

## **Comparison Between Indonesian and German Regional Autonomy in Relation to the Government System**

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### **Abstract**

The purpose of this study is to explain the comparison between the regional autonomy of Indonesia and Germany concerning the system of government adopted by the two countries. Regional autonomy in a country, both in Indonesia and in Germany, has the same goal, namely to give authority to regional governments in managing internal affairs in their respective regional domains. However, the differences in the government systems adopted by the two countries have resulted in differences in the structure and implementation of the regional autonomy system in the two countries. The theories used in discussing this research are the theory of federalism, the theory of decentralization, and the theory of constitutionalism. The research method used in this research is normative legal research, namely research that examines document studies using various secondary data such as court decisions, laws, and regulations, legal theory, and can be in the form of opinions of scholars. In addition, this study also uses the comparative legal research method, namely a research methodology conducted by comparing the legal systems of two or more different countries or jurisdictions. The comparison of the regional autonomy of Indonesia and Germany is related to the difference in the system of government adopted by the two countries where Indonesia has a government system called the Unitary State of the Republic of Indonesia (NKRI) while Germany has a federal government system called the Federal Republic of Germany (RFJ). This resulted in a different regional autonomy between Indonesia and Germany. In Indonesia, there are restrictions on local governments to regulate their internal affairs whereby the supreme power rests with the central government while the states in Germany have greater authority in managing their internal affairs.

**Keywords: Regional Autonomy of the State of Indonesia, System of government, Comparison, Regional Autonomy of the State of Germany.**

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## 1. Introduction

Every country has a different system of government, although several countries have the same system of government. Therefore, the possibility of implementing Regional Autonomy in one country with other countries is also different. The concept of regional autonomy in Indonesia is related to the government system adopted by Indonesia, namely, Indonesia has a system of government called the Unitary State of the Republic of Indonesia . A unitary state or also known as a unitary state is a country that is not composed of several states as found in the concept of a federal state, a unitary state is a form of state that has a single nature or in other words, where there are no states within a state. Currently, Indonesia adheres to a Presidential system of government, where there is a separation of powers, namely the Executive, Legislative, and Judiciary. According to the 1945 Constitution of the Republic of Indonesia, Indonesia is a democratic country based on people's sovereignty. Meanwhile, a federal state is a form of the state consisting of several pre-existing countries and forming an agreement and effective cooperation, but still with recognition of the powers that can be exercised alone for the country that agreed.

The concept of a federal state is a state whose composition was born from a form of agreement or in terms referred to as the word *foedus*, several states that had previously declared independence then joined. The concept of a federal state separates the powers of the states and the federal state itself, in which the federated state has powers to manage the armed forces, finances, defense, security, and foreign relations. While the states have the power to take care of matters relating to the territory of the state and the exercise of authority that is not the authority of the federal state (I Nengah Suantra, 2017).

In the Indonesian system of government, the principle of decentralization is applied to give regional governments greater autonomy in managing their local affairs. This is embodied in Law Number 32 of 2004 concerning Regional Government which gives authority to regional governments in various aspects of governance. The principle of decentralization is the application of Articles 18, 18A, and 18B of the 1945 Constitution of the Republic of Indonesia, the 1945 Constitution of the Republic of Indonesia, which provides strict recognition of the existence of local government, both from the province and district/city. *Mutatis mutandis*, the development of state administration has also influenced the development of regional autonomy

in Indonesia. However, the statement "every region is an integral part of the center" does not escape so there is no recognition of a state within a state. If we examine the legal ideas and concepts contained in Law Number 23 of 2014 in conjunction with Perpu No. 2 of 2014, regional autonomy only exists in autonomous regions. That is, regional autonomy only exists in regional governments based on the principle of decentralization, but not in regions based on the principle of deconcentration because deconcentration itself is an extension of the central government in the regions, whose work assignments always receive support from the central government in the form of apparatus and funding ( Roy Marthen Moonti, 2017).

