

Penyelesaian sengketa batas wilayah antar daerah otonom baru = Settlement of border dispute between regions

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Abstrak

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Era reformasi telah membawa angin perubahan di segala bidang salah satunya di bidang pemerintahan daerah. Sejak dilaksanakan otonomi daerah luas melalui Undang-undang Nomor 22 Tahun 1999 tentang Pemerintahan Daerah wilayah Indonesia telah mengalami banyak perubahan. Perubahan wilayah ini disebabkan adanya pemekaran daerah sebagai salah satu cara pembentukan daerah baru. Hal ini juga merupakan implementasi dari otonomi daerah sehingga masing-masing daerah berusaha untuk menjadi daerah otonom. Akibat dari kebijakan tersebut, muncullah daerah-daerah otonom baru (DOB). Tanpa disadari akibat pemekaran wilayah menyebabkan timbulnya konflik horizontal. Konflik horizontal ini memunculkan berbagai macam permasalahan baru dari persoalan pengelolaan sumber daya alam sampai dengan sengketa batas wilayah antar daerah otonom baru. Timbulnya sengketa batas wilayah antar daerah disebabkan masing-masing pihak yang bersengketa memiliki penafsiran yang berbeda terhadap wilayah yang dimilikinya. Terhadap permasalahan ini, Undang-undang Pemerintahan Daerah telah menyediakan mekanisme penyelesaiannya melalui Gubernur apabila terjadi sengketa batas wilayah antar daerah otonom baru dalam satu provinsi dan melalui Menteri Dalam Negeri apabila terjadi sengketa batas wilayah antar daerah kabupaten/kota lintas provinsi yang bersifat final. Akan tetapi dalam prakteknya, penyelesaian ini tidak memberikan rasa keadilan bagi pihak yang merasa dirugikan akibat mekanisme ini. Sehingga pihak yang merasa dirugikan akan membawa permasalahan ini ke ranah hukum yaitu melalui Mahkamah Konstitusi. Penyelesaian sengketa batas wilayah antar daerah melalui Mahkamah Konstitusi dilakukan dengan cara mengajukan permohonan pengujian undang-undang pembentukan daerah terhadap Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 yang bersifat final dan mengikat. Penelitian ini ingin menjelaskan praktek penyelesaian sengketa batas wilayah antar daerah otonom baru yang dilakukan menurut Undang-undang Pemerintahan dan melalui pengujian undang-undang di Mahkamah Konstitusi.

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ABSTRACT

The reform era has brought a wind of change in all areas including in the field of local governance. Since the autonomous region was implemented through Act No. 22 of 1999 on Local Government regions of Indonesia have undergone many changes. Changes in the area due to the expansion region as one way the formation of new areas. This is also the implementation of regional autonomy so that each region seeks to become an autonomous area. The result of these policies, came the new autonomous areas (DOB). Unnoticed due to the onset of the conflict led to the blossoming of horizontal. This horizontal conflicts gave rise to a variety of new problems of natural resource management issues to a dispute between the territorial boundaries of the region. The onset of the dispute between the borders area due to each party to the dispute has a different interpretation of its own territory. With respect to this issue, the Act Government has provided a mechanism for settlement through the Governor in the event of a dispute between the territorial

boundaries in one province and through the Ministry of Home Affairs in the event of a dispute between the borders area of district/city cross the province are final. However, in practice, this settlement does not provide a sense of fairness to the parties who feel aggrieved by this mechanism. So those who feel aggrieved will bring this issue into the realm of law, namely through the Constitutional Court. The dispute between the territory through the boundary of the Constitutional Court is carried out by means of applying for a testing area of legislation against the Constitution of the Republic of Indonesia in 1945 which are final and binding. This research would like to explain the dispute resolution practice of territorial boundaries between areas is conducted according to Government legislation and through the testing laws in the Constitutional Court.

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