

Ultra Vires of the District Court in the Annulment of State Regulations

Arter Lukas Tulia*

Faculty of Law, Gadjah Mada University, Yogyakarta, Indonesia

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*Correspondence: Full Name

Email:

arterlukastulia1998@mail.ugm.ac.id

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Abstract: *This study discusses the ultra vires phenomenon carried out by the District Court in canceling state regulations, a legal product of a traditional village in Central Maluku. This study highlights the provisions on the division of absolute and relative authority in the Indonesian judicial system based on Law Number 48 of 2009 concerning Judicial Power, and examines the position of state regulations according to Law Number 12 of 2011 concerning the Formation of Legislation and Law Number 3 of 2024 concerning Villages. By using normative legal research methods through case, statutory, and conceptual approaches, this study finds that state regulations are part of laws and regulations that have binding legal force because they are formed based on the authority and provisions for the formation of laws and regulations. However, the practice of canceling state regulations by the District Court, as in the case examined and tried and decided by the Ambon District Court, is an ultra vires act because the authority to test regulations under the law lies with the Supreme Court. This study emphasizes the need for consistency in the application of judicial authority for the sake of legal certainty and protection of the rights of indigenous peoples.*

Keywords: *Ultra Vires; District Court; Cancellation of State Regulations service, education.*

Introduction

Judicial power has an independent nature in the judicial system, which aims to enforce the law and realize justice. The independence of a judicial body in upholding law and justice runs in accordance with the competence of each judicial body in accordance with the limits of authority determined by law. Based on Law Number 48 of 2009 concerning Judicial Power (*Judicial Power Law*), it distributes judicial power from several judicial bodies, namely the Supreme Court and judicial bodies under it within the scope of the general judiciary, state administrative court, religious court, military court, and by a Constitutional Court.

The competence of each judicial body provides legitimacy to be able to examine and adjudicate and decide cases in accordance with the scope of their authority. If you want to investigate further about the scope of authority or competence of each judicial body, it can be seen and distinguished into absolute competence and relative competence. Absolute competence is the division of jurisdiction of authority from each judicial body in accordance

with the law. The Judicial Power Law has divided the absolute jurisdiction of each judicial body, namely the Supreme Court has the authority to examine and decide cases at the cassation level throughout the judicial sphere under it, test the conformity of laws and regulations with the law, and exercise other authorities regulated by law. Meanwhile, the four judicial bodies under the Supreme Court have absolute jurisdiction of their respective jurisdictions, namely *First*, the General Judicial Body which is authorized to examine, adjudicate, and decide criminal and civil cases in accordance with the provisions of laws and regulations. *Second*, the Religious Justice Agency which is authorized to examine, adjudicate, decide, and settle cases between Muslims in accordance with the provisions of laws and regulations. *Third*, the Military Judicial Agency which is authorized to examine, adjudicate, and decide cases of military crimes in accordance with the provisions of laws and regulations. And *Fourth*, the State Administrative Justice Agency which is authorized to examine, adjudicate, decide, and resolve state administrative disputes in accordance with the provisions of laws and regulations. In contrast to the absolute competence of the judiciary, the competence or relative authority is also inherent for each judicial body, which is related to the authority of the judiciary to examine, adjudicate and decide cases based on its jurisdiction or legal jurisdiction.

Although the division of authority of each judicial body has been determined and regulated based on the provisions of the law, in practice not a few judicial bodies carry out *ultra vires* in examining and adjudicating and deciding a case that is actually not part of its authority. This can be seen from several cases handled by the general judiciary, namely the District Court which cancels a form or product of regulation under the law which is actually the scope of the Supreme Court's authority in testing, examining and deciding a regulatory product under a law that is allegedly contrary to the law through a process *judicial review*. One example of the case is the cancellation of the State Government product together with the Hila State Saniri Agency in the form of State Regulation Number: 01 of 2008 concerning the Determination of Households/Descendants Who Have the Right to Become the Head of the Hila State Government by the Ambon District Court. In fact, the District Court is only authorized to examine, adjudicate, and decide criminal and civil cases in accordance with the applicable legal provisions.

