




Responsibilities of Regency/Municipal Governments in Managing Basic Education Affairs

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Article Info	Abstract	
<p>Keywords: Local Government Responsibilities; Managing Basic Education.</p>	<p>Introduction: The handover of basic education affairs by the central government to regencies/municipalities, raises the responsibility of district/city local governments to manage basic education affairs in order to provide quality basic education to local community members.</p> <p>Purposes of the Research: Analyze the form of responsibility for the district/city government in managing basic education affairs.</p> <p>Methods of the Research: The writing method used is normative law, by reviewing positive legal provisions, legal principles, legal principles and legal doctrines in order to build legal arguments related to the substance under study.</p> <p>Results of the Research: The results of the study show that the form of responsibility of the district/city government in managing government affairs in the field of basic education involves administration, institutions, finance, and facilities and infrastructure, and so on through government policies and legal actions as well as government services in the field of basic education to fulfill the rights of every citizen. citizens to obtain quality basic education services as a basis for continuing to secondary education and higher education. Neglect of the implementation of the said responsibility can be held legally responsible through accountability.</p>	

1. INTRODUCTION

The fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia (hereinafter abbreviated as the 1945 Constitution of the Republic of Indonesia) stipulates that one of the objectives of establishing the government of the Republic of Indonesia is to educate the life of the nation.¹ Efforts to educate the life of the Indonesian people can only be done through the fulfillment of education for the entire Indonesian nation. Without getting education, it is impossible to realize the living intelligence of the Indonesian nation.

Education becomes a condition sine qua non to educate the life of the Indonesian people, even education determines the progress of life in society, nation and state. In other words, citizen education determines the progress of life in society, nation and state. The essence of education is to build people, to build education is to build human resources and

¹ Yohanes Pattinasarany, "Tanggung Jawab Pemerintah Daerah Kabupaten/Kota Dalam Mengelola Pendidikan Dasar Di Maluku" (Universitas Hasanuddin, 2019), p. 19.

quality. Quality human resources who will be a source of strength and a source of state progress as well as a source of state welfare.

Nowak said that education is a basic means for human development to develop themselves and their personalities.² Education is a conscious and planned effort to create a learning atmosphere and learning process so that students actively develop their potential to have religious spiritual strength, self-control, personality, intelligence, noble character, and skills needed by themselves, society, nation and state.

The fulfillment of education for Indonesian citizens is not an act of chance but a conscious and planned effort in a national education system in order to fulfill the right of every citizen to receive education as stipulated in the provisions of Article 31 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, the state's obligation to meet the educational needs of every Indonesian citizen. Even the government is obliged to finance basic education, so Article 31 paragraph (3) of the 1945 Constitution of the Republic of Indonesia affirms that the state prioritizes the education budget at least twenty percent of the state revenue and expenditure budget as well as from the regional expenditure budget to meet the needs of national education administration.

Development in the field of education is the main role for the government,³ the affirmation of the government's role in the constitution proves that the fulfillment of the right to education is one of the fundamental efforts of the state that must be handled by the government.⁴ In order to meet the educational needs of all citizens, based on the application of the principle of decentralization in the governance system in Indonesia, the central government delegates part of education affairs to the regions as stipulated in Article 50 paragraph (4) and paragraph (5) of Law no. 20 of 2003 concerning the National Education System (hereinafter abbreviated as Law No. 23 of 2003), which stipulates that:

- 1) The provincial government coordinates the implementation of education, the development of education personnel, and the provision of cross-district/municipal education facilities for the basic and secondary education levels.
- 2) Regency/city regional governments manage basic education and secondary education, as well as education units based on local excellence.

Similarly, it is also stipulated in Article 12 paragraph (1) of Law no. 23 of 2014 concerning Regional Government (hereinafter abbreviated as Law No. 23 of 2014), which stipulates that mandatory government affairs related to basic services as referred to in Article 11 paragraph (2) include: a education; b health; c public works and spatial planning; d public housing and residential areas; e peace, public order and community protection; and social f. On the basis of these arrangements, the Attachment of Law no. 23 of 2014 stipulates the division of affairs in the education sector. Higher education affairs are under the authority of the central government, secondary education affairs are handed over to the Provinces, and basic education matters are handed over to regencies/municipalities.

