



## Legal Review of Regional Institutional Arrangements in the Provincial Government of West Sulawesi

Moh. Aqib Razak<sup>1</sup>, Abdul Razak<sup>2</sup>, Zulkifly Aspan<sup>3</sup>

<sup>1,2,3</sup>Universitas Hasanuddin, Perintis Kemerdekaan KM. 10, Tamalanrea, Makassar

Email : [aqibrazak2943@gmail.com](mailto:aqibrazak2943@gmail.com), [zulkifliaspan@gmail.com](mailto:zulkifliaspan@gmail.com)

### **Abstract**

This study aims to determine and analyze the juridical urgency of structuring regional institutions and how the performance impact on the Provincial Government of West Sulawesi. This research was conducted in Mamuju Regency, West Sulawesi Province at the Office of the Governor of West Sulawesi Province, especially at the Organizational Bureau and the Legal Bureau of the Regional Secretariat of West Sulawesi Province. In this study, the author uses a normative research method, which focuses on written studies, namely, legislation, court decisions, legal theory, legal principles, legal principles, and can be in the form of scientific works of legal scholars (doctrine). The legal materials are analyzed using a statutory approach and a conceptual approach in order to obtain a systematic picture which is then further studied normatively using qualitative analysis techniques and then describes them according to the problem and then draws conclusions to determine the results. The results of the study show that: (1) Since the issuance of Permendagri No. 56 of 2019, the Provincial Government of West Sulawesi has made institutional arrangements for regional apparatus through Pergub No. 32 of 2020, the arrangement has merged the People's Welfare Bureau, and formed a new regional work unit, namely the Goods and Services Bureau and has changed the name of the Governance Bureau to the Government and People's Welfare Bureau. (2) In the arrangement of regional institutions of the West Sulawesi Provincial Government, As a result of this, the mandatory government affairs related to the land sector cannot be carried out because the Section has been merged and does not have an agency that oversees it.

**Keywords:** Urgency analysis, West Sulawesi, Government Bureau, People's Welfare

### **1. Introduction**

The promulgation of Law no. 23 of 2014 concerning Regional Government, has implications for various things. One of them is a change in the institutional arrangement of regional apparatus organizations. The birth of Law no. 23 of 2014 was also followed

by the issuance of PP No. 18 of 2016 concerning Regional Apparatus as a realization of article 232 paragraph (1) of Law no. 23 of 2014.

The regional institutional arrangement must be stipulated in a Regional Regulation, which contains the name or nomenclature, main tasks and organizational structure of each regional work unit (regional secretariat, DPRD secretariat, offices, agencies and offices, regional hospitals, sub-districts, sub-districts and institutions). others in accordance with the provisions of the legislation).

PP No. 18 of 2016 is basically issued to provide clear directions and guidelines for regions in managing an efficient, effective and rational organization in accordance with the needs and capabilities of each region as well as coordination, integration, synchronization and simplification as well as institutional communication between the center and the regions. Based on PP No. 18 of 2016 the establishment of Regional Apparatuses is carried out based on the following principles: a. Government affairs under the authority of the Regions; b. Intensity of Government Affairs and Regional potential; c. Efficiency; d. Effectiveness; f. The division of tasks out; g. Span of control; and h. Flexibility.

In relation to the arrangement of regional institutions, the Regional Government of West Sulawesi Province has carried out the arrangement of regional apparatus institutions. With the issuance of Governor Regulation No. 32 of 2020 concerning the Position, Duties and Functions, Organizational Structure and Work Procedures of the Regional Secretariat and the Secretariat of the Regional People's Representative Council of West Sulawesi Province.

The institutional arrangement of regional apparatus that occurred in the West Sulawesi Provincial government gave birth to and also merged several regional apparatuses. The new OPD/SKPD can be seen in Pergub No. 32 of 2020, namely the Bureau of Procurement of Goods and Services at the Regional Secretariat of the Province of West Sulawesi, and in this Pergub, the Bureau of People's Welfare of the Regional Secretariat of the Province of West Sulawesi has been merged.