The position of state regulations is a legal product of the nature of *Regulation* issued and determined by the Head of the State Government together with the State Saniri Agency, to which the principle of legal preference is attached to the state regulations, namely *lex superior derogate legi inferiori* which means that the state regulations in their position must not conflict with the laws on them. Talking about the country, it is another name or another name for the traditional village. A customary village is a village that has unique cultural characteristics and traditions, and still applies a customary law system that is sourced from the rights of its origin. The formation of customary villages was initially an association of traditional community groups that inhabited certain areas that had customs as their identity, which later in the current Indonesian constitutional system was known as

customary villages. In the traditions and concepts of the indigenous peoples of Central Maluku, another name for the traditional village is known as Negeri. Related to the formation of state regulations based on Central Maluku Regional Regulation Number 01 of 2006 concerning the State (Malteng Regional Regulation No. 01 of 2006) must be based on the Law on the Formation of Laws and Regulations, in other words the principles and principles as well as the position of state regulations are the same as village regulations. So that state regulations are a type of laws and regulations that are recognized for their existence and have binding legal force. Therefore, based on Article 9 Paragraph (2) of Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Laws and Regulations (Law on the Establishment of Laws and Regulations) emphasizes that "*In the event that a By-law under the Law is suspected to be contrary to the Law, its test shall be carried out by the Supreme Court*". For this reason, it can be stated that in this study the author will discuss several issues, namely how the position of the state government as part of the laws and regulations and the position and authority of the General Court in examining and adjudicating a case and how to act *ultra vires* District Court in invoking the State Regulation.

Methodology

This study uses a normative juridical method, with an approach i.e. the case approach which is carried out by analyzing cases through court decisions as the main material in the discussion. Statute approach is an approach that is carried out by examining laws and regulations related to the legal issues being discussed. And the Conceptual approach is an approach that departs from legal opinions or legal doctrines of legal experts. Which of the problems in this study will be discussed critically and presented in a descriptive-analytical manner.

Result and Discussion

The Position of State Regulations as Laws and Regulations

Authentically according to the Law on the Establishment of Laws and Regulations, laws and regulations are defined as written rules that contain generally applicable and binding legal norms, and are drafted or determined by state institutions or authorized officials through procedures regulated in laws and regulations. In the nomenclature of laws and regulations, the meaning can be interpreted individually, namely regulations and legislation. Meaningfully, regulations can be interpreted as provisions set by institutions that have authority, while the term legislation refers to everything related to the law, including the aspects that surround it. So that laws and regulations can have a meaning that

is more focused on rules that contain rules and norms made by institutions that are authorized to regulate things.

From the meaning of these laws and regulations, several elements of the laws and regulations themselves can be found. The elements of these laws and regulations are, 1) prepared in written form, 2) contain legal norms, 3) have binding force in general, 4) be formed by state institutions or officials who have authority, and 5) be prepared through procedures that have been determined in the system of laws and regulations. The process of its formation, which is the form of *delegated legislation* Article 22A of the 1945 Constitution of the Republic of Indonesia, is carried out by state institutions or authorized officials at the central and regional levels, and includes stages such as planning, drafting, formulation, discussion, ratification, and promulgation.

In Article 7 of the Law on the Establishment of Laws and Regulations Types and levels in the structure of laws and regulations include, among others: the Constitution of the Republic of Indonesia in 1945, the Decree of the People's Consultative Assembly, Laws or Government Regulations in lieu of Laws, Government Regulations, Presidential Regulations, Provincial Regional Regulations, and Regency/City Regional Regulations. The structure and type of regulation were then expanded through the provisions of Article 8 of the Law on the Establishment of Laws and Regulations, which stipulates that:

Paragraph (1) Types of Laws and Regulations other than as intended in Article 7 paragraph (1) include regulations stipulated by the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, the Supreme Court, the Constitutional Court, the Financial Audit Board, the Judicial Commission, Bank Indonesia, Ministers, bodies, institutions, or commissions of the same level established by law or the Government on the order of the Law, the Provincial Regional People's Representative Council, Governor, Regency/City Regional People's Representative Council, Regent/Mayor, Village Head or equivalent.

