

CHAPTER 4

FINDING AND ANALYSIS

A. Review of Local Regulation

Indonesian legislation provides mechanism to review local regulations. Review of local regulation is conducted by the Ministry of Home Affairs and the Supreme Court. Review conducted by Ministry of Home Affairs is called as executive review while the review conducted by the Supreme Court is called as judicial review. There are two mechanisms of nullification of local regulation. First, the Ministry of Home Affairs has authority to review based on Law No. 23 of 2014 on Local Government. Second, the Supreme Court has authority to review based on the 1945 Constitution.²⁸

1. Review of Local Regulation through the Ministry of Home Affairs

Based on Article 136 Law No. 32 of 2004 on Local Government, the local regulation is prohibited in contrary with public interest and higher legislation. According to Law No. 23 of 2014 as recent law on Local Government that local regulation is

²⁸ Yuri Sulisty, Antikowati, & Rosita Indrayati, “Pengawasan Pemerintah Terhadap Produk Hukum Daerah (Peraturan Daerah) Melalui Mekanisme Pembatalan Peraturan Daerah Berdasarkan Undang-Undang Nomor 32 Tahun 2004 Tentang Pemerintahan Daerah”, *e-Journal Lentera Hukum*, I, (April 2014), p. 6

prohibited in contrary with higher legislation, public interest and decency. A local regulation declared contrary to higher legislation will be nullified by Ministry of Home Affairs or Governor as representative of central government.²⁹ Law No. 12 of 2011 and Law No. 10 of 2004 on Formation of Legislation has not yet affirmed the step of improvement quality of legislation. Since human being are not perfect, the changes or improvement in legislation become part on establishment legislation process.³⁰

Review of local regulation done after enactment is called legislative review and executive review. Review of local regulation done before enactment is called legislative preview and executive preview. The concept of legislative preview and executive preview can be applied in politics of national legislation which aimed at preventing lawsuits in legislation.

2. Review of Local Regulation through the Supreme Court

Exclusion mechanism of judicial review on decision of nullification local regulation in Law No. 32 of 2004 on Local

²⁹ See Article 250 and 251 Law No. 23 of 2014 on Local Government

³⁰ M. Ilham F. Putuhena, "Politik Hukum Perundang-Undangan Dalam Upaya Meningkatkan Kualitas Produk Legislasi", *Jurnal RechtsVinding*, III (December, 2012), p. 357

Government has risen new problem, namely whether the Supreme Court still has authority to nullify local regulation or not³¹.

The concept of judicial review could be distinguished between "judicial review" and "judicial preview". Review means perceive, assess or reassess that comes from the word of "re and view". Pre and view or preview is started to see the object before it becomes imperfect.³² Judicial review or *controle juridictionale* is supervision done by judicial powers to legislative and executive powers.

According to Maurice Duverger, judicial control is important on law to gurantee that legislation does not deviate from the constitution. The constitution will lost its principles and will be puzzle of words with no sense if there are no institutions that maintain and respect the law.³³

B. Resolution of Nullification Problems

During new order era there were two issues in Indonesian legislation. First, law making process which was dominated by executive body. Second, legislation product that cannot be reviewed through judicial review. Thus, in the past, there was uneffective

³¹ Enrico Simanjuntak, "Penguujian Perda dan Perdes Pasca Perubahan UU Pemda dan UU Desa", *Jurnal Konstitusi*, XIII, (September, 2016), p. 651

³² Jimly Asshiddiqie, 2005, *Model-model Penguujian Konstitusional di Berbagai Negara*, Jakarta, Konstitusi Press, p. 2-3

³³ Ni'matul Huda, 2010, *Problematika Pembatalan Peraturan Daerah*, Yogyakarta, FH UII Press, p. 75

nullification mechanism to ensure the consistency of legislation through judicial review. Review of legislation in the past was done only by legislative review and executive review.³⁴ Now, review of legislation is also done by judicial body. There are executive and judicial body for nullification of local regulation that raises the issue which institution is authorized.

1. Legislation and Legal System

The legislation is all laws or regulations. Broad sense is formed in a certain way by the officials and written form. Law of legislation that emphasizes the written form was originally interrelated to European continental legal system that attentive to civil law. Nowadays, judicial review is not only related to civil law in the European continental but also applicable in the countries of Anglo Saxon.

Differences between European continental (civil law) and Anglo-Saxon (common law) more focused on strategy to the development of law. One emphasis on the role of legislative and executive is to make written law. Second emphasis is on the role of judicial institutions to make laws through creative value and explore justice values in society. Thus, if the map in the history of

³⁴ Moh. Mahfud MD, 2009, *Konstitusi dan Hukum Dalam Kontroversi Isu*, Jakarta, Rajawali Pers, p. 259.

law there are traditions and systems to get new conception of law state namely:

- a. European continental (civil law) emphasizes on written laws to be achieved legal certainty, law state is called as *Rechtsstaat*.
- b. Anglo-Saxon (common law) emphasizes on enforcement of *yuriprudensi* to be achieve justice, law state is called as Rule of Law.

Legal studies are always interconnected with hierarchy of legislation postulated by Hans Kelsen. A regulation which is contrary with higher regulation can be reviewed by judicial institution. In Japan, it is conducted by the Supreme Court while in Indonesia it is conducted by the Constitutional Court and the Supreme Court. This review is called judicial review regarding to material and formal review.³⁵ Material review is done on the content which is in contrary with higher legislation. Formal review is related to wrong procedure on the establishment local regulation.

