

## RINGKASAN

Undang-undang No. 22 Tahun 1999 tentang Pemerintahan Daerah memberikan kebebasan kepada daerah untuk lebih mandiri. Kemandirian daerah dalam mengatur urusan pemerintahan harus tetap dalam ikatan negara kesatuan. Karena itu harus ada berbagai persyaratan dan cara-cara pengendalian agar tidak bergeser menjadi semacam kemerdekaan daerah. Dalam menjalankan roda pemerintahan negara untuk mewujudkan tujuan-tujuan negara, maka segenap administrasi negara dituntut bersikap jujur, bersih, berwibawa, berdaya guna dan berhasil guna. Untuk keperluan tersebut, maka sikap tindak mereka harus selalu berdasarkan atas hukum. Namun untuk mencegah terjadinya penyimpangan dan/atau penyelewengan yang dilakukan administrasi negara, maka dalam fungsi pemerintahan perlu dilengkapi dengan fungsi pengawasan.

Undang-undang Pemerintahan Daerah, dalam hal pengawasan lebih menekankan pada pengawasan represif untuk lebih memberikan kebebasan kepada Daerah Otonom dalam mengambil keputusan serta memberikan peran kepada Pemerintahan Daerah. Karena itu, Peraturan Daerah yang ditetapkan tidak memerlukan pengesahan terlebih dahulu oleh pejabat yang berwenang.

Kewenangan pengawasan represif tersebut, tidak saja terletak pada pemerintah tetapi juga pada Mahkamah Agung yang tentunya dengan fungsi yang berbeda. Fungsi pengawasan represif yang dimiliki pemerintah adalah kewenangan dalam hal pembatalan peraturan daerah, sedangkan Mahkamah Agung memiliki kewenangan dalam hal penanganan keberatan atas pembatalan dengan dasar pengujian Pasal 24A UUD 1945 Amandemen ketiga dan Kewenangan Mahkamah Agung diatur Pasal 114 ayat (4) UU No. 22 Tahun 1999, sebagai pelaksanaan fungsi pengawasan represif terhadap penyelesaian keberatan atas pembatalan Peraturan Daerah, menimbulkan masalah hukum antara lain :

## SUMMARY

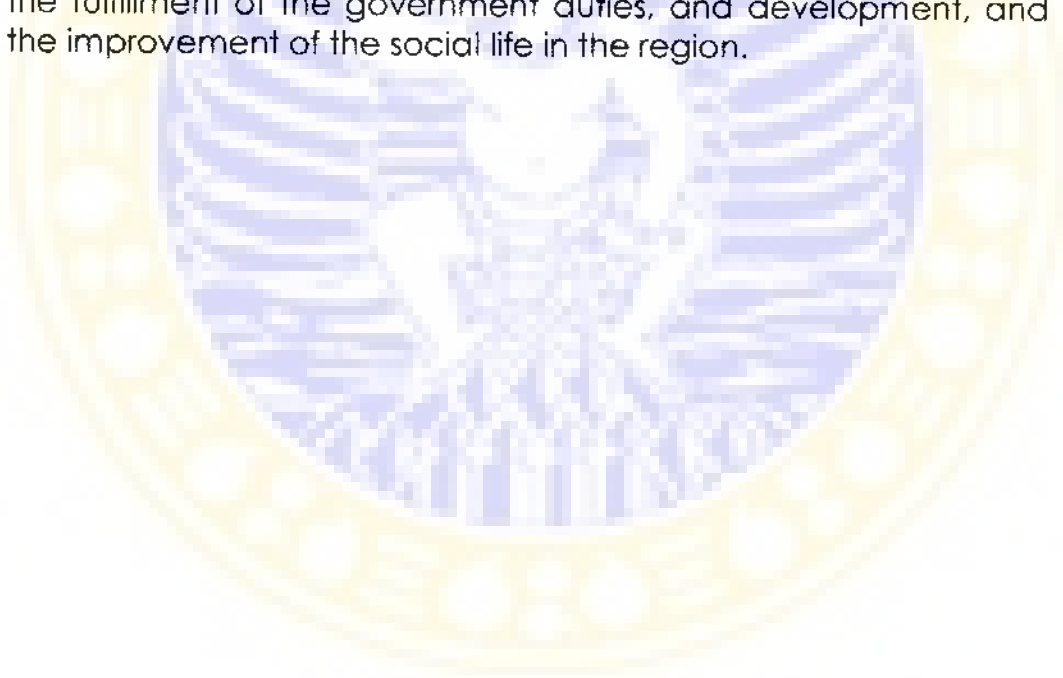
Law No. 22 of year 1999 on Local Government has given the freedom to Local Government to be more independent. The Local independence in arranging governance business should be in unity state tying. Therefore, there should be some requirement and ways of control in order not to trun into of independence of local. In running the activity of State to realize the target of State, the public administration is forced to be honest, clean, capable, effective, and efficient. To reach the goal, there behaviour must be based on the provisions of law. Yet, to prevent the happening of deviation and/or other of inexpediency done by public administration, the function of government must needs to be completed by the function of control.