Every government in the countries of the world and all its components are obliged to educate the life of their nation which is one of the goals of a country. Education in principle requires the application of the principles of democracy, decentralization, justice, and upholding human rights in the life of the nation and state (Thomas John Kenevan, 2022). In the aspect of state administration, decentralization is the delegation of government power from the center to the regions to regulate and manage their households with limitations on their respective regions (autonomous regions). In the Indonesian government system, the highest power is in the hands of the central government. In contrast to Germany, which has a federal government system called the Federal Republic of Germany (RFJ) where the German state system and government system are governed by a constitution known as the Basic Law (UUD). The German state is defined as a democratic rule of law according to the Constitution. In this case, the German Republic is organized as a federal republic (Bundesrepublik). In the German State, the states had autonomous native powers which were not transferred by co-administration to them through the center. Under the existing constitutions (Landesverfassung), Germany has its governments and its parliaments. The cooperation between federal high institutions and state high institutions and the distribution of powers between federal high institutions and state high institutions have been regulated in detail in the Constitution.

Therefore, this paper will explain the comparison between the regional autonomy of Indonesia and Germany concerning the government system. The research method in this paper is normative law which examines document studies using various secondary data such as court decisions, laws, and regulations, legal theory, and can be in the form of opinions of scholars. In addition, this study also uses the comparative legal research method, namely a research methodology conducted by comparing the legal systems of two or more different countries or

jurisdictions, of normative law and comparative law is used in this study because the researcher wants to examine everything related to the comparison between the regional autonomy of the Indonesian and German states concerning the system of government and is based on the existing positive law by using the theory of federalism, the theory of decentralization, and the theory of constitutionalism.

## **2. Analysis and Discussion**

The structure and implementation of the Regional Autonomy of a country are related to the system of government adopted by that country. Countries in Europe such as Germany use a system of federalism as their system of government. Federalism can be defined broadly. If examined, Federation (combined) and federalism etymologically come from the Latin word *foedus* which means agreement and bond, understood as a combination of several states coordinated by the central government which take care of matters concerning the national interest as a whole such as in the field of education, social policy, police, judiciary, and spatial planning. In this case, the states still have the autonomy to regulate the problems within their respective regions of government. A country is categorized as a federal state if the states within that country have inherent powers and the central government cannot withdraw these powers (Tri Widodo W. Utomo, 2019).

Judging from its structure, Budihardjo (1983) defines a federal state as a country composed of a combination of several independent states so that a new state is formed by holding effective ties where the state structure is plural. Germany is a federal state formed in 1949 after World War II. Since 1990, Germany has consisted of 16 states (Länder) which have their local governments. The federation system adopted by the RFJ refers to the Basic Law or Grundgesetz which stipulates that each state (Länder) has its sovereignty in the fields of education, science, and culture but still has a shared responsibility to cooperate within the framework of the state. In a federated state like Germany, there are two ways of dividing power between the federal government and the states, namely:

- 1) The division of power in detail by mentioning one by one power ( enumerated power ) for the federal government, while the rest of the power ( reserved power ) is owned or handed over to the states. This way was intended to strengthen the state;

- 2) Separation of powers by breaking down power to the states, and the rest of the power is left to the federal government. In this case, the powers of the states were limited, while the powers of the central (federal) government were expanded or strengthened. No level of government is subordinated to other levels of government in this federal state, and there is also no specific government that can carry out the distribution of authority unilaterally or unilaterally (Tri Widodo W. Utomo, 2019).

From an institutional-functional point of view, federalism is a form of state organization, in which decision-making is regulated according to the division of various tasks between the center and the states. In a federal state like Germany, when viewed from a constitutional division of powers perspective, the most basic structural elements of a state, namely the legislature, executive, and judiciary, can be found both in the central government and in the states. In addition, it should also be understood that in a federal state, both the central and state governments have the same rights in principle to set taxes and make certain rules, where both have a special position with different areas of responsibility. In this case, the state does not need to submit an accountability report to the center regarding its autonomous affairs guaranteed in the constitution (Tri Widodo W. Utomo, 2019).

The striking difference between a federalistic system of government and a unitary system of government is related to sovereignty. In federalism, sovereignty is obtained from separate political units and then agree to form a government together. Unlike the case with a unitary government where sovereignty directly comes from the entire population in the country (MH Susanti, 2017).

