Abstract

This dissertation is to study the central government control over local government. In addition, it also deals with judicial control on local government. This research is a legal research, in which statute approach, historical approach, as well as comparative approach are carried out.

From this research, it is found that repressive control without being equipped with preventive control as provided in Law No. 22 of 1999 proved to be harmful for society and lack of legal certainty as well. This research reveals that the most appropriate control, in which both repressive and preventive controls were applied simultaneously, was as prescribed in Law No. 22 of 1948 and in Law No. 5 of 1974. The cancellation of Local regulation, which may be made either by the central government or by the Supreme Court, is the form of repressive control. The Supreme Court's control is carried out through judicial review, by which the lower-level regulation is tested whether or not it contradicts the higher-level regulation. According to article 24A paragraph (1) of the 1945 Constitution as laid down in the third Amendment, however, the test basis for reviewing is a law rather than higher-level regulation. On the other hand, the basis, by which the central government carries out its repressive control, is wider, which may either be higher-level regulation or public interest.

Relying upon article 114 of Law No. 22 of 1999, the power of Supreme Court is limited to settlement of objection filed by Local Government with the Supreme Court in relation the cancellation of Local Regulation and Decree of the Head of Local Government. The function to settle the objection can be said as a new function for the Supreme Court.

Key words : repressive and preventive controls, central government, the Supreme Court, settlement of objection.