Paragraph (2) Laws and Regulations as intended in paragraph (1) are recognized as having their existence and have binding legal force as long as they are ordered by a higher Laws and Regulations or formed based on authority.

Based on the provisions of Article 8 Paragraph (2) of the Law on the Formation of Laws and Regulations, it is possible for all forms of laws and regulations to be recognized for their existence and have binding legal force as long as they are ordered by higher laws and regulations and formed based on authority as long as they meet the elements of laws and regulations. Therefore, by looking at these provisions, by paying attention to the existence and position of the State Regulation as a customary village regulation mandated

in Law Number 3 of 2024 concerning the Second Amendment to Law Number 6 of 2014 concerning Villages (Village Law), which as a customary village has the right to carry out and form an arrangement related to the interests of the community based on the right of origin, customs and socio-cultural values of the village community. Furthermore, customary villages to make and form customary village regulations that are adjusted to customary laws and customary norms that apply in customary villages as long as they do not conflict with the provisions of laws and regulations. In the provisions of Article 1 number 9 of the Malteng Regional Regulation No. 01 of 2006, it provides the definition of a State Regulation as a regulation determined by the Head of the State Government together with the State Saniri Agency, where the State Regulation is a provision for the implementation of a higher regulation, so that it must not contradict a higher regulation and in its formation is also based on the principle of the formation of laws and regulations.

Based on these provisions by taking into account the elements of the laws and regulations, the State Regulation as one of the legal products of the customary village/State government made in a written form that contains the substance of legal norms, this State Regulation in its enforcement is legally valid within the jurisdiction of the customary village/State which is formed by the State Government together with the State Saniri body as the authorized official attribution and in its formation are based on the procedures and principles set by laws and regulations. Therefore, according to the author, the State Regulation is part of the laws and regulations.

Position and Competence of the General Judiciary

As a country based on the law as guaranteed in the constitution, namely the 1945 Constitution of the Republic of Indonesia, Indonesia is committed to upholding law and justice through legal instruments and the establishment of judicial bodies. In general, the judiciary is an organ formed by the state to resolve legal disputes in order to uphold law and justice. The General Judiciary as one of the judicial bodies under the power of the Supreme Court also has the same vocation as the perpetrator of judicial power for the people who seek justice.

The general judiciary has been specially regulated for the first time through Law Number 13 of 1965 concerning Courts within the General Judiciary and the Supreme Court, which was signed by the President of the Republic of Indonesia at that time, Dr. J. Leimena. This Law is the implementation of the provisions, principles, and principles contained in Law Number 19 of 1964 concerning the Principal Provisions of Judicial Power. During that period, the General Court was given the authority to adjudicate criminal and civil cases. In

addition, the state distinguishes between the General Court and the special judicial body as well as the state administrative court. In its scope, the General Judiciary includes the Economic Court, the Subversion Court, and the Corruption Court. In its development then in 1986 under the administration of President Suharto, through Law Number 2 of 1986 concerning the General Court repeals Law Number 13 of 1965 concerning Courts within the General Judiciary and the Supreme Court, which in the provisions of Article 50 still regulates and affirms that the General Court through the District Court is in charge and authorized to examine, decide, and resolve criminal cases and civil cases at the first level.

In its development, Law Number 2 of 1986 concerning the General Court is considered no longer in accordance with the development of the legal needs of the community and the state system. Therefore, this law was first revised through Law Number 8 of 2004 concerning Amendments to Law Number 2 of 1986, then amended again for the second time through Law Number 49 of 2009 concerning the Second Amendment to Law Number 2 of 1986 concerning the General Judiciary (General Justice Law). The General Judiciary consists of the District Court and the High Court, each of which is in accordance with the provisions of Article 4 of the General Judiciary Law, "*The District Court is domiciled in the capital of the Regency/City, and its jurisdiction covers the Regency/City area while the High Court is domiciled in the Provincial capital, and its jurisdiction covers the Provincial area*".

