

# The Nature Of Justice In The Implementation Of A Dynamic Government System

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**Abstract :** The consequence of implementing decentralization and regional autonomy is that each local government administrator makes or sets policies and implements government policies quickly, responsively, effectively and efficiently. In general, the people in the regions want or want the government service system to be carried out in a professional, reliable manner with an implementation method that is able to work effectively, efficiently, and at the same time satisfy the needs of the community. However, the local government bureaucracy becomes convoluted and lacks responsiveness and responsiveness to the needs and interests of the community. Based on this phenomenon, this research aims to (1) explain and analyze the nature of justice in dynamic government. (2) Explain and analyze what legal principles are the basis for dynamic governance, (3) Explain and analyze and find forms of dynamic governance. This research is normative legal research, namely research that examines and analyzes the rule of law, legal doctrine, legal theories as well as legal principles or principles, using a statutory approach, conceptual approach, case approach, and comparative approach. . The results of the study show that the essence of justice in a dynamic government is a government that always pays attention to or responds to conditions and needs in society according to real conditions in society, not the interests of the authorities. Various government policies and services that are made and implemented quickly respond to conditions and needs as well as developments that occur in the community, and even have to be responsive to changing situations/conditions in society. However, government policy making by government administrators in the regions has not reflected the dynamic principles of government, namely fast, responsive to the needs or interests of the local community, so that government policies are not effective and efficient in responding to the needs of local communities.

**Keywords:** Government Policy, Government Service System

## 1. INTRODUCTION

The fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia (hereinafter abbreviated as the 1945 Constitution of the Republic of Indonesia) stipulates the objective of establishing a State Government of the Republic of Indonesia which protects the entire Indonesian nation and the entire homeland of Indonesia, promotes public welfare, educates the nation's life and participates in carrying out order. a world based on freedom, lasting peace and social justice.

In accordance with this determination, one of the objectives of establishing the Indonesian state government is to promote general welfare and social justice for all Indonesian people. In order to achieve this goal, it must be supported by various government policies carried out by state administrators.

One of the government policies in question is the implementation of decentralization and regional autonomy in the governance system. Through the said government policy, the central government delegates some of the authority or government affairs to the regions to regulate and manage their own government affairs and the interests of the people in the regions.

The government policy is intended as an effort to improve government services to the community, due to the Indonesian state which has an area, and consists of thousands of islands, tribes, cultures, and different regions. Because if all government affairs are centered on the central government with the state conditions as mentioned, it will certainly cause government services to become inefficient and effective in order to realize the welfare of the community.

Based on the constitutional provisions of Article 18, Article 18A, and Article 18B of the 1945 Constitution of the Republic of Indonesia, the state stipulates the transfer of government affairs to the regions as well as the granting of rights and authority to the regions to regulate and manage the government affairs themselves.

Article 18 stipulates that:

(1) The Unitary State of the Republic of Indonesia is divided into provincial regions and the province is divided into regencies and cities, each of which has a regional government, which is regulated by law.

(2) The provincial, district and city administrations shall regulate and manage their own government affairs according to the principle of autonomy and co-administration.

- (3) The provincial, district and city governments shall have a Regional People's Representative Council whose members are elected through general elections.
- (4) The governors, regents and mayors respectively as heads of provincial, district, and city governments are democratically elected.
- (5) Regional governments exercise the widest possible autonomy, except for government affairs which are determined by law to be the affairs of the Central Government.
- (6) Regional governments have the right to stipulate regional regulations and other regulations to carry out autonomy and assistance tasks.
- (7) The structure and procedures for administering regional government are regulated in law.

Article 18A stipulates that:

- (1) The relationship of authority between the central government and provincial, regency, and city regional governments, or between provinces and regencies and cities, is regulated by law with due observance of the specificity and diversity of regions.
- (2) Financial relations, public services, utilization of natural resources and other resources between the central government and regional governments are regulated and implemented fairly and in harmony based on the law.

Article 18B stipulates that:

- (1) The state recognizes and respects special or special regional government units which are regulated by law.
- (2) The state recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated by law.

These provisions serve as the constitutional basis for stipulating various laws and regulations that implement the transfer of government affairs by the central government to regions and the granting of autonomy to regions in the system of administering the government of the State of Indonesia to regulate and manage according to their own initiatives and initiatives.

Based on the constitutional provisions of Article 18, Article 18A, and Article 18B of the 1945 Constitution of the Republic of Indonesia, Law of the Republic of Indonesia Number 23 of 2014 concerning Regional Government is stipulated (State Gazette of the Republic of Indonesia of 2014 Number 244, Supplement to the State Gazette of the Republic of Indonesia Number 5587, last amended by Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014 concerning Regional Government, State Gazette of the Republic of Indonesia of 2015 Number 58, Supplement to the State Gazette of the Republic of Indonesia Number 5679, hereinafter abbreviated as Law No. 23 of 2014) regulates the handover of government affairs from the central government to the regions or decentralization of government affairs to autonomous regions to regulate and manage their own government affairs and the interests of the people in the regions based on the aspirations and needs and conditions of the people in the regions. This makes government administrators in the regions able to determine government policies and implement government policies on their own initiative without direct central government intervention. Such conditions make government administrators able to make government policies that are tailored to the needs and interests as well as real conditions in the region.

