance in the form of facilitation, evaluation, harmonization, unification and strengthening of conception. Qanun must also be able to be supervised in the form of giving a register number and clarification. The specificity that is imposed is the supervision of Qanuns, namely the Qanun which regulates material on the implementation of Islamic law, whose supervision is in the form of cancellation through a judicial review at the Supreme Court.

CONCLUSIONS

From the description of the discussion that has been described above, it can be concluded that the authority of the central government in fostering regional legal products by means of facilitation,

evaluation, harmonizing, and stabilizing conception. While supervision of regional legal products by providing register numbers, clarifications, and cancellations. Evaluation, harmonizing, rounding off and stabilizing conception, and assignment of register numbers and cancellations is the authority of attribution obtained from the Regional Government Law and the Law on the Establishment of Legislation. Meanwhile, facilitation is the authority of the delegation obtained from Permendagri Number 80/2015. Laws and Regulations in this case the Regional Government Law and the Law on the Establishment of Legislation do not provide material limitations on which regional legal products can be developed and supervised, however these laws and regulations stipulate the criteria for legal products that can be facilitated or evaluated. . All material on regional law products can be guided and supervised, except for the Aceh Qanun which regulates that the implementation of Islamic law can only be canceled through a judicial review by the Supreme Court.

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