Related to the competence of the District Court, which can be divided based on relative competence and absolute competence, Wisnu Agung Nugroho, et al gave a view related to the system of separation of jurisdictions the judiciary must pay attention to indicators, including those based on the environment of judicial authority which each has the authority to adjudicate and certain authorities create each judicial body with absolute authority that only adjudicates to a limited number of cases which the law has delegated to him. If we look closely at the absolute authority of the District Court based on the General Judiciary Law, the District Court is only given the authority to adjudicate and examine and decide civil and criminal cases. Civil cases in scope include individual law, family law, property law and inheritance law. Meanwhile, criminal cases are cases of violations and crimes that are always threatened with punishment. In addition to the absolute authority of the District Court, relative authority is also inherent in the District Court, which means that its authority is only limited to the jurisdiction of the region or its jurisdiction determined based on the provisions of laws and regulations. Based on the provisions of Article 4 of the General Judiciary Law, the District Court in its position in the capital of the district/city and its jurisdiction or its relative competence only covers the district/city area.

The absolute and relative authority of the District Court has been regulated based on the provisions of the law with its scope and limitations. The District Court should as much as possible avoid monopolizing in the examination of the subject matter that is not its jurisdiction, because if it is forced, it will raise problems about the authority of the court. So in the author's opinion, if the District Court still accepts the lawsuit and continues it in the examination of the subject matter and decides it, then in fact the District Court has taken action *ultra vires* or acts beyond the limits of his authority.

Ultra Vires Actions of the District Court in Invalidating State Regulations

In the previous section, the author has described the position of the State which is another name for the Customary Village, which if examined further based on the Malteng Regional Regulation No. 01 of 2006 explains that the State is a unit of customary law communities formed based on history and origins, which functions to regulate the customs, customary laws, and culture of the local community, as well as to organize general government affairs in accordance with laws and regulations that apply. In other words, the State is a form of customary law community unity in the Unitary State of the Republic of Indonesia that has territorial, genealogical, and functional characteristics. The country has the authority to independently manage government affairs and community interests based on customary law and rights of origin.

In countries within the administrative area of Central Maluku Regency, through Malteng Regional Regulation No. 01 of 2006 distributes the authority of state government affairs into customary affairs and general administrative affairs. So that Malteng Regional Regulation No. 01 of 2006, the nomenclature used is state government and administrative state government. The duties and authorities of the State/State Government Administration are to submit state regulations and establish state regulations that have been approved by the State Saniri or the State Consultative Body *Vide* Article 20 Paragraph (2) letters c and d jo. Article 27 letter i of Central Maluku Regional Regulation Number 9 of 2022 concerning the Administrative State Consultative Body.

As one of the countries in the administrative area of Central Maluku Regency, Hila is a customary country located in Leihitu District, Central Maluku Regency, where in 2008 the Hila State Government together with the Hila State Saniri Agency issued State Regulation Number: 01 of 2008 concerning the Determination of Eyes of the House/Descendants Who Have the Right to Become the Head of the Hila State Government. Through the state regulation, the Hila State Government together with the Hila State Saniri Agency stipulate the right of instruction to determine the head of state government in Hila

Country, namely from Matarumah Lating Nustapy and from Matarumah Ollong. With the issuance of the state regulation, then the Family or Matarumah Lating Nustapy objected by filing a lawsuit at the Ambon District Court, because the state regulation had harmed Matarumah Lating Nustapy. In relation to Matarumah Lating Nustapy's lawsuit, then the Ambon District Court accepted, examined and decided in its decision point 3, namely, "*Declaring to cancel State Regulation Number: 01 of 2008 concerning the Determination of Eyes of the House/Descendants Who Have the Right to Become the Head of the Hila State Government and declaring that it does not have binding legal force*".