Institutional arrangements that occur in the provincial government. This is not the first time this has happened in West Sulawesi, there have been 4 (four) institutional arrangements since the birth of PP No. 18 of 2016. Namely in 2017, 2019, in 2020, and in 2021.

The most urgent thing about the institutional arrangement of the regional apparatus of the West Sulawesi Provincial Government in 2021 is that in this institutional arrangement it eliminates one of the fields/sections of the Governance Bureau, namely the Regional and Agrarian Section because it is replaced by the Welfare Section which in this arrangement is the Welfare Bureau. has been merged and incorporated into the Section of the Bureau of Governance. As a result of the abolition of the Regional and Agrarian Section, the West Sulawesi Provincial Government does not have an agency engaged in the land sector.

The Agrarian and Regional Division itself has the task of carrying out regional government affairs, administration of land acquisition and certification, handling of conflicts and land disputes, and structuring the area. This task is one of the mandatory

government affairs that are not related to basic services, namely government affairs in the land sector.

Based on PP No. 18 of 2016 concerning Regional Apparatuses Article 15 paragraph 4 explains that the affairs of the land sector are mandatory government affairs that are not related to basic services, but due to the institutional arrangement of regional apparatus in the West Sulawesi Provincial Government, the mandatory government affairs in the land sector cannot be enforced. because there is no 1 (one) agency in charge of this matter.

## 2. Research methods

The author decides to use normative legal research methods, normative research is research that focuses on written studies, namely, legislation, court decisions, legal theory, legal principles, legal principles, and can be in the form of scientific work by law scholars ( doctrine).<sup>1</sup>

The use of normative legal research methods in research efforts and writing this thesis is based on the suitability of the theory with the research methods needed by the author in compiling this thesis. As explained above, the legal research conducted by the author begins by examining the provisions of the written positive law, namely Law no. 23 of 2014, PP No. 18 of 2016, Regional Regulation No. 6 of 2016 West Sulawesi Province, Regional Regulation No. 4 of 2019 and Governor Regulation No. 32 of 2020 West Sulawesi Province and other laws and regulations related to the discussion of the title, then examine the applications of the written positive law.

There are five approaches to normative legal research, namely the conceptual approach, the historical approach, the case approach, the statute approach, and the comparative approach.<sup>2</sup>

With regard to this legal research, the author uses a conceptual qualitative approach, combining the Legal Approach, the conceptual approach and the case approach. The legal approach is carried out by examining all laws and regulations related to the legal issues being handled, and the conceptual approach is an approach that departs from the views and doctrines that develop in legal science, while the case approach is a case approach. conducted to examine cases related to the legal issues faced, the case in question certainly has permanent legal force.

The legal materials used in this research are primary materials, secondary materials, and tertiary legal materials. The legal materials in question are as follows.

### a. Primary Legal Material

Primary Legal Materials are authoritative legal materials consisting of legislation, official records or minutes in the making of legislation or judge decisions.<sup>3</sup>

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<sup>1</sup> Irwansyah, 2020, Legal Research, Choice of Article Writing Methods & Practices, Mirra Buana Media, Yogyakarta, p-98.

<sup>2</sup> Soerjono Soekanto. 2014. Introduction to Legal Research: University of Indonesia. p.135

<sup>3</sup> Peter Mahmud Marzuki, 2005, Legal Research (Revised Edition), Kencana, Jakarta, p. 133-135.

b. Secondary Legal Material

Secondary legal materials are all publications on law that are not official documents which include textbooks, legal dictionaries, legal journals, and comments on court decisions.<sup>4</sup>

c. Tertiary Legal Materials

Tertiary legal materials are legal materials that provide meaningful instructions or explanations for primary and secondary legal materials such as dictionaries, encyclopedias and others.<sup>5</sup>

The techniques for collecting legal materials that the author uses in writing this thesis are as follows:

a. Library Research

This library research was used to obtain legal materials needed in writing this thesis, namely primary legal materials, secondary legal materials, and tertiary legal materials.

The target of this library research is mainly to find the theoretical basis and the object of study by:

1) Studying books, journals, or other written works that are directly related to the object and material of writing this thesis.