Rondinelli said that decentralization was a way to reduce the density of the central government's workload (Hasbullah, 2010). Maddick also said that decentralization is a way to increase the ability of government officials to obtain better information about regional conditions, to develop programs more responsively and to anticipate quickly when problems arise in implementation (Hasbullah, 2010).

Van den Berg defines decentralization as the transfer of power or affairs from the central government to the regions (Agussalim Andi Gadjon, 2007). Meanwhile, Gie defines decentralization as the delegation of central government authority to government organizational units to carry out all local interests of groups that inhabit an area.

The understanding of the experts as mentioned shows that decentralization is the transfer of authority from higher government organs to lower government organs to carry out government actions independently. Normatively, Article 1 point 8 of Law no. 23 of 2014 defines decentralization as the transfer of government affairs by the central government to autonomous regions based on the principle of autonomy

Bagir Manan said that from the point of view of governance, decentralization aims to ease the workload of the center. Through decentralization, various tasks and work of the center are transferred to the regions. Center, thus can focus more attention on matters related to the national interest or the country as a whole (Manan, 2001). The implementation of decentralization gave birth to autonomy to the regions in regulating and managing government affairs in the regions. In other words, the handover of government affairs from the central government to the regions makes the regions entitled, authorized, and obliged to regulate and manage their own government affairs on their own initiative and initiative without being ordered by the central government.

Van der Pot, defines autonomy as *eigen huishouding* (running one's own household. Autonomy is the granting of rights to regions to regulate their own regions. Regions have freedom of initiative in managing household and local government (Agussalim Andi Gadjong, 2007). Meanwhile, Tresna, defines Autonomy as self-regulation within the scope of being free to act, not because it is ordered from above, but because of its own will and initiative for the interests of the region itself which must be regulated and managed (Agussalim Andi Gadjong, 2007).

The essence of the implementation of decentralization and regional autonomy is to bring the functions of government services closer to citizens residing in the regions. If all government affairs are centered only on the central government and its own implementation by the central government makes it difficult for the central government to provide government services quickly, responsively, effectively and efficiently.

As a consequence of the implementation of decentralization and regional autonomy in the government system in Indonesia, there is a division of government affairs between the central and regional governments as stipulated in Article 9 of Law no. 23 of 2014 which stipulates that:

- (1) Government Affairs consist of absolute government affairs, concurrent government affairs, and general government affairs.
- (2) Absolute government affairs as referred to in paragraph (1) are Government Affairs which are fully under the authority of the Central Government.
- (3) Concurrent government affairs as referred to in paragraph (1) are Government Affairs which are divided between the Central and Provincial Governments and Regency/Municipal Regions.
- (4) Concurrent government affairs that are handed over to the Regions become the basis for the implementation of Regional Autonomy.
- (5) General government affairs as referred to in paragraph (1) are Government Affairs under the authority of the President as head of government.

In the division of government affairs, there are classifications of government affairs, namely absolute affairs, concurrent government affairs, and general government affairs. Absolute government affairs are government affairs which are the authority of the central government which are not left to the regions. The government affairs in question are absolutely the authority of the central government. The government affairs as mentioned are carried out by the central government itself, which in its implementation in the regions the central government can delegate the said government affairs to vertical agencies in the regions or the governor as representatives of the Central Government in the regions.

Meanwhile, concurrent government affairs are government affairs that are divided between the central government, provincial regions, and district/city areas. Concurrent government affairs consist of mandatory government affairs and optional government affairs. Mandatory government affairs are government affairs that must be carried out by all regions. While elective government affairs are government affairs that must be carried out by the region in accordance with the potential of the region.

Government affairs must consist of government affairs related to basic services and government affairs that are not related to basic services. Mandatory government affairs related to basic services are mandatory government affairs, some of which are basic services, such as government affairs (a) education; (b) health; (c) public works and spatial planning; (d) public housing and residential areas; (e) peace, public order, and community protection; and (f) social (Article 12 of Law No. 23 of 2014).

The government affairs must be submitted to the regions as the basis for implementing regional autonomy, in addition to concurrent government affairs that are not related to basic services or government affairs of choice.

In principle, the transfer of government affairs from the central government to the regions is an effort to improve government services to the community in each region. On this basis, each regional government administrator makes or stipulates policies and implements government policies quickly and responsively to meet the needs and interests of the community so that government services become efficient and effective.