Observing the actions of the District Court Judge in examining and adjudicating and deciding as in his decision Number: 22/Pdt.G/2021/PN Ambon, dated August 2, 2021, has actually exceeded his authority, because it violates the limits of absolute authority outlined by law. Judges have a very crucial role in examining a case, especially to assess and consider the formal aspects of a lawsuit, in order to ascertain whether the lawsuit has met the specified formal requirements. Therefore, Wisnu Agung Nugroho, et al. stated that if there is an action *ultra vires* by a District Court, resulting in the examination and the decision handed down in the case being examined becomes invalid. So in the author's opinion, when the District Court accepts a case that is not within its absolute authority, namely related to civil or criminal cases, then the District Court in its decision should declare the lawsuit unacceptable (*Declared inadmissible*).

The State Regulation in its position is a type of legislation and regulations, so that in its formation according to the provisions of Article 40 of the Malteng Regional Regulation No. 01 of 2006, which to the state regulation is attached the principle of legal preference, namely *lex superior derogate legi inferiori* which means that the state regulations in their position must not conflict with the laws on them. Actually, through the Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 111 of 2014 concerning Technical Guidelines for Village Regulations, it gives the authority to cancel to the Regent/Mayor through a clarification process carried out when the Village Regulation is invited with a time bracket of 30 days. However, this action is only limited to clarification by the Regent/Mayor of the village regulation that considers the village regulation to be contrary to the public interest and/or higher regulations with the existing time period. In addition, when the state regulation materially in its implementation is detrimental to certain parties for the enactment of the state regulation, he is given access by law to submit an application *Judicial Review* to the Supreme Court of the Republic of Indonesia. Article 9 Paragraph (2) of the Law on the Establishment of Laws and Regulations emphasizes that "*In the event that a By-law under the Law is alleged to be contrary to the Law, the test shall be carried*

out by the Supreme Court". It is further emphasized in Article 31A Paragraph (2) of the Supreme Court Law that "An application as intended in paragraph (1) can only be made by a party who considers his rights to be harmed by the enactment of laws and regulations under the law, namely: a. an individual Indonesian citizen; b. the unity of customary law communities as long as they are alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia as regulated in the law; or c. public legal entity or private legal entity".

The Supreme Court has the authority to declare that laws and regulations under the law are invalid if they are contrary to the law, and can order the revocation of the regulation. According to Irfan Fachruddin, as followed by Dio Siaga Putra and Ansorullah, the term "invalid" in the context of a decision is "retroactive" or "Ex tunc" means that the laws and regulations or administrative actions in question are considered as if they never existed in the first place. This kind of ruling is declarative, meaning that it only states the legal status of an act or regulation, not creating or changing a new (non-constitutive) legal state. [8] Regarding the right to material review before laws and regulations under the law, based on Supreme Court Regulation Number 1 of 2011 regulates in more detail the process of submitting and examining applications for material review by the Supreme Court, with the main provisions, namely that the Supreme Court has the authority to examine and decide on applications for material review (*Judicial Review*) which is submitted in the form of an objection to the laws and regulations under the law, the application for a material test can be submitted directly to the Supreme Court or through the District Court, the application for objection can be submitted by individuals or community groups. Application deadline *Judicial Review* which was previously limited to 180 days from the enactment of the tested regulation has been deleted, because it is considered no longer relevant to legal developments and contrary to higher regulations and if the Supreme Court grants the application for a material test, then the agency or party that issued the regulation is obliged to revoke it. If within 90 days after the Supreme Court's decision the regulation has not been revoked, then the regulation is considered invalid and does not have the force of common law.

Based on these provisions, *expressive verbs* absolute authority to materially assess state regulations that are allegedly contrary to laws that are detrimental to both individuals and customary law communities, then its absolute authority is the authority of the Supreme Court, not the absolute authority of the General Judiciary *In the present case* District Court.