2) Studying the laws and regulations related to the Guidelines for Institutional Arrangement of Regional Apparatus Organizations

b. Field Research

In this study, the authors went directly to the field to find and collect the required data and conduct interviews with relevant and authorized parties, namely in Mamuju Regency, namely the Head of the Organizational Bureau, and the Head of the Legal Bureau as well as resource persons who are considered to have the ability and knowledge of the problem. discussed in this study.

These legal materials are analyzed using a statutory approach and a conceptual approach in order to obtain a systematic picture which is then further studied normatively using qualitative analysis techniques that describe legal materials by providing interpretations and conclusions.

### **3. Results and Discussion**

#### **3.1 The juridical urgency of institutional arrangement of regional apparatus in the West Sulawesi Provincial Government**

The institutional arrangement of the Regional Apparatus carried out by the Provincial Government of Sulawesi Barat Sulawesi since the issuance of PP no. 18 of 2016 concerning Regional Apparatuses has occurred 4 (four) times in the last 5 (five)

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<sup>4</sup>Ibid, p. 181

<sup>5</sup>Johnny Ibrahim. 2012. Theory & Methodology of normative legal research. Malang: Bayumedia Publishing. hlm. 392

years. The institutional arrangements for the regional apparatus of West Sulawesi Province are as follows:

- a. In 2017, through (Perda No. 6 of 2016 concerning the Formation and Composition of Regional Apparatuses of West Sulawesi Province);  
Changes in the regional apparatus in this arrangement are the Bureau of People's Welfare, the Regional Secretariat of West Sulawesi Province and the West Sulawesi Provincial Representative Office which have been merged and the new regional apparatus in this regional institutional arrangement are the Public Relations and Protocol Bureau of the Regional Secretariat of West Sulawesi Province and the Regional Liaison Agency of West Sulawesi Province.
- b. In 2019, through (West Sulawesi Governor Regulation Number 6 of 2018 concerning Amendments to West Sulawesi Governor Regulation Number 40 of 2016 concerning Positions, Duties and Functions, Organizational Structure, and Work Procedures of the Regional Secretariat and the Secretariat of the Regional People's Representative Council of West Sulawesi Province) ;  
Changes in the regional apparatus in the regional institutional arrangement are the Public Relations Bureau and the Regional Secretariat of the West Sulawesi Province which have been merged and the new regional apparatus in this regional institutional arrangement is the People's Welfare Bureau of West Sulawesi Province.
- c. In 2020, through (West Sulawesi Province Regional Regulation Number 4 of 2019 concerning Amendments to West Sulawesi Province Regional Regulation Number 6 of 2016 concerning the Establishment and Composition of West Sulawesi Province Regional Apparatus);  
Changes in regional institutions in the arrangement of regional institutions are the Regional Agriculture Office of West Sulawesi Province which has been merged and the new regional apparatus in this regional institutional arrangement are the Department of Food Crops, Horticulture, and Livestock in the Province of West Sulawesi Province and the Regional Plantation Office of the Province of West Sulawesi.
- d. In 2021, through (Governor Regulation Number 32 of 2020 concerning Positions, Duties and Functions, Organizational Structure and Work Procedures of the Regional Secretariat and the Secretariat of the Regional House of Representatives of West Sulawesi Province).  
The changes to the apparatus in the regional institutional arrangement are that the People's Welfare has been merged and the new regional apparatus in this institutional arrangement is the West Sulawesi Provincial Goods and Services Bureau and the West Sulawesi Provincial Administration and Welfare Bureau.

In the last regional institutional arrangement carried out by the West Sulawesi Provincial Government based on Pergub No. 32 of 2020, has changed the organizational structure of the regional secretariat, namely the regional apparatus organization, the Administration Bureau and the People's Welfare Bureau. In this arrangement, the

People's Welfare Bureau has been merged, and a new regional work unit has been formed, namely the Goods and Services Bureau.