Each government administrator in the region makes and implements his own government policies in accordance with the needs and aspirations of the people in the region to provide government services to community members in the region and development in the region, so that there is no inequality of government services and development between regions if this is the case. carried out by the central government. However, this situation certainly requires great attention and fast handling but must be accurate. Each local government administrator is more responsive in responding to all the needs or interests of the local community without having to depend on the central government. The delegation of authority or government affairs to the regions to regulate and manage their own government affairs and the interests of the people in the regions according to the aspirations and objective conditions that occur in each region as a manifestation of the application of distributive justice proposed by Aristotle.

Aristotle, distinguishes justice into distributive justice and commutative justice (Aristotle, 1997). Distributive justice is justice that demands that everyone gets what is their due, so it is proportional. Here what is considered fair is if everyone gets what is their right proportionally. Meanwhile, commutative justice is the determination of fair rights among several human individuals who are equal, both between physical and non-physical individuals. Justice is also interpreted as equality, namely equality in the eyes of the law, where no one party is higher than the other party (Nasution, 2014).

Distributive justice as stated by Aristotle is manifested in the surrender and granting of rights, authorities and obligations to the regions to regulate and manage their own government affairs and community interests based on regional aspirations and conditions. This is to improve government services as an effort to create people's welfare. This is influenced by the concept of a welfare state or known as the Welfare State which requires the state to seek welfare for its people. The government is required to be able to behave dynamically to resolve all aspects/problems concerning the lives of its citizens (Ragawino, Bewa, 2006).

The government must be sensitive to every problem that occurs in the community, must prioritize the people first, advance the region, reduce problems that occur in society, not add problems to the people, starting from the service aspect, attitude in service from the government bureaucracy, even the length of time in service. not in accordance with the provisions, which people are tired of dealing with government bureaucracy. It doesn't make it easy for people to deal with it, but instead makes it complicated when dealing with government bureaucracy.

Whereas the government must be fast, responsive, effective and efficient. This is a form of dynamic government. In principle, in a dynamic government administration system, in the process of formulating and implementing government policies, it is carried out quickly, adaptive to conditions that exist in society. This makes the implementation of government policies more efficient and effective as well as fair to the whole community, because the purpose of handing over government affairs from the central government to the regions is as a form of improving government services.

In general, local people want or want government services that are fast, cheap and fair. The government service system is carried out in a professional, reliable manner with an implementation method that is able to work effectively, efficiently, and at

the same time satisfy the needs of the community. The existence of government administrators in the regions as part of state organs must be able to make it happen, by prioritizing the public interest, facilitating public affairs, shortening the time for the implementation of public affairs, and providing the best quality to citizens through public services. However, the local government bureaucracy becomes convoluted and lacks responsiveness and responsiveness to the needs and interests of the community as stakeholders in government services.

Various government service systems and government policies in the regions still cause problems. Whereas the purpose of handing over government affairs and granting autonomy to regions is to improve government services to the community in order to realize community welfare. The long-term development vision and direction for 2005-2025 is to improve the quality of state administration by: (a). Reorganizing the functions of government institutions so that they can function more adequately, lean, flexible and responsive; (b). Increasing the effectiveness and efficiency of management and procedures at all levels and between levels of government; (c). Structuring and increasing the capacity of apparatus resources to suit the needs in carrying out their duties and functions to provide the best service for the community; (d). Improving employee welfare and implementing a career system based on achievement (Vision, Mission and National Long-Term Development Direction, 2005-2025).

Local governments must be able to innovate in improving the quality of public services to eliminate the impression of a slow, convoluted and unfriendly government bureaucracy. This can be eliminated by reforming the bureaucratic governance system, improving human resources and institutions in order to realize good governance. good. The phenomenon of public services by local government bureaucracies is full of problems, for example long-winded service procedures, uncertainty of time and price that make services difficult to reach in a reasonable manner by the community. This causes distrust of local government. The condition of the performance of local government institutions still shows a lot of low governance performance even though they have financial resources that are considered sufficient to support the implementation of government programs and activities in the context of achieving state goals (Darusman and Wijaya, 2020).

According to Agus Pramusinto, there are three main phases of a dynamic government, namely internal government improvement, public service improvement, and a government that pays attention to the adaptive needs of its people (greater democracy). It is said, adaptive government is a government that wants to understand the needs of its people progressively. This government is able to see various problems from various perspectives so that they can find more effective and effective treatment for the people (Anonymous, 2022). Neo Boon Siong said that the needs of today's society are fast, responsive and efficient government. If these three needs can be met, then the relevant government can be said to have succeeded in implementing good governance properly. If it is not able to change, then it is not good governance.