² Hariburtus Jaka Triyana, "Komentar Hukum Atas Putusan Mahkamah Konstitusi Perkara No. 012/PUU-III/2005 Mengenai Pengujian Undang-Undang Nomor 36 Tahun 2004 Tentang Anggaran Pendapatan Dan Belanja Negara," *Warta Pendidikan* 2, no. 1 (2006): 235-46.

³ Mashari, "Tanggung Jawab Pemerintah Daerah Dalam Penggunaan Dana Bos Untuk Pendidikan Dasar Yang Bermutu," *Jurnal Spektrum Hukum* 18, no. 2 (2021): 1-18.

⁴ Muhammad Ashri, "Gugatan Warga Dan Tanggung Jawab Negara Dalam Pemenuhan Hak Atas Pendidikan," *Indonesian Journal of International Law* 5, no. 2 (2008): 295-316.

In the era of regional autonomy, education affairs from kindergarten to high school are the responsibility of the regions and the future of education is highly dependent on the ability of local governments to manage the education sector.⁵ By submitting education affairs to each of these regions, each regional government is responsible for regulating and managing the education affairs themselves in order to meet the educational needs of the community members in each region. Therefore, district/city governments are responsible for managing basic education affairs to meet the needs of providing basic education for citizens in each region, because every citizen is required to attend basic education as stipulated in Article 31 paragraph (2) of the Constitution NRI Year 1945, and Article 6 paragraph (1) of Law No. 20 of 2003. Although the right to education is not the same as the right to life, the right to embrace a certain religion and belief, it is seen as a fundamental right.⁶

There has been a shift in legal responsibility from the central government to districts/cities in managing basic education affairs. The emergence of responsibilities of the government or state organs or state administrative bodies due to the granting or delegation of authority to carry out government tasks, as stated by Suwoto Mulyosudarmono, that responsibility arises because of the surrender or assignment or delegation of power.⁷

Although basic education affairs have been handed over to regencies/municipalities, the phenomena that occur in various regions show that there is still a shortage of educational facilities and infrastructure, a shortage of teachers and education personnel, and other basic education resources. This is inversely proportional to the principle of handing over basic education affairs to districts/cities to improve government services in the field of basic education to citizens, which of course affects the quality of basic education in each region.

For this reason, the problem that will be discussed in this paper is what is the form of responsibility for the district/city government in managing basic education affairs?

2. METHOD

The writing method used is normative law, by reviewing positive legal provisions, legal principles, legal principles and legal doctrines in order to build legal arguments related to the substance under study. Therefore, the legal materials used are in the form of primary legal materials and secondary legal materials. Primary legal materials in the form of the 1945 Constitution, Law Number 20 of 2003 concerning the National Education System, Law no. 23 of 2014 concerning Regional Government and various provisions of other laws and regulations, while secondary legal materials are in the form of research journals, books and results of legal research related to the substance of the research.

3. RESULTS AND DISCUSSION

3.1 The concept of Regency/Municipal Government

Conceptually, the terms local government and local government have different meanings. It is based on the meaning of the concepts of government and governance. Nata Saputra defines government as an organ that runs the government, and government is the

⁵ Sri Winarsih, "Sistem Pembiayaan Pendidikan Dan Otonomi Daerah Dalam Meningkatkan Mutu Pendidikan," *INSANIA: Jurnal Pemikiran Alternatif Kependidikan* 18, no. 2 (2013): 265–86.

⁶ Muhammad Ashri, *Op Cit*, p. 295.

⁷ Suwoto Mulyosudarmono, "Kekuasaan Dan Tanggung Jawab Presiden Republik Indonesia, Suatu Penelitian Segi-Segi Teoritik Dan Yuridis" (Universitas Airlangga, 1990), p. 32.

implementation of government duties and functions.⁸ Government can be seen in a broad sense and a narrow sense. In a broad sense, the government includes organs that carry out all state power. Meanwhile, in a narrow sense, the government only has executive power. Kuntjoro Purbopranato, said that the government in a narrow sense is only the implementing agency (executive, *bestuur*), not including the legislative body (*regelgeven*), the judicial body (*rechtspraak*).⁹ The same thing was said by Willem Konijnnebelt, the administrative function is the same as *bestuur*, namely the function of government which does not include the function of forming laws and the judiciary.¹⁰

Government in a broad sense includes all state apparatus, whether from the executive, legislative, judicial branches of power, or state apparatus acting for and on behalf of the state, while government in a narrow sense is a branch of executive power only. In the State of Indonesia, based on Article 4 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, the President holds governmental power according to the Constitution. In carrying out his obligations, the President is assisted by one vice president (Article 4 paragraph (2)). The President is assisted by State ministers (Article 17 paragraph (1)). This shows that the concept of government in the 1945 Constitution of the Republic of Indonesia means government in a narrow sense. namely the president and his assistants, as the holders of executive power, while the government refers to the process, mechanism or method or effort of administering the government.