In addition, the Provincial Government of West Sulawesi also changed the name of the Bureau of Governance to the Bureau of Governance and People's Welfare. From this arrangement, the affairs of the implementation of tasks and functions at the People's Welfare Bureau were included in the Administration and Welfare Bureau, while the Governance and Welfare Bureau itself had removed 1 (one) Division/Section, namely the Regional and Agrarian Section and was replaced by the Welfare Section.

The regional institutional arrangement carried out by the West Sulawesi Provincial Government is one form of implementation from the issuance of Permendagri No. 56 of 2019 concerning Guidelines for Nomenclature and Provincial and Regency/City Regional Secretarial Work Units.

After heeding the guidelines in the Permendagri, there is one field/section that was previously incorporated in the organizational unit at the Governance Bureau, namely the Regional and Agrarian section, has now been issued to the Administration Bureau because it was replaced by the People's Welfare Section so that the SKPD changed its name to the Governance Bureau. and Welfare of the Regional Secretariat of West Sulawesi Province.

The Agrarian and Regional Division itself has the task of carrying out Regional Government Affairs, Administration of Land Procurement and Certification, Handling of Conflicts and Land Disputes, and Regional Arrangements. The task is one of the mandatory government affairs that are not related to basic services, namely government affairs in the land sector, where in PP No. 18 of 2016 concerning Regional Apparatuses in Article 15 paragraph 4, namely:

Mandatory Government Affairs that are not related to basic services as referred to in paragraph (2) letter b consist of: manpower, women's empowerment and child protection, food, land, living environment, population administration and civil registration, community and village empowerment, population control and family planning, transportation, communication and informatics, cooperatives, small and medium enterprises, investment, youth and sports, statistics, coding, culture, libraries; and archives.

After the institutional arrangement of blood apparatus in the West Sulawesi Provincial Government has been established and the enactment of Governor Regulation No. 32 of 2020, the West Sulawesi Provincial Government wants to place the Agrarian and Regional Section at the Regional Housing and Settlement Area Office of West Sulawesi Province considering that there is no government agency in the land sector to oversee it because the Agrarian and Regional Section has been issued in the Government Bureau and replaced by the Welfare Section. people.

However, this was rejected by the Central Government, where the Central Government refused it because the Housing and Settlement Area Service was a Type C regional office which based on PP no. 18 of 2016 Article 64 paragraph (1) Type C Provincial Regional Office consists of 1 (one) secretariat and a maximum of 2 (two) fields, and this has been fulfilled at the Housing and Settlement Area Office of the West



Sulawesi Provincial Government. Therefore, the Agrarian and Regional Division cannot be included in the organizational structure of the Department of Housing and Regional Settlement Areas.

As a result of this, government affairs related to land which were previously prepared in the work plan and budget in the Agrarian and Regional Section of the Government Bureau cannot be carried out because the Section does not have an agency that oversees it. This can happen because the Provincial Government is not ready to carry out institutional arrangements, as per the instructions contained in Permendagri No. 56 of 2019. The West Sulawesi Provincial Government should first issue the latest Regional Regulation on the formation and composition of regional apparatus so that the direction and synchronization of the institutional arrangement of regional apparatus will be clear. However, this was not carried out by the West Sulawesi Provincial Government.

Institutional is the ideal type for all formal organizations. Max Weber defines an institution as a form of organization characterized by hierarchy, role specialization, and a high level of competence shown by officials who are trained to fill these roles.<sup>6</sup>

The regional institutional arrangement carried out by the West Sulawesi Provincial Government should consider the explanation of Law no. 23 of 2014 Article 212 paragraph (1) namely, the formation and composition of the Regional Apparatus as referred to in Article 209 paragraph (1) and paragraph (2) is stipulated by a Regional Regulation, as well as Government Regulation No. 18 of Article 3 paragraph (1) The formation and composition of the Regional Apparatus shall be stipulated by a Regional Regulation. So, before issuing Governor Regulation No. 32 of 2020 should be preceded by the renewal of regional regulations related to the formation and composition of regional apparatus.