We can take an example in the implementation of dynamic governance in the State of Singapore, a small, modern country, pocketing a series of world-class achievements, including: ranking (5) the most competitive country in the world in 2006. (5) the country with the least corruption, the most comfortable country (6) to do business in 2006 to 2010 as the top ranking country in Asia for the convenience of living, doing work, playing, and ranking 34th in the world, and others, one of the concepts that is well implemented is Dynamic Government which has led the State of Singapore to the state of progress as above. In its implementation, dynamic governance in Singapore has an impact on time and budget efficiency in terms of cheap, fast-paced through technological transformation, improving the quality of human resources, strengthening information systems, modernizing business management, institutional reform, reinventing government, banishing bureaucracy, deregulation. and debureaucratization, development of e-commerce and so on, which as a whole refers to increasing efficiency and quality of service, which is supported by professional abilities and skills as public servants (Neo and Chen, 2007).

Based on the above background, researchers are encouraged to conduct research with the title Principles of Justice in the Implementation of a Dynamic Government System. Based on the background of the problem above, the problems in this paper are: How is the nature of justice in dynamic government? The research objectives to be achieved from this research are to: examine, analyze and know the nature of justice in dynamic government. Research Benefits: The results of this study are expected to provide benefits both theoretically and practically, including: Theoretically, providing academic input for the development of Legal Science, especially in the field of Constitutional Law and State Administrative Law related to the principle of justice in the administration of a dynamic government system. Practically, the results of this study are expected to be useful for the Government and Regional Governments in carrying out government functions.

## 2. RESEARCH METHOD

### Types of research

According to the substance studied, this research is a legal research with a normative juridical type. Legal research according to Peter Mahmud Marzuki is a process to find the rule of law, legal principles, and legal doctrines in order to answer the legal issues faced (Marzuki, 2006). Normative juridical research is a legal research method carried out by examining library materials or mere secondary materials (Marzuki, 2006).

### Problem Approach

The approach to the problem in this research is the statutory approach, conceptual approach and comparative approach to obtain legal arguments in order to answer the legal principles in the implementation of a dynamic government system.

The statute approach is used to examine a number of laws and regulations related to the Implementation of a Dynamic Government System. A conceptual approach is used to explore the various terminology used in the Implementation of a Dynamic Government System. The comparative approach is carried out by comparing the implementation of government in other countries with regard to the Implementation of a Dynamic Government System.

### Source of Legal Material



The source of the legal material in this research comes from library research, where library research uses primary legal materials, secondary legal materials and tertiary legal materials. Primary legal materials are legal materials whose contents are binding because they are issued by the government or institutions that have the authority. **Primary legal materials consist of:**

1. The 1945 Constitution of the Republic of Indonesia.
2. Law of the State of Indonesia Number 5 of 1986 concerning the State Administrative Court
3. Law of the Republic of Indonesia Number 39 of 1999 concerning Human Rights.
4. Indonesian State Law Number 9 of 2004 concerning Amendments to Law Number 5 of 1986 concerning State Administrative Courts
5. Law of the Republic of Indonesia Number 28 of 1999 concerning the Implementation of a State Free from Corruption, Collusion and Nepotism.
6. Law Number 11 of 2008 concerning Information and Electronic Transactions.
7. Law Number 25 of 2009 concerning Public Services.
8. Law of the State of Indonesia Number 30 of 2014 concerning Government Administration
9. Law of the State of Indonesia Number 23 of 2014 concerning Regional Government.
10. Government Regulation Number 105 of 2000 concerning Regional Financial Management and Accountability.
11. Government Regulation No. 58 of 2005 concerning Regional Financial Management.
12. Regulation of the Minister for Empowerment of State Apparatus and Bureaucratic Reform Number 06 of 2011 concerning Electronic Service Manuscripts.
13. As well as various other laws and regulations.

Secondary legal sources are materials in the form of books and other printed materials, as well as software, namely by accessing a number of data via the internet, various books, scientific journals, and research results, and tertiary legal materials are legal materials that support primary legal materials. and secondary legal materials (Sondakh, 2009).

### **Legal Material Collection Techniques**

The technique of collecting legal materials used in this research is to conduct a literature study, namely by collecting rules that support the problem, selecting legal materials, so that several types of accurate legal materials are produced.

The legal materials that have been obtained are then analyzed, with qualitative analysis which is connected with relevant legal theories which are then used to draw conclusions as answers to the problems mentioned above. This is very important, because the study of documents for legal research includes the study of legal materials consisting of primary legal materials and secondary legal materials. Each of these legal materials must be re-examined for validity and reliability, because this will determine the results of the study (Amiruddin and Asikin, 2013).

### **Legal Material Analysis Techniques**

The legal materials that have been obtained are then analyzed by qualitative analysis which is related to the relevant theories, concepts, principles, and principles of law which are then used to draw conclusions as answers to the problems mentioned above.

This is because a normative juridical analysis essentially emphasizes the deductive method as the main guide and the inductive method as a supporting work procedure. Normative analysis mainly uses library materials as research sources (Amiruddin and Asikin, 2013).