The law of Local Government is emphasizes the repressive control, which aims at giving more freedom to local autonomy in making decision and making policy in relation of the importance of the role of Local Government. In consequence, the regional regulation does not need the authentication from functional officer.

The Authority of the repressive control is possessed by not only on the government but also the Supreme Court, which has the different function. The function of the repressive control owned by the government is the authority in the case of cancellation of regional regulation, whereas the Supreme Court has the authority in the handling of objection on the cancellation with examination base of article 24A UUD 1945, the third amendment and the authority of the Supreme Court is regulated by the article 114 Paragraph 4 of the Indonesian Law No. 22 of year 1999, as the implementation of repressive control on the solving of objection in case of the cancellation of the regional regulation which generates the problem of law, such as how is the legal consequences if the decision of the Supreme Court is not obeyed and implemented by not only the Local Government but also the Central Government.

As a matter of fact, the initiative of Regional Government of sub-province or town in term regional regulation has arisen a lot of problems. The deviation of the adherence of law has caused the happening of distortion relation between the Central Government and the Local Government. When dispute potency is not regulated emphatically, especially boundary of authority, law instrument of the solving of dispute including event law, it can arise the different subjective interpretation between the Central Government and the Local Government, and the dispute continuously. Impotence collision happens because of the weakness of law in performing in the regional, so that there is no compatibility or harmony in making decision structurally.

Thereby, Law does not give protection and clear certainty for the Local Government in implementation of the Local Autonomy. Including in the case of the cancellation of regional regulation which has been valid. Therefore, the cancellation of regional regulation will have law consequence which influences the fulfillment of the government duties, and development, and the improvement of the social life in the region.



## ABSTRACT

The law of Local Government is emphasizes the repressive control, which aims at giving more freedom to local autonomy in making decision and making policy in relation of the importance of the role of Local Government. In consequence, the regional regulation does not need the authentication from functional officer.

Functioning control as protection effort punish to people. Added also control as organizational correction from functionary or body arrange the effort state to be can become cleanerly, more effective and more utilizable in the case of management of public duties. Control very needed by for the shake of is well guaranted management of good governance, cleanness and is authoritative.

The Authority of the repressive control is possessed by not only on the government but also the Supreme Court, which has the different function. The function of the repressive control owned by the government is the authority in the case of cancellation of regional regulation, whereas the Supreme Court has the authority in the handling of objection on the cancellation with examination base of article 24A UUD 1945, the *third* amendment and the authority of the Supreme Court is regulated by the article 114 Paragraph 4 of the Indonesian Law No. 22 of year 1999, as the implementation of repressive control on the solving of objection in case of the cancellation of the regional regulation which generates the problem of law, such as how is the legal consequences if the decision of the Supreme Court is not obeyed and implemented by not only the Local Government but also the Central Government.

The deviation of the adherence of law has caused the happening of distortion relation between the Central Government and the Local Government. When dispute potency is not regulated emphatically, especially boundary of authority, law instrument of the solving of dispute including

event law, it can arise the different subjective interpretation between the Central Government and the Local Government. Thereby, Law does not give protection and clear certainty for the Local Government in implementation of the Local Autonomy. Including in the case of the cancellation of regional regulation which has been valid. Therefore, the cancellation of regional regulation will have law consequence which influences the fulfillment of the government duties, and development, and the improvement of the social life in the region.

Key word : **Repressive Control, Government, Regional Regulation**