When viewed from its level, regional autonomy in Germany consists of three levels, namely states (Länder), districts (Kreis), and municipalities (Gemeinde). However, the powers of the states in Germany tend to be greater than at other local levels. The level of regional autonomy in Germany can be explained as follows:

1. States (Länder): States are the highest level of regional autonomy in Germany. Germany is made up of 16 states which have a relatively high degree of autonomy in governing their internal affairs. Each state has its own state constitution, state parliament (Landtag), and state government (Landesregierung). The states have powers in areas such as education, culture, law, policing, and internal administration.

2. Districts (Kreis): Below the state level, there are districts or Kreis. Districts are smaller administrative units consisting of several municipalities or Gemeinde. Districts are responsible for managing broader matters, including regional planning, transport, environmental protection, and other public services. Districts have district councils elected by residents and a district administration that manages day-to-day affairs.
3. Municipality (Gemeinde): The municipality or Gemeinde is the smallest unit of the German regional autonomy system. Municipalities include towns, villages, or small towns. Each municipality has limited autonomy in managing its local affairs, such as spatial planning, licensing, infrastructure management, and local public services. The municipality has a municipal council elected by residents and a municipal administration which is in charge of day-to-day governance. The principles of federal law also apply and regulate the relationship between the levels and ensure the unity of the German federal state. In the system of federalism in Germany, the central government acts through constituent units of government and it is in these units that the decision-making power lies.

In this system, the central government often requires the constituent governments to convert central government policies into more specific laws of the constituent states, regulate central government policies, and adjudicate central government laws. If examined more deeply, the federalism system places government constituent units playing a role in central government decision-making, for example in the case of the Council of Europe, Bundesrat (Germany), or Ständerat (Switzerland). Federalism in Germany protects the interests of state governments differently and much more securely than Federalism in America, where the federalism system in Germany protects state constituents more tenaciously by creating a “shared decision trap” and often prefers the status quo and encourages extravagance. Budget (Keith E. Whittington, et al, 2021). A rule of law is a state based on law and guarantees justice for its citizens. The point is that all the powers and actions of state apparatus or authorities are solely based on law or in other words regulated by law (I Nyoman Prabu Buana Rumiarta, 2022).

In Indonesia, the administration of government uses the principles of decentralization, coadministration, and deconcentration. Unlike the case in the administration of regional government, the regional government uses the principle of autonomy and coadministration (article 20 paragraphs 2 and 3). Explicitly, this clause emphasizes that the principles of

decentralization and deconcentration are inherent in the system of state government, which are the basic principles in administering national government. It can be interpreted that the principles of decentralization and deconcentration are not principles in the administration of regional government, as many have misunderstood so far. Because they are attached to the state government system, both the decentralization principle and the deconcentration principle are fully designed by the central government, including the dimensions of supervision and accountability carried out by the central government (apparatuses).

The community unit is a collective entity based on a relationship of knowing and helping each other in genealogical and territorial ties where the legal community unit is still communal. In its development, these community units were included in the administration of a sovereign state. As administrative interests, these units are categorized by geographical boundaries, authority, and institutional forms through political decisions. These community units are formed into formal organizational units of the state administration system at the local level. In the context of the Indonesian state, the Indonesian state is a unitary state. As a unitary state, the sovereignty of the state is single, not spread across states such as a federal or union state. Therefore, the system of government in a unitary state is centralized or deconcentrated. This means that the central government holds full power. The choice of decentralization must be based on strong arguments both theoretically and empirically. The various problems faced in adopting and realizing a federalistic government, this is the reason for the emergence of alternative forms of a unitary state by administering government based on decentralization principles.

The unitary state is the cornerstone of the definition of autonomy. Based on this boundary basis, various regulations (rules) are developed that regulate mechanisms that will embody a balance between demands for unity and demands for autonomy (Hariyanto, 2020). In Indonesia, autonomous regions obtain authority using the principle of decentralization (autonomy granted by the Government). The Regional Government has the authority to manage the environment in the province. In carrying out government affairs under their authority, regional governments have the right to adopt policies to increase community participation in regional development (Lisa Soedjono, 2021). In regional government, the lowest level of autonomy, namely the village as a self-governing community, uses the principle of subsidiarity, where most of the authority already exists in the community, not a gift. In decentralization, if

the regions are incapacitated, their authority is taken back by the government, while in subsidiarity, if there are externalities, then it is the people who ask the government to take over. In principle, the village has the authority to regulate, guide, service, and facilitate activities for village communities. The overall authority of government affairs in the village is a co-administration of the Central, Regional (Provincial, District, and City) governments and village autonomy.