## **3.RESULTS AND DISCUSSION**

### **The Nature of Justice in a Dynamic Government Administration System.**

The design of the implementation of regional government in Indonesia through the delegation of government affairs or authority to the regions and the granting of autonomy to the regions to regulate and manage their own government affairs and the interests of the community is for equitable distribution of government services and development throughout the region. So that there is no more centralization of government and development services to the central government and to improve government services to the community in each region. This has the consequence that government administrators in each region are more responsive and responsive to the various needs or interests of the local community without being dependent on the central government. Government administrators in the regions must be able to create government services and development in the regions on their own initiative in order to improve the welfare of regional communities.

Delegation of government affairs or authority to the said regions, making government services equal to the community and development in all regions, so that people in each region will get good government services and the existence of equitable development throughout the territory of Indonesia, when compared to the centralized system makes it is difficult for people in regions to have access to good government services and even neglect them, for example government services in the fields of education, health and others, and development is only concentrated in certain areas.

Even though every citizen has the same right to get government services without any regional, ethnic, religious differences. Every citizen has the same right to enjoy government and development services. Therefore, the State is responsible for providing good or proper public service facilities for all citizens and carrying out development evenly throughout the territory of the country. There is justice in government services and development for all citizens.

However, people's lives are still isolated, especially in areas characterized by islands such as in Maluku from government services and development due to uneven development as a result of government policies carried out by the government and local governments. This resulted in areas far from the center of government unavailability of transportation facilities and infrastructure (land and sea) and communication that allows interaction between communities between islands. As a result, people living on certain islands do not have access to government and development services and information about social changes that are taking place. The low quality of human resources in various contexts of social relations, such as in the fields of education and health, for example, is due to the lack of adequate education and health facilities and infrastructure and are not evenly distributed throughout the region. There is a tendency for people in this region to maintain and practice traditional lifestyles in a system. In this context, the natural resources (especially marine and fisheries natural resources as well as mining) which are abundantly available in this region have not been utilized optimally, so that the degree of social welfare cannot be developed. The community has difficulty adjusting to the socio-cultural dynamics that occur. But on the other hand, this indication shows a strong tendency of the community to maintain and actualize cultural values that have not provided added value for the realization of living welfare. This requires the central government and regional governments to make government policies and provide facilities and means of connecting to make it easier for citizens to access adequate for the population so that they can interact from one place to another, for example by improving transportation facilities both land and sea for easy access to transportation. going from one place to another.

The choice of legal politics should be the submission of government affairs to the regions and the granting of autonomy to the regions as a means of applying the principle of justice in the fulfillment of the right to government and development services for all citizens to enjoy the same government and development services by all citizens, so that inequality and injustice do not occur. in providing inter-regional government and development services. However, this is not what happened, but injustice in government and development services.

Whereas the transfer of government authority from the central government to the regions to regulate and manage their own government affairs is a means of implementing justice in the government administration system. The principle is that there is justice in obtaining or obtaining government and development services for all citizens, as stated by John Rawls that there is a balanced distribution of rights and obligations in society so that everyone has the opportunity to benefit from them in real terms, and bear the same burden (Pan Mohamad). Faiz, 2009). There is equal fair treatment from the government to fulfill the rights of all citizens to get government services.

In principle, the transfer of government affairs from the central government to the regions is an effort to improve the quality of government services and regional development in order to fulfill the rights of every citizen. As a consequence, regional government administrators can determine for themselves the appropriate design and model of government bureaucracy to provide good governance and development services in the region on their own initiative and initiative according to the conditions and needs of the community and region, but in reality regional government administrators still show a negative impression in providing services. good governance and development to citizens. People are always placed as clients who need the help of bureaucratic officials, so they must submit to the wishes of officials in the bureaucracy. The culture that has developed in the bureaucracy so far is not a service culture, but rather leads to a culture of power.

Whereas the handover of government affairs and the granting of autonomy to regions is aimed at (a) realizing the effectiveness of regional government administration; (b) accelerate the improvement of community welfare; (c) accelerate the improvement of the quality of public services; (d) improve the quality of governance, and; (e) increase national competitiveness and regional competitiveness

The attention and concern of local governments so far has always been associated with a development approach that emphasizes security more than the approach and improvement of welfare (prosperity). Whereas the security approach must always be accompanied by a balanced welfare approach. On the other hand, several neighboring countries bordering Indonesia have developed their border areas as areas of advanced economic growth with various complete physical facilities and infrastructure as well as quality human resources, such as Singapore and others.

The essence of handing over government affairs and granting autonomy to regions is to bring the functions of government services closer to citizens so that government services are effective for citizens. Cheema and Rondinili suggested several reasons for implementing decentralization, namely: (1) Ways to overcome various serious limitations. (2) Overcome the strict structured procedures of a centralized plan. (3) Increased sensitivity to local problems and needs. (4) Penetration of State politics and administration. (5) Representation is better. (6) Better public administration capacity and capability. (7) Field services with higher effectiveness at local level. (8) Improve coordination with local leaders. (9) Develop local community participation. (10) Creating alternative ways of making decisions. (11) Public administration that is more flexible, innovative, and creative. (12) Better diversity of service facilities. (13) Better political stability. (14) Increasing the number and efficiency of distribution of public goods and services (Sumaryadi, 2005).