Conclusion

State regulations as a legal product of customary villages in Central Maluku are recognized as part of laws and regulations that have binding legal force, because they are formed based on the authority and provisions of the formation of laws and regulations. Paying attention to the absolute authority of the District Court which is limited to the examination of criminal and civil cases, not to the testing or annulment of regulations under the law. So that the action of the District Court that annuls the state regulation is a form of action *ultra vires*, because it is contrary to the provisions of Article 9 Paragraph (2) of the Law on the Formation of Laws and Regulations which affirms that the testing of regulations under the law is the authority of the Supreme Court which in its decision declares the laws and regulations under laws and regulations under laws that are contrary to higher laws and regulations. So in this study, the author tries to provide recommendations for affirmation and consistency in the division of authority between judicial bodies to ensure legal certainty, protection of rights, and prevent the occurrence of actions *ultra vires* by judicial institutions beyond their authority through the construction of new laws.

References

Book

- Adi Sulistiyono and Isharyanto, (2018), *The Judicial System in Indonesia in Theory and Practice*, Depok: Prenadamedia Groub, 2018
- Bambang Daru Nugroho, (2017), *Indonesian Civil Law*, Bandung : PT Refika Aditama
- Fakhry Amin, et.al, (2023), *Legal Science*, Banten: PT. Sada Kurnia Pustaka
- Muhaimin, (2020), *Legal Research Methods*, Mataram: Mataram University Press
- Umarwan Sutopo, (2021), *Introduction to Legal Procedure in Indonesia*, Ponorogo: Synergy of DigiPrint's Noble Works
- Wisnu Agung Nugroho, et.al, (2024), *Legal & Judicial System in Indonesia*, Jambi: PT. Sonpedia Publishing Indonesia

Journal

- Ahmad Heru Romadhon, et.al, (2018), *The Dynamics of Customary Village Government Institutions in the Dimension of Constitutional Law*, Journal of Bhakti Media Law, Vol 2, No. 2, 127-37 <https://doi.org/10.32501/jhmb.v2i2.25>
- Dio Siaga Putra and Ansorullah, (2022), *The Authority of the Supreme Court in Judicial Review of Laws and Regulations Under the Law*, Limbago Journal: Journal of Constitutional Law, Vol 2, No. 1 <https://doi.org/10.22437/limbago.v2i1.17590>
- Elfira Lelapary, et.al, (2024), *The Legitimacy of the Determination of State Status in Teon District, Nila, Serua, Central Maluku Regency as an Customary Village*, Saniri Journal, Vol 4, NO. 2, 69 – 85 <https://doi.org/10.47268/saniri.v4i2.2177>.
- Hairul Maksum, (2020), *Limitations on the Authority to Adjudicate the General Court in Dispute Resolution of Unlawful Acts Involving State Entities or Government Officials (Reviewed from Supreme Court Regulation Number 2 of 2019)*, Jurnal Juridica, Vol 2, No. 1 <https://doi.org/10.46601/juridica.v2i1.178>

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- Maisarah, (2015), *Relative and Absolute Competence Between Islamic Courts in Indonesia and General Courts*. Al-Fikrah Journal, Vol 4 No. 2, 188-202 <https://ejournal.unisai.ac.id/index.php/jiaf/article/view/335>
- Maruarar Siahaan, (2020), *Constitutional Integration of Judicial Review Authority of the Constitutional Court and the Supreme Court*, Constitutional Journal, Vol 17, No. 4 <https://doi.org/10.31078/jk1742>
- Yohanes Pattinasarany, (2015), *The Role of Local Governments in Determining State Boundaries*, SASI Journal, Vol. 21, No. 2 <https://doi.org/10.47268/sasi.v21i2.187>.
- Zaeni Dahlan and Ian Aji Hermawan, (2019), *Juridical Review of Relative Competency Exceptions in Civil Cases*, Journal of Social Sciences and Humanities, Vol. 2 No. 1 <https://doi.org/10.54622/academia.v2i1.30>
- Zir Nuriyah Mustari, et.al, (2023), *Absolute Competence of District Courts in Adjudicating State Administrative Disputes (Case Analysis of Decision No. 13/Pdt.G/2020/Pn.Pmk)*, Yustitia Journal, Vol 24, No. 2 <https://doi.org/10.53712/Yustitia.V24i2.2185>