According to P de Haan, government as a function is an activity to govern.¹¹ Government is a collection of organs of government organizations that are burdened with the implementation of government tasks. Jimly Asshiddiqie said that government contains the notion of processes, mechanisms or efforts to administer government as well as the subject of government which includes the executive and legislative branches as a unit with rights and obligations as government administrators in a broad sense.¹²

From the various definitions as mentioned, it can be said that government refers to an organ or agency or institution, while government refers to a process, method or act. Although the two terms have different meanings, they cannot be separated, because talking about government is of course about the organs that carry out government, and talking about government is of course about the processes or methods or mechanisms carried out by the government (broad meaning) or state organs.

According to Jimly Asshiddiqie that in the context of the state government system, the words government and government are only distinguished in terms of the subject and as a process. Government as a structure (structure of government) and government as a process, activity, or substance (substance of governing) the administration of state government. Meanwhile, in the context of the regional government system, the word government contains two meanings at once, namely (1) as the subject of government administration, and also (2) as the process of administering government.¹³

⁸ Irfan Fachruddin, *Pengawasan Peradilan Administrasi Terhadap Tindakan Pemerintahan* (Bandung: Alumni, 2004), p. 31.

⁹ Kuntjoro Purbopranoto, *Beberapa Catatan Hukum Tata Pemerintahan Dan Peradilan Administrasi* (Bandung: Alumni, 1989), p. 41.

¹⁰ Irfan Fachruddin, *Op Cit*, p. 29.

¹¹ Ridwan HR, "Diskresi Dan Tanggung Jawab Pejabat Dalam Penyelenggaraan Pemerintahan Di Indonesia" (Universitas Airlangga, 2013), p. 107.

¹² Jimly Asshiddiqie, *Pokok-Pokok Hukum Tata Negara Pasca Reformasi* (Jakarta: Bhuana Ilmu Populer, 2008), p. 416.

¹³ *Ibit*, p. 417.

Juridically what is meant by regional government is the regional head as an element of regional government organizers who leads the implementation of government affairs which are the authority of the autonomous region. The head of the province is called the governor, the head of the district/city is called the regent/mayor. The regional head, assisted by the deputy regional head and regional apparatus. Regional apparatus is the assistant element of the regional head and DPRD in the administration of government affairs which are the authority of the region. Regional apparatuses are organizationally part of the regional government, provincial regional apparatuses consist of regional secretariats, DPRD secretariats, inspectorates, agencies, and agencies, while regency/municipal regional apparatuses consist of regional secretariats, DPRD secretariats, inspectorates, offices, agencies, and sub-districts.

Regional government is the administration of government affairs by the regional government and regional people's representative councils according to the principle of autonomy and assistance tasks with the principle of autonomy as wide as possible within the system and principles of the Unitary State of the Republic of Indonesia as referred to in the 1945 Constitution of the Republic of Indonesia. It is stated that regional government can be interpreted into 2 (two) namely as, (1) the process, method, or act of governing, and (2) organs, institutions (regional government and DPRD). But generally the term government Regional government is defined as an organ that carries out government in the region, while regional government is a process or administration of government affairs by regional government organs, namely the regional government and the regional people's representative council.

Thus, the regency/city regional government is the regional head and deputy regional head along with the apparatus as elements of the regency/city regional government administration. The existence of a district/city local government is part of a state organ that is given the responsibility to carry out government functions or in other words, a district/city local government is a state apparatus that is given the responsibility to carry out state power, one of which is managing government affairs. in the field of basic education