With the handover of government affairs and the granting of autonomy to the regions, efficiency of government services to the people in the regions should have been achieved, the sensitivity of regional government administrators to the problems and needs of the people in the regions, regional government administration to be more flexible, innovative, creative, and so on. .

According to S.H. Sarundajang has a number of bureaucratic weaknesses faced by local government, namely; 1). The organizational structure and work procedures made by each local government only accommodate personnel in a structural position; 2) community participation is still low, 3) transparency has not worked, 4) overlapping work mechanisms and division of tasks make it difficult for internal circles and the community to deal with local governments. 5) the politicization of civil servants is still symptomatic, 6) an unhealthy career system creates unhealthy competition, 7) the bureaucratic apparatus is not ready to face the demands of change. (Sarundajang, 2005]

The handover of government affairs to the regions as a form of proportional distribution of justice or distributive justice which is said by Aristotle in the context of equitable administration of government and development to accelerate the improvement of people's welfare. According to Aristotle, distributive justice is justice that gives everyone a portion according to their achievements (Pan Mohamad Faiz, 2009). This view of justice as a granting of equal rights is not equality. This means that there is proportionality in giving rights to everyone according to their abilities and achievements. Everyone gets what is due proportionally.

The concept of distributive justice has actually been adopted in government policy through the application of the widest possible autonomy to the regions and the division of selected government affairs in accordance with regional potential, so that the content of autonomy from each region to elective government affairs is different. The concept of justice is not only applied in the distribution of selected government affairs, but also in granting status to special regions and special regions that are owned as a manifestation of regional diversity. In addition, the nature of the contents of regional autonomy that is practiced in the system of governance in Indonesia does not have to be uniform, because regional conditions are different. Therefore, the distribution of government authority must be carried out proportionally based on the real conditions of the region. This means that the value of justice is obtained proportionally.

With the handover of government affairs from the central government to the regions as well as the granting of broad autonomy to the regions, there has been a change in the approach to governance in order to respond to the fulfillment of the interests or needs of citizens. There is a shift or transfer of authority from the central government to the regions to regulate and manage government affairs and the interests of the people in the regions. This means that there has been a change in the implementation of tasks and functions by local government administration. The central government provides opportunities for regions and even local communities to participate in regulating and managing regional households.

Government administrators in the regions themselves make and implement government policies independently without having to depend on the central government and must be oriented to the interests and needs that are really real in the community to overcome various problems faced by the community as an effort to create fast, responsive, and efficient government management. efficient and effective.

The regions must independently regulate and manage their own government affairs and the interests of the people in the regions, but still based on the norms, procedures, standards and criteria set by the central government in the provisions of laws and regulations, as a consequence of the stipulation of the Indonesian state as a unitary republic.

Koswara put forward four considerations of the need to give autonomy to the regions, among others: (1) From a political perspective, the granting of autonomy is seen as preventing the accumulation of power in one hand which eventually leads to a tyrannical or totalitarian government and anti-democracy; (2) In terms of democracy, autonomy is believed to be able to involve the people in the government process as well as to educate the people to use their rights and obligations in the daily administration of government; (3) From an organizational technical point of view, autonomy is seen as a way to achieve an effective and efficient government that is more responsive. What is considered more important to be managed by the government and local communities is left to the regions and what is more appropriate in the hands of the center is still managed by the center. (4) In terms of management as an administrative element, a delegation of authority and obligation to provide accountability for the performance of a task is a natural thing (Koswara, 2001).

I Nyoman said that the purpose of granting autonomy to the regions includes at least four aspects: (1) From a political perspective, it is to involve, channel the inspiration and aspirations of the people, both for the benefit of the region itself and to support politics and national policies in the context of development and the democratic process at the regional level. lower. (2) In terms of government management, it is to increase the efficiency and effectiveness of the administration of government, especially in providing services to the community by expanding the types of services in various fields of community needs. (3) From a societal perspective, it is to increase participation and foster community independence, by carrying out empowerment efforts, so that the community becomes more independent and does not depend too much on government grants and has strong competitiveness in the growth process. (4) From an economic point of view, development is to expedite the implementation of development programs in order to achieve increasing people's welfare (I. Nyoman, 2005)

The granting of autonomy to the regions or the rights, powers, and obligations to the regions to regulate and manage their own regional households can be seen from the political, democratic, government management, economic, and other aspects that have a positive impact on society, the region and the state. However, the rights, powers and obligations of the great regions in regulating and managing their own government affairs and the interests of the people in the regions do not give birth to sovereignty for the regions, the sovereignty of the state remains with the central government.