### **3. Conclusion**

Regional Autonomy is policies and practices that provide a certain degree of autonomy or independence to regions or regions within a country. The concept of Regional Autonomy aims to give power, authority, and responsibility to local governments in managing local affairs according to the needs and characteristics of the region. From the description that has been presented, it can be concluded that there are differences in the system of government adopted by each country resulting in differences in the implementation of Regional Autonomy between countries. In this case, the State of Indonesia uses a republican government system where Indonesia has a system of government called the Unitary State of the Republic of Indonesia (NKRI) while the State of Germany has a federal government system called the Federal Republic of Germany (RFJ).

Several aspects serve as a comparison between regional autonomy in Indonesia and Germany, which can be described as follows: 1) Division of Power: In Indonesia, regional autonomy is regulated in the 1945 Constitution of the Republic of Indonesia. The division of powers between the central and regional governments is governed by the principle of decentralized centralization, which gives certain authorities to the regions to manage affairs within the scope of their territory. Whereas in Germany, regional autonomy is regulated in the German Constitution or Grundgesetz where Germany has a federal system, in which states (Länder) have greater powers in managing affairs within their territory. 2) Autonomous Region: In Indonesia, regional autonomy is implemented at three levels, namely provinces, districts, and cities. Each level has different authority and responsibility in decision-making. In Germany, regional autonomy is implemented in 16 states (Länder). Each state has its government and has greater authority in managing internal affairs. 3) Authority and Finance: In Indonesia, the regions have the authority to regulate matters such as education, health,



regional planning, and the regional economy. However, the central government still has significant powers in several important aspects such as defense, security, and foreign policy. In Germany, the states have broader powers in governing matters such as education, culture, policing, and jurisdiction where the federal government is responsible for foreign policy, defense, and national finance. 4) Historical Differences: The differences in regional autonomy systems between Indonesia and Germany also reflect the differences in the history and political development of the two countries. Germany is a federal state formed in 1949 after World War II, while Indonesia is a unitary state that won independence in 1945 after the colonial period.

Although there are differences in the implementation of regional autonomy between Indonesia and Germany, there are also some similarities that can be found, namely as follows:

- 1) Legal Regulations: In both Indonesia and Germany, regional autonomy is regulated through laws or the country's constitution. Both countries have legal frameworks that provide the basis for the implementation of regional autonomy.
- 2) Delegation of Authority: Regional autonomy in Indonesia and Germany gives regional governments the authority to administer local affairs within their territories. Local governments are empowered in areas such as education, health, regional planning, and the regional economy.
- 3) Regional Financing: In both Indonesia and Germany, the central government provides financial support to local governments to carry out their duties and responsibilities. Regional financing can come from central transfer funds or regional sources of income. The advice that can be given by the author is that although there are similarities in the principles and certain aspects of regional autonomy in Indonesia and Germany, it is important to remember that the two countries have differences in political systems, government structures, and national policies that affect the implementation of their regional autonomy.

## Reference

### Book :

- I Nengah Suantra, 2017, State Science, Indonesian Inspiration Uwais, Denpasar
- Keith E. Whittington, R. Daniel Kelemen, Gregory A. Caldeira, 2021, Comparative Federalism and the Role of the Judiciary: Handbook of Law and Politics, NUSAMEDIA, Bandung
- Martien Herna Susanti, S.Sos., M.Sc., 2017, Regional Autonomy, Magnum Pustaka, Yogyakarta