3.2 Responsibility Concept

The term responsibility in English is known as responsibility. In Black's Law Dictionary, it is known that there are two terms of responsibility, namely Liability (the state of being liable) and Responsibility (the state or fact of being responsible). Liability is defined as it has been referred to as of the most comprehensive significance, including almost every character of hazard od responsibility, absolute, contingent, or likely. It has been defined to mean: all characters of debts and obligations. Condition of being actually or potentially subject to an obligation; condition of being responsible for a possible or actual loos, penalty, evil, expense, or burde; condition which creates a duty to perform an act immediately or in the future. (Liability refers to the most comprehensive meaning, covering almost every character of risk or responsibility, which is certain, dependent, or possible. Liability is defined to show all the characteristics of rights and obligations. Conditions subject to actual or potential obligations; conditions of responsibility against actual or possible things such as loss, threat, crime, cost, or burden, conditions that create a duty to enforce the law immediately or in the future).¹⁴

While responsibility is defined as The state of being answerable for an obligation and includes judgment, skill, ability, and capacity. (Things can be accounted for by an obligation,

¹⁴ Henry Campbell Black, *Black's Law Dictionary* (West Group, 1999), p. 823.

and include decisions, skills, abilities, and abilities). Responsibility also means The obligation to answer for an act done, and repair or otherwise make restitution for any injury it may have caused. (The obligation to be responsible for the laws that are implemented, and to repair or otherwise compensate for any damage that has been caused). From the term responsibility, the term responsible government appears "this term generally designates that species of governmental system which the responsibility for public measures or acts of state rests upon the ministry or executive council, who are under an obligation to resign when disapprobation of their cause is expressed by a vote of want of confidence, in the legislative assembly, or by the defeat of an important measure advocated by them, which shows that the types of accountability for public provisions or laws are borne by the department or executive board, which must be resign if the rejection of their performance is expressed through a vote of no confidence, in the legislative assembly, or through the annulment of an important law that they adhere to.¹⁵ This shows the political accountability by executive officials to the legislative body as well as legal accountability.

Suwoto Multosudarmono said that responsibility is a state of being obliged to bear everything (if there is something that can be prosecuted, blamed or sued. Furthermore, the definition of responsibility in The Grolier International dictionary is explained that Liable means 1. Legality obligated; responsible;liability means something for which one is liable an obligated or debt. Responsibility is 1 the state, equality, or fact of being responsible. 2. Athing or person that one is answerable for a duty, obligation, or burden. From this quote it can be understood that first, the meaning of liable is not distinguished from responsible, secondly, every responsibility arises from the existence of a duty, obligation or burden. The conclusion that can be drawn is that power and responsibility are two closely related terms. Responsibility arises because of a gift or delegation power.¹⁶

In Dutch, responsibility is known by two terms, namely aansprakelijk and verantwoordelijk. Aansprakelijk, defined as (1) aanspraakelijk kunnende worde om vergoeding (wegens tegebrachte schade); (2) Van goederen waarop iemands schulden kunnen worden verhaald.¹⁷ (1) can be sued for compensation (because of the losses incurred); (2) (damage) against goods caused by someone's fault, can be sued for compensation. Meanwhile, verantwoordelijk is defined as verantwoordelijkheid het gehouden; zijn om verantwoording te geven; zich voor iets verantwoordelijk, aansprakelijk, stellen.¹⁸ Another definition of aansprakelijk means verbonden, verantwoordelijk, in rechte gehouden voor enige schuld of voor de gevolgen van enig feit of enige handeling.¹⁹ (bound, responsible, legally responsible for the mistakes or consequences of an act). From this understanding emerges the term liability based on the law; "Wettelijke aansprakelijkheid is gohoudenheid tot schadevergoeding uit onrechtmatige daad" (liability according to law, namely the obligation to compensate for losses arising from unlawful acts).²⁰

Another definition of verantwoordelijk means verplicht tot het afleggen van verantwoording en tot het dragen van event toerekenbare schade (desgevorderd), in rechte of in bestuurverband, (the obligation to assume responsibility and the obligation to bear the

¹⁵ *Ibid*, p. 1180.

¹⁶ Suwoto Mulyosudarmono, *Op Cit*, p.31-32.

¹⁷ R. K. Kuipers, *Geilusteed Wordenboek Nederlansche Taal* (Amsterdam: Maatschappy Elsevier, 1951), p. 20.

¹⁸ *Ibid*, p.20

¹⁹ S.J. Fochema Andrea, *Rechstgeleerd Handwoodenboek* (Groningen: Tweede Druk, J.B. Wolter Uitgevers-Maatschappij, 1951), p. 337.