Rod Haqua and Martin Harrop explained that in a unitary state, the responsibility of the central government is (1) control over the making of regulations (legislation) including removing or changing the authority of local governments; (2) provide the majority of local government spending needs; (3) create administrative standards for service provision; and (4) handle national affairs. Meanwhile, the local government's responsibilities are (1) control over policy implementation; (2) the provision of public services, such as health, education and community welfare; (3) management of certain revenue sources; and (4) the authority to elect and appoint regional officials (Agussalim Andi Gadjong, 2007).

Regardless of the extent of regional autonomy, the final responsibility for administering regional government rests with the central government and policies made and implemented by regions are an integral part of national government policies. The difference lies only in how to utilize local wisdom, potential, innovation, competitiveness, and creativity to achieve overall national goals.

The transfer of government affairs and autonomy to the regions does not mean that the regions have power and are separate or independent from the central government. Local government is a subsystem of the central government administration

system. State power remains with the central government as said by Jimly Asshidiqie that the State of Indonesia is a unitary state, whose power comes from the central government (Asshiddiqie, 2001).

The unitary state does not absolutely apply the centralization of all government affairs to the central government, but transfers part of government affairs to the regions to carry out certain government affairs to become regional household affairs. This raises the responsibility of government administrators in the regions to carry out government affairs in the regions as well as the interests of the people in the regions, as stated by Joeniarto that in a unitary state all state government affairs are the full authority of the (central) government. If the country concerned uses the principle of decentralization, in which the regions are formed by local governments with the right to regulate and manage households, certain affairs can be delegated to them to be managed as their own households (Joeniarto, 1992).

However, government actions taken by the regions must not conflict with the national legal order and the national public interest. On the other hand, the central government in formulating policies must pay attention to local wisdom in the region so that there is a balance between national and regional interests. Between the central government and local governments have a mutually influencing relationship. The relationship referred to in the form of a relationship of authority, finance, public services, as well as the use of natural resources and other resources, which is conceptualized in Article 18A of the 1945 Constitution of the Republic of Indonesia stipulates that:

- 1) The relationship of authority between the central government and the provincial, district, and city regional governments, or between the Province and regencies and cities, is regulated by law with due observance of the specificity and diversity of the regions.
- 2) Financial relations, public services, utilization of natural resources and other resources between the central government and regional governments are regulated and implemented fairly and in harmony based on the law.

As a consequence of granting autonomy to regions, regions have the authority to regulate and manage their own government affairs in accordance with aspirations based on applicable laws and regulations to improve government services quickly, responsively, efficiently and effectively as a manifestation of a dynamic government administration system. At least the positive impact of giving government affairs or government authority to regions is that regional government administrators in making and implementing government policies become fast, responsive, so that there is an increase in the quality of government services, because regions are more flexible to manage and empower their resources, there are cuts procedural bureaucracy is long and convoluted so that the administration is fast, there is a reduction in costs and operational time, and so on. This is a demand from dynamic governance that requires the government to respond to the interests and needs of the community in the process of formulating and implementing government policies.

As stated by Boon Siong Neo, the current needs of society are fast, responsive, and efficient government (Neo and Chen, 2007). This is a manifestation of dynamic governance or dynamic governance. Neo and Chen stated that the desired result in dynamic governance is the achievement of adaptive policy making by public organizations. This dynamic governance does not occur by chance but also depends on leadership being able to change and interact with social structures to achieve organizational goals. In essence, dynamic governance is the result of capacity building and institutionalization of cultural values that support dynamic organizational capabilities and proactively build adaptive pathways and adaptive public policies. Through such dynamic governance, policies and institutional structures of public sector organizations will remain relevant and effective in achieving their long-term goals.

The government's dynamic condition is pursued through the development of adaptive paths and adaptive policies to produce effective policies. The adaptive path in question emphasizes the decision-making mechanism that is not complicated but still runs within the legal corridor. Meanwhile, adaptive policy is a source of ideas and actions that will give birth to a number of government innovations and is an important key in policy dynamics. The management of the government bureaucracy does not only emphasize the context of structural, institutional and management reforms. However, it involves a substantial aspect in the form of institutional culture which is the foundation for the movement of government activities.

The granting of autonomy to the regions is actually a form of creating a dynamic government, because it is given the authority to local government administrators to determine their own government policies that are in accordance with the aspirations of the people and regional conditions without having to depend on the central government, as well as local governments themselves who carry out government policies that made it. Therefore, it can be said that the granting of autonomy to the regions as a means of education towards regional independence to solve their own regional problems without having to always depend on the central government. Government administrators in the regions have the right, authority and obligation to regulate and manage their own government affairs that are handed over to the regions.

The essence of regional autonomy is one of the rights, powers and obligations of the regions to regulate and manage their own government affairs, and the interests of the community. Thus, the regions are authorized to make policies in order to provide services, increase participation, initiatives and community empowerment in order to improve people's welfare.