C. Mechanism of Nullification Local Regulation

Nullification is an action of disclaiming all or part of book, chapter, section and paragraph the content of local regulations. Local regulation and joint regulation with Head of Regional House of Representative which contrary to higher legislation, public interest,

³⁵ *Ibid*, p. 230

and decency should be revoked or changed.³⁶ There are two mechanisms of nullification of local regulation. First, judicial review which is done by the Supreme Court. Second, Executive review which is done through the Minister of Home Affairs and the Governor as representative of the central government. In this chapters the author discusses the mechanism of nullification of local regulation through the Government and the Supreme Court.

1. Nullification of Local Regulation by The Government

Actually, before local regulation is nullified by Ministry of Home Affairs, the local regulation should be checked one by one. Review by the government on the study of legislation is called executive review. Executive review has been existed since the implementation of local autonomy as supervision of central government to local government.

Here are legal bases of nullification of local regulation through the Supreme Court:³⁷

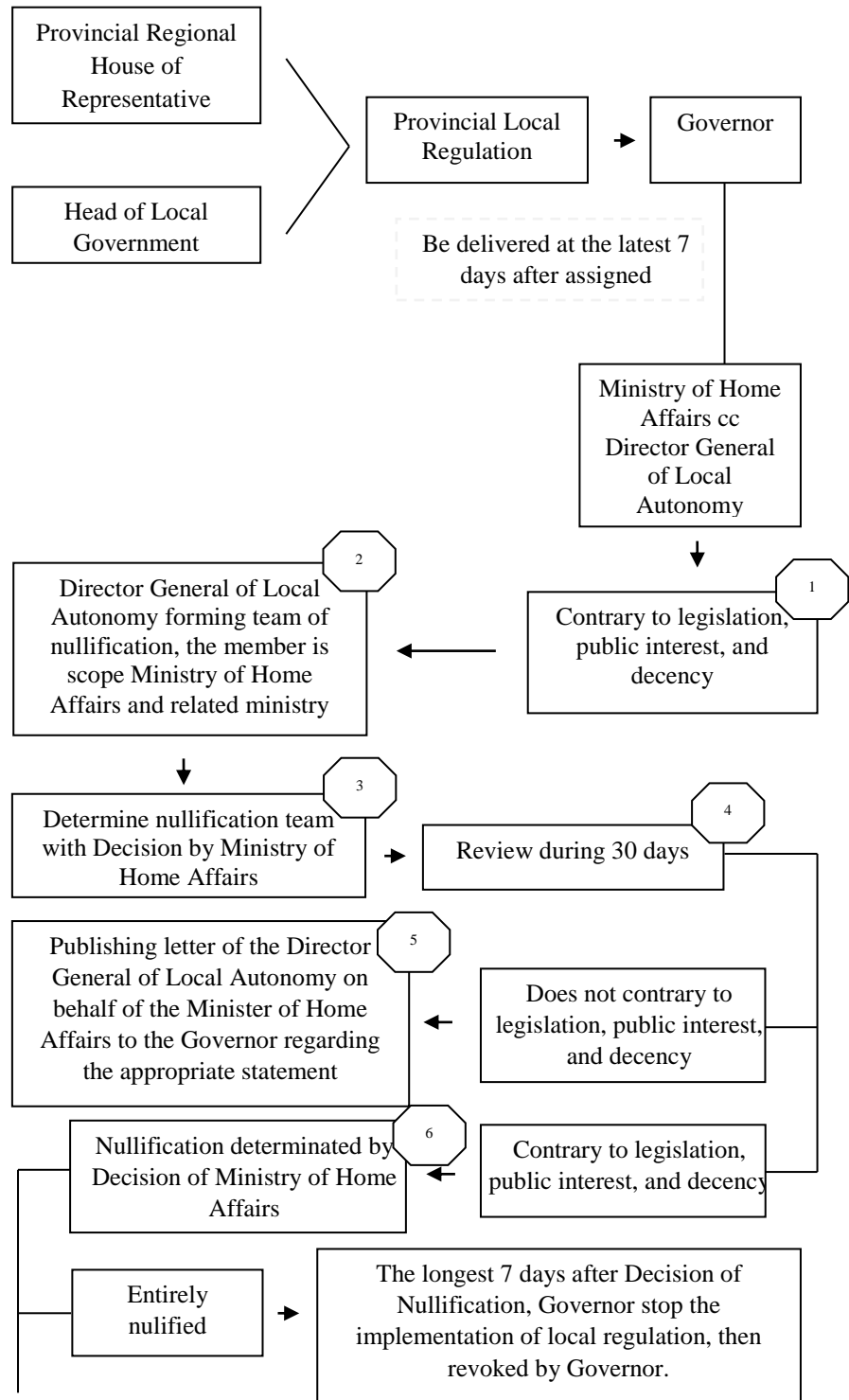
1. Law No.12 of 2011 on Formation of Legislation
2. Law No. 23 of 2014 on Local Government

³⁶ See Regulation of Minister of Home Affairs No. 80 of 2015 Article 1 Paragraph 27