²⁰ Ridwan HR, *Op Cit*, p.337.

losses that arise (if necessary), both in law and in government relations.²¹ From the understanding as stated above, it shows that aansprakelijk refers to legal responsibility, while verantwoordelijk refers to legal and political responsibility. Thus it can be said that aansprakelijk can be equated with liability, and verantwoordelijk with responsibility.

In practical terms and usage, the term liability refers to legal responsibility, namely accountability due to mistakes made by legal subjects, while the term responsibility refers to political responsibility. In Dutch legal terms, it appears that the use of the term aansprakelijkheid only refers to legal responsibility, while verantwoordelijk refers to legal responsibility (in rechte) and political or government responsibility (in bestuursverband).²²

The government institution or organ is responsible for the implementation of the government's authority given to it, and in carrying out its authority there is a violation of the law, it can be held accountable both legally and politically. Government institutions or organs, including district/city regional governments, have the responsibility to regulate and manage all government affairs assigned to the regions.

3.3 Responsibilities of Regency/Municipal Governments in Managing Basic Education Affairs

It has been explained previously that it is the responsibility of the district/city government to manage basic education affairs as a consequence of the handing over of regional education affairs to the district/city as regulated in the provisions of Article 50 paragraph (5) of Law no. 20 of 2003 and Article 12 paragraph (1) letter a and attachments to Law No. 23 of 2014. The provisions in question become the legal basis for the emergence of responsibility for the district/city government to manage basic education affairs.

Giving responsibility to district/city local governments to manage basic education affairs as an effort to improve government services in the field of basic education to local communities. The assignment of responsibilities is intended as an effort to expand and equalize government services in the field of quality basic education for all Indonesian citizens.

The main objective of local government is to provide the best service to the community. Therefore, adequate resources and facilities²³ are needed to provide services to the community,²³ including in the field of basic education. In accordance with the mandate of the 1945 Constitution of the Republic of Indonesia, regional governments which are part of the Indonesian government system have the authority to regulate and manage their own government affairs,²⁴ including basic education matters.

The existence of the district/city government is the main actor in managing basic education affairs on their own initiative and initiative but based on the provisions of the laws and regulations set by the central government. The district/city local government becomes the structure of the state government that is closer to the community and better understands the needs of basic education services in each region, so that basic education

²¹ *Ibit*, p.337

²² *Ibit*, p.337.

²³ Hardiyanto Wibowo Sri Mulyani, "Pengaruh Belanja Modal, Ukuran Pemerintah Daerah, Intergovernmental revenue Dan Pendapatan Asli Daerah Terhadap Kinerja Keuangan (Kabupaten/Kota Di Provinsi Jawa Tengah, Tahun 2012-2015)," *Kompartemen: Jurnal Ilmiah Akuntansi* 15, no. 1 (2017): 57-66.

²⁴ Dani Amran Hakim, Agus Hermanto, and Arif Fikri, "Kebijakan Yuridis Pemerintah Daerah Terhadap Tanggung Jawab Sosial Perusahaan (Corporate Social Responsibility)," *Jurnal Mahkamah: Kajian Ilmu Hukum Dan Hukum Islam* 4, no. 2 (2019): 245-66.

policies made or taken by the district/city local government are really the result of a response or response to problems in the field of basic education that occur in each region. This is an effort to fulfill the right of every citizen in the region to obtain quality basic education as the basis for continuing to a higher level of education, because basic education is the foundation for formal education in Indonesia and is a requirement for continuing to higher education.

The state has programmed compulsory education at the basic education level which is formatted in the form of 9-year compulsory education, namely a 6-year learning process in elementary school (hereinafter referred to as SD) or Madrasah Ibtidaiyah (hereinafter abbreviated as MI), and continued for 3 years in primary school, junior high school (hereinafter abbreviated as SMP) or Madrasah Tasanawiyah (hereinafter briefly referred to as MTs) which aims to provide minimal education for Indonesian citizens.

The success of basic education at the district/city level is highly dependent on the capacity of the district/city government. According to Diding Nurdin, the authority to manage basic education affairs gave birth to the full responsibility of the district/city government to build higher quality basic education by correcting the weaknesses of educational problems.²⁵

Due to the centralization of education, local governments do not have the freedom to develop themselves, because they are forced to follow the rules of the central government without considering the conditions in each region. The implication of decentralization of basic education affairs is to give regencies/municipalities greater authority to manage education in accordance with the potential and needs of the region, institutional changes to meet needs and increase efficiency and effectiveness in planning and implementation of work units in the regions, staffing related to changes and empowerment of human resources emphasizing professionalism, as well as changes to the education development budget.