Regional government policies are made and implemented by the Regional Head and the Regional People's Representative Council (hereinafter abbreviated as DPRD) as regional government administrators. The existence of regional heads and DPRD work on the basis of partnership and not supervise each other. In formulating and formulating regional policies, the two institutions work together in a spirit of partnership. However, at the time of implementation the two institutions have different functions. The Regional Head implements regional policies and the DPRD supervises regional policies.

Thus the essence of justice in the administration of government is the distribution of government services to citizens and development throughout the territory of the country through various government policies and government services by state government organs. This means that there is no centralization of government authority to make government policies and government services only on the central government, but is distributed throughout the region so that local government administrators can act quickly, respond to the needs and interests of the community so that all citizens receive government



services effectively and efficiently. , which changes the government administration process, structure, government values, in government management that is centered only on the central government. Government administrators in the regions respond more quickly to problems and take policies adapted to community conditions and regional characteristics, while still relying on legal rules set by the central government.

#### 4.CONCLUSION

The essence of justice in a dynamic government is a government that always pays attention to or responds to conditions and needs in society according to real conditions in society, not the interests of the authorities. Various government policies and services that are made and implemented quickly respond to conditions and needs as well as developments that occur in the community, and even have to be responsive to changing situations/conditions in society. However, government policy making by government administrators in the regions has not reflected the dynamic principles of government, namely fast, responsive to the needs or interests of the local community, so that government policies are not effective and efficient in responding to the needs of local communities.

#### REFERENCES

- Agus Santoso H.M., 2012, *Hukum, Moral, dan Keadilan, Kencana*, Prenada Media Group, Jakarta. [In Indonesia]
- Agussalim Andi Gadjon, 2007, *Pemerintahan Daerah Kajian Politik dan Hukum*, Ghalia Indonesia, Bogor . [In Indonesia]
- Amiruddin, Asikin H. Z., 2013. *Pengantar Metode Penelitian Hukum*, Raja Grafindo Persada, Jakarta. [In Indonesia]
- Anonimous, 2022. <https://menpan.go.id>. *Tata Kelola Pemerintahan Yang Dinamis*, diakses, 16, Februari 2022.
- Aristoteles, 1997. *Keadilan Dalam Perspektif Hukum*, Cet.Ke-2, Sinar Grafika, Jakarta. [In Indonesia]
- Asshiddiqie, J. 2001. *Pengantar Pemikiran UUD Negara Kesatuan Republik Indonesia*, The Habibie Center, Jakarta. [In Indonesia]
- Darusman F, Wijaya C, 2020. Firman Darusman dan Chandra Wijaya, *Kapasitas Dinamis Sektor Publik : Sebuah Tinjauan Literatur, Jurnal Ilmu Administrasi Negara*, 16(1), Juli 2020. [In Indonesia]
- Hasbullah, 2010, *Otonomi Pendidikan Kebijakan Otonomi Daerah dan Implikasinya Terhadap Penyelenggaraan Pendidikan*, RajaGrafindo Persada, Jakarta. [In Indonesia]
- Joeniarto, 1992. *Perkembangan Pemerintahan Lokal*, Melton Putra, Jakarta. [In Indonesia]
- Koswara, 200. *Otonomi Daerah Untuk Demokrasi Dan Pemberdayaan*, Yayasan Pariba, Jakarta. [In Indonesia]
- Manan Bagir, 2001, *Menyongsong Fajar Otonomi Daerah*, Pusat Studi Hukum (PSH) Fak Hukum UII, Yogyakarta. [In Indonesia]
- Marzuki, P.M, 2006. *Penelitian Hukum*, cet.2, Kencana Perdana Media Group, Jakarta. [In Indonesia]
- Nasution B.J, 2014. *Kajian Filosofis Tentang Konsep Keadilan*, Fakultas Hukum Universitas Jambi. [In Indonesia]
- Neo, B. S., Chen, G. 2007. *Dynamic governance: Embedding culture, capabilities and change in Singapore*, Singapore, World Scientific Publishing. [In Indonesia]
- Pan Mohamad Faiz, 2009. *Teori Keadilan John Rawls*, dalam *Jurnal Konstitusi*, 6(1), April 2009. [In Indonesia]
- Ragawino, Bewa, 2006. *Hukum Administrasi Negara*, Fakultas Ilmu Sosial dan Ilmu Politik Universitas Padjajaran, Bandung. [In Indonesia]
- Sarundajang, 2005, *Birokrasi Dalam Otonomi Daerah, Upaya Mengatasi Kegagalan*. Kata Hasta Pustaka: Jakarta. [In Indonesia]
- Sondakh D.K.G ,2009. *Tanggung Jawab Individu Bagi Pelaku Pelanggaran Terhadap Hak Asasi Manusia Dalam Rangka Pembaruan Hukum Nasional*, Disertasi, Program Pasca Sarjana Universitas Hasanuddin, Makassar. [In Indonesia]
- Sumaryadi, I N. 2005. *Efektifitas Implementasi Kebijakan Otonomi Daerah*, Citra Utama, Jakarta [In Indonesia]

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