### **3.2 Impact of Performance after Regional Institutional Arrangements in the Provincial Government of West Sulawesi**

After the last Regional Apparatus Institutional Arrangement was carried out in the West Sulawesi Provincial Government in 2021, it turned out that there were new problems due to the regional institutional arrangement. The problem is that there is 1 (one) sector, namely the Regional and Agrarian Sector which is not yet clear to carry out the activities and the budget, even though the field prior to the arrangement of regional institutions has prepared the RKA (Activity Plan and Budget).

The Agrarian and Regional Section itself is one of the fields/sections that were previously incorporated in the Government Bureau, but after the institutional arrangement, the agrarian and regional section was abolished and replaced by the people's welfare section. The Agrarian and Regional Division itself has the task of carrying out Regional Government Affairs, Administration of Land Procurement and Certification, Handling of Conflicts and Land Disputes, and Regional Arrangements. This task is one of the mandatory government affairs that are not related to basic services, namely government affairs in the land sector.

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<sup>6</sup>Sinambela, Public Service Reform, Policy Theory, and Implementation, Bumi Aksara, Jakarta, 2008, p. 53.

As a result of this, the government affairs related to land that were previously prepared in the work plan and budget in the Agrarian and Regional Section of the Government Bureau could not be carried out because the Section no longer had an agency to oversee it after the institutional arrangement was carried out. This happened because the regional institutional arrangements carried out by the Provincial Government were not yet ready and mature in carrying out institutional arrangements, as stated in Permendagri No. 56 of 2019.

The West Sulawesi Provincial Government should first issue the latest Regional Regulation on the formation and composition of regional apparatus, so that the direction and synchronization of the institutional arrangement of regional apparatus will be clear. However, this was not carried out by the Provincial Government of West Sulawesi. So that the regional institutional arrangement that has been carried out by the West Sulawesi Provincial Government does not have an impact on the performance of the West Sulawesi Provincial government, considering that the affairs of the Land Sector which have been carried out in the Kawaasan and Agrarian Section of the Government Administration Bureau are mandatory non-basic service local government affairs.

The impact of the institutional arrangement carried out by the West Sulawesi Provincial Government is that in 2021 the West Sulawesi Provincial Government is constrained and has not been able to carry out government affairs in the land sector which was previously loaded and regulated in the Agrarian Section and the Regional Government Bureau, so that this greatly affects the performance of the Government. West Sulawesi Province.

In the context of structuring regional institutions, the West Sulawesi Provincial Government should consider the explanation of Law no. 23 of 2014 Article 212 paragraph (1) namely, the formation and composition of the Regional Apparatus as referred to in Article 209 paragraph (1) and paragraph (2) is stipulated by a Regional Regulation, as well as Government Regulation No. 18 of Article 3 paragraph (1) The formation and composition of the Regional Apparatus shall be stipulated by a Regional Regulation. So, before the Provincial Government of West Sulawesi issued Governor Regulation No. 32 of 2020 should be preceded by the renewal of regional regulations related to the formation and composition of regional apparatus so that the arrangement carried out does not cause problems that have an impact on the performance of regional governments.

#### **4. Conclusion**

- a. The juridical urgency for the implementation of institutional arrangements for regional apparatus in the West Sulawesi Provincial Government is that since the issuance of Minister of Home Affairs Regulation No. 56 of 2019 concerning guidelines for nomenclature and work units for Provincial and Regency/City secretariats, the Provincial Government of West Sulawesi has carried out institutional arrangements for regional apparatus through Pergub No. 32 of 2020, the arrangement has eliminated one of the sections that deal with mandatory government affairs in the land sector, namely the Regional and Agrarian Section



which was previously incorporated in the work unit of the Governance Bureau. The abolition of the Regional and Agrarian Section did not receive any follow-up after the institutional arrangement was carried out, so that the land affairs were not carried out by the West Sulawesi Provincial Government.

- b. As a result of the abolition of the Regional and Agrarian Section, the Provincial Government of West Sulawesi no longer has an agency that is engaged in mandatory government affairs in the land sector, so that several land affairs are not implemented, such as administration of land acquisition and certification, handling conflicts and land disputes, and structuring the area.

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