The responsibility of the district/city government in developing basic education in each region, starting from the stage of formulating regional policies in the field of education, both planning and implementation, even monitoring and evaluation as an obligation or obligation that must be carried out by the district/city local government.

The responsibility of the district/city government in developing basic education in each region, starting from the stage of formulating regional policies in the field of education, both planning and implementation, even monitoring and evaluation as an obligation or obligation that must be carried out by the district/city local government.

The responsibility of the Regional Government in the management of basic education in the form of policies, visions and strategic missions in improving the quality and quality of education. In addition, the Regional Government has the right to guide, assist, and supervise the implementation of education in the region in accordance with the provisions of the applicable legislation. This means that every responsibility and policy of the Regional Government constitutionally given by the law must provide better effectiveness and changes to the management of primary and secondary education so that the impact of these policies can be felt directly by the people.²⁶

²⁵ Diding Nurdin, *Pengelolaan Pendidikan Dari Teori Menuju Implementasi* (Jakarta: Raja Grafindo Persada, 2015), p. 41.

²⁶ Sayed Muhajir, Husni Jalil, and Mahdi Syahbandir, "Kajian Yuridis Tentang Tanggung Jawab Pemerintah Daerah Terhadap Pengelolaan Pendidikan Dasar Dan Menengah (Suatu Penelitian Di Kabupaten Pidie)," *Jurnal Ilmu Hukum* 4, no. 3 (2016): 14-19.

The responsibility of the district/city government in managing basic education is not only to carry out routine activities for the teaching and learning process, but to make educational policies that are able to create a teaching and learning process that can improve the quality of basic education, because starting from the facilities and infrastructure, the number and quality of teachers, and education personnel who do not meet the standards, the determination of local content curricula that do not meet the standards, and the financing of basic education needs and various other matters. The problem of improving the quality of education is the most important factor in the development of national education. The development of education is a benchmark for the progress of a country's human resources.²⁷

District/city governments are obliged or must carry out various government actions in the field of basic education as a form of legal responsibility for granting government authority to regions to manage basic education affairs to ensure: (a). public access to adequate, equitable, and affordable education services; (b). the quality and competitiveness of basic education and its relevance to the needs and/or conditions of the community; and (c). effectiveness, efficiency, and accountability of basic education management.

The responsibilities of the district/city government in managing basic education affairs are as stated below (1) Directing, guiding, assisting and supervising the implementation of basic education in accordance with applicable laws and regulations. (2) Providing services and facilities as well as ensuring the implementation of quality basic education for every citizen without discrimination. (3) Ensuring the availability of funds for the implementation of basic education for every citizen aged seven to fifteen years. (4) Ensuring the implementation of compulsory education at the minimum level of basic education without charging a fee. (5) Create a basic education curriculum that is developed in accordance with its relevance by each educational group or unit and school/madrasah committee under the coordination and supervision of the education office or district/city religious department office for basic education. (6) Facilitating basic education units with the necessary educators and education personnel to ensure the implementation of quality basic education. (7) Fostering and developing education personnel in education units organized by regional governments. (8) Assist in the guidance and development of education personnel in formal education units organized by the community. (9) Provide education budget as stipulated in Article 31 paragraph (4) of the 1945 Constitution of the Republic of Indonesia. (10) Mobilize existing resources in accordance with the prevailing laws and regulations. (11) Funds for basic education grants for basic education units. (12) Managing local excellence-based basic education. (13) provide technical assistance, financial subsidies, and other resources in a fair and equitable manner to community-based basic education institutions. (14) Evaluating managers, units, pathways, levels, and types of basic education. (15) grant permission to each formal and non-formal basic education unit. (16) Granting or revoking a permit for the establishment of a basic education unit. (17) Supervise the implementation of basic education.