### Journal :

- Domingos De Fatima Jose, I Nyoman Prabu Buana Rumiarta. (2022). Verplichte Overheidszaken Principle on the Perspective of Covid-19 Vaccination in Indonesia . *Focus Journal Law Review*, 1(1), 35-44. Retrieved from <https://ojs.balidwipa.ac.id/index.php/fjl/article/view/4>
- Hariyanto, 2022, Relations of Authority between the Central Government and Regional Governments Based on the Unitary State of the Republic of Indonesia, *Volksgeist*, Vol. 03 No. 02., Purwokerto
- Huda, N. Matul, & Heryansyah, D., 2019, The Complexity of Regional Autonomy and the Idea of a Federal State in the Unitary State of the Republic of Indonesia. *Journal of Law IUS QUIA IUSTUM*, Vol.26. No. 02, Yogyakarta
- I Nyoman Prabu Buana Rumiarta. (2022). The Role of The United Nations Committee on the Peaceful Uses of Outer Space: The Role of The United Nations Committee on the Peaceful Uses of Outer Space. *Focus Journal Law Review*, 2(2). Retrieved from <https://ojs.balidwipa.ac.id/index.php/fjl/article/view/33>
- Jefri S.Pakaya, 2016, The Providing Of Authority To Village In The Context Of Regional Autonomy, *Journal of Indonesian Legislation*, Vol.13. No.01., Gorontalo
- Kurniawati, 2015, History Education in the Curriculum in the Federal Republic of Germany: A Lesson Learned, *Journal of History Education*, Vol.04.No.01, Jakarta
- Lisa Soedjono, Luh Ketut Ayu Manik Sastrini., 2021,. Central Government Authority in Environmental Management in Provinces. *Focus Journal Law Review*, Vol.01. No. 01, Denpasar
- Moonti, RM, 2017, the nature of regional autonomy in the state system in indonesia. *Al-ishlah: Scientific Journal of Law*, Vol.20.No.2, Makassar.
- Maksum, Irfan, 2021, "Understanding Functional Decentralization (Comparison of Practices in the Netherlands, Japan, USA, and Germany)," *Indonesian Journal of International Law*: Vol. 4: No. 3, Article 4.

- Prabu Buana Rumiarta, I. N. (2022). Correlation Theory A.V. Dicey Perspective of the Rule of Law in Indonesia: Correlation Theory A.V. Dicey Perspective of the Rule of Law in Indonesia. *Focus Journal Law Review*, 2(1). <https://ojs.balidwipa.ac.id/index.php/fjl/article/view/19>
- Rumiarta, I. N. P. B., Astariyani, N. L. G., & Indradewi, A.A.S. (2022). Human Rights of Indigenous People in Indonesia: A Constitutional Approach. *Journal of East Asia and International Law*, 15(2), 395-402.  
[http://journal.yiil.org/home/archives\\_v15n2\\_10](http://journal.yiil.org/home/archives_v15n2_10)
- Rumiarta, I. N. P. B., & Indradewi, A. A. S. N. . (2020). The Concept of Consumer Protection: An International Cultural Perspective. *The International Journal of Language and Cultural (TIJOLAC)*, 2(02), 52–57. Retrieved from <https://www.growingscholar.org/journal/index.php/TIJOLAC/article/view/86>
- Rumiarta, I. N. P. B., Astariyani, N. L. G., & Amaral, A. M. (2022). The Comparative Law on the Distribution of Power in the 1945 Constitution of the Republic of Indonesia and the Constitution of the Republic Timor Leste. *Jurnal IUS Kajian Hukum Dan Keadilan*, 10(3), 541–554. <https://doi.org/10.29303/ius.v10i3.1134>
- Rumiarta, I.P., Indradewi, A.S., & Gomes, A. (2023). Comparative Law on the Authority of the House of Representatives (Indonesia) with the National Parliament (Timor Leste). *SASI*, 29(1), 18-28. DOI: <https://doi.org/10.47268/sasi.v29i1.1075>.
- Thomas John Kenevan, 2022, The United Nations in the Field of Education, *Focus Journal Law Review*. Vol.2. No.2.
- Tri Widodo W. Utomo, 2019, deconcentration and decentralization in the united state and federal state discourse. *Journal of Administrative Sciences: Media Development of Administrative Science and Practice*, Vol. 09. No. 01, Surakarta