The responsibility of the regional government as referred to as a consequence of the delivery of basic education affairs to the district/city area. This means that it is the responsibility of the district/city government in managing basic education affairs both regarding administration, institutions, finance, and facilities and infrastructure, and so on, in order to expand and equalize opportunities to obtain quality basic education for all

²⁷ Sitti Mania, "Profesionalitas Kepala Sekolah: Analisis Idealita Dan Realita," *Lentera Pendidikan: Jurnal Ilmu Tarbiyah Dan Keguruan* 4, no. 1 (2011): 52–67, <https://doi.org/10.24252/lp.2011v14n1a4>.

citizens, which is one of the missions National Education. The national education mission is as follows:

- 1) strive to expand and equalize opportunities to obtain quality education for all Indonesian people;
- 2) assist and facilitate the development of the full potential of the nation's children from an early age to the end of life in the context of realizing a learning society;
- 3) improve the readiness of inputs and the quality of the educational process to optimize the formation of a moral personality;
- 4) to increase the professionalism and accountability of educational institutions as centers of civilizing knowledge, skills, experience, attitudes, and values based on national and global standards; and
- 5) Empowering community participation in the implementation of education based on the principle of autonomy in the context of the Unitary State of the Republic of Indonesia.

Thus, it is the responsibility of the district/city government in managing basic education affairs through government policies and legal actions as well as government services in the field of basic education to fulfill the right of every citizen to obtain basic education services as a basis for continuing to secondary education and higher education for realize the vision of national education as a strong and authoritative social institution to empower all Indonesian citizens to develop into quality human beings so that they are able and proactively respond to the challenges of an ever-changing era, as a consequence of the delivery of basic education affairs to districts/cities.

3.4 District/City Regional Accountability in Managing Basic Education Affairs

In a democratic country, there is the principle of *geen macht zonder verantwoordelijkheid* (no power without accountability),²⁸ as H. R. B. M. Kummeling said that *geen bevoegheid verantwoordelijkheid* (no authority without accountability) or *zonder bevoegdheid geen verantwoordelijkheid* (no responsibility without authority).²⁹ Similarly, Tatiek Sri Djatmiati said that every use of authority in any form, whether in the context of regulating, supervising, or determining sanctions by government agencies is always accompanied by responsibility. This is a must because in administrative law the granting of authority is accompanied by testing, and errors in the use of authority always have access to the courts, thus guaranteeing legal protection.³⁰

The accountability for the administration of government authority, including by the district/city government in managing basic education affairs, is a consequence of the transfer of government authority. Every government action carried out by state administrators including district/city regional governments must be in accordance with the authorities stipulated in the applicable legal rules. If the state administrator is not responsible for the implementation of the government authority given to him, then the system of government is authoritarian or dictatorial.

²⁸ Lukman Hakim, *Filosofi Kewenangan Organ Dan Lembaga Daerah Prespektif Teori Otonomi Daerah Dan Desentralisasi Dalam Penyelenggaraan Pemeintahan Negara Hukum Dan Kesatuan* (Malang: Setara Press, 2012), p/ 49.

²⁹ H. R. B. M. Kummeling, *Verkenningen van Verantwoordelijkheid* (Deventer: W. E. J. Tjeenk Willink, 1999), p. 14.

³⁰ Tatiek Sri Djatmiati, "Prinsip Izin Usaha Industri Di Indonesia" (Universitas Airlangga, 2004), p. 85.

In an authoritarian system of government, the government considers itself to be the source of all existing order, such as the expression *I, Etat cest moi* (I am the state), so that the people are inferior to the government as superior.³¹ As a result, it is not the government that submits to the people but on the contrary the people who submit to the government. While in a democratic system of government placing power in the hands of the people, all public policies must be based on the power of the people.

The district/city government has the freedom to carry out the duties and functions of the government assigned to it, but cannot free itself from the results or consequences of its freedom of action, and it can be required to carry out properly what is required of it. When the district/city government neglects its legal obligations and violates the legal rights of other legal subjects, it is burdened with the responsibility to restore or restore the rights that have been violated. This creates accountability to district/city local governments.

In administrative law the implementation of accountability is a consequence of losses due to the implementation of state administrative decisions or government actions that are contrary to law. Likewise, district/city governments in managing basic education affairs do not absolve them of responsibility if in carrying out government actions in the field of basic education they violate or ignore legal obligations that must be carried out. The responsibility of the district/city government in managing educational affairs is not only the responsibility for the implementation of basic education affairs but also the responsibility for the implementation of the basic education affairs. This is a consequence of the delegation of government authority in the field of basic education to districts/cities. Although normatively, Law no. 20 of 2003 and Law no. 23 of 2014 does not regulate liability if the district/city local government does not carry out its legal obligations in managing basic education affairs. However, this does not mean that district/city governments are free from liability if they ignore legal obligations in managing basic education affairs.

Delegation of government authority is an act of transferring responsibility and accountability from the central government to district/city regional governments, as stipulated in Article 1 number 23 of Law No. 30 of 2014 stipulates that delegation is the delegation of authority from a higher government agency and/or official to a lower government agency and/or official with responsibility and accountability fully transferred to the recipient of the delegation. For this reason, if in carrying out the responsibilities of the district/city government to manage basic education affairs, such as the local content curriculum, the appointment of teachers has not fulfilled the requirements academic qualification requirements, non-fulfillment of educational staff at each school, the stipulation of the education budget in accordance with the provisions of laws and regulations, and others as previously mentioned may result in the accountability of the district/city government as a result of the neglect.

Although it is undeniable that the government and local governments have a legal position that is considered special when compared to the community, it does not absolve them of accountability due to the implementation of government duties violating the law or ignoring legal obligations resulting in community members being harmed or unable to exercise their rights, legal rights properly.

The responsibility of the government, including local governments, is not only related to the issuance or non-issue of a state administrative decision that has legal consequences for a person or civil legal entity, which is the object of dispute in the state administrative

³¹ *Ibid*, p. 50

court as regulated in Article 53 of Law No. 5 of 1986 as last amended by Law No. 51 of 2009 concerning the State Administrative Court but also regarding government actions. Article 53 of Law no. 5 of 1986 as last amended by Law No. 51 of 2009 which stipulates that:

- 1) A person or civil legal entity who feels that his interests have been harmed by a State Administrative Decree may file a written lawsuit to the competent court containing a demand that the disputed State Administrative Decision be declared null or void, with or without a claim for compensation. and or rehabilitation.
- 2) The reasons that can be used in the lawsuit as referred to in paragraph are:
 - a) The State Administrative Decision being sued is contrary to the prevailing laws and regulations;
 - b) The State Administration Agency or Official at the time of issuing the decision as referred to in paragraph (1) has used its authority for other purposes than the purpose for which the authority was given;
 - c) The State Administration Agency or Official at the time of issuing or not issuing the decision as referred to in paragraph (1) after considering all the interests involved in the decision should not arrive at the decision making or not.

The accountability of the district/city government is related to the decisions and/or actions of the government in the field of basic education which are carried out or not carried out by the district/city local governments. Government action is the act of government officials or other state administrators to take and/or not to take concrete actions in the context of administering the government. This means that government actions in the field of basic education carried out by district/city local governments if they violate legal rules can become objects of dispute between citizens who feel their rights have been harmed and the district/city government. In other words, the district/city government bears the burden of accountability as a result of making or stipulating government decisions or actions in the field of basic education that violate the provisions of laws and regulations, because normatively the provisions of Article 8 paragraph (2) and paragraph (3) of Law No. 30 of 2014 stipulates that:

- 1) Government agencies and/or officials in exercising their Authority must be based on:
 - a) laws and regulations; and
 - b) AUPB.
- 2) Government administration officials are prohibited from abusing their authority in making decisions and/or actions.

Accountability as a form of accountability from the district/city government in managing government affairs in the field of basic education as a form of legal guarantee for the rights of citizens. Decisions and/or actions of government agencies and/or officials including district/city regional governments cannot be carried out arbitrarily or violate laws that are detrimental to the community. Even the accountability of the district/city government as an effort to improve good governance to create a better bureaucracy in improving the quality of government services to the community.

Thus, legal responsibility for the implementation of basic education affairs by the district/city government is a form of legal protection for the legal rights of legal subjects guaranteed in legal provisions. This is so that the implementation of the responsibilities of the district/city government does not violate the law or ignore legal obligations that should

be carried out in carrying out government actions in the field of basic education in the regions.

4. CONCLUSION

In essence, the existence of the district/city government as part of the state organ that is given the responsibility to manage government affairs in the field of basic education as a consequence of the delivery of basic education affairs to the district/city area as regulated in the provisions of Article 50 paragraph (5) of Law No. 20 of 2003 and Article 12 paragraph (1) letter a and attachments to Law No. 23 of 2014. The responsibility of district/city governments in managing government affairs in the field of basic education involves administration, institutions, finance, and facilities and infrastructure, and so on through government policies and legal actions as well as government services in the field of basic education to fulfill the rights of every citizen. state to obtain basic education services as a basis for continuing to secondary education and higher education. Neglect of the implementation of the said responsibility can be held legally responsible through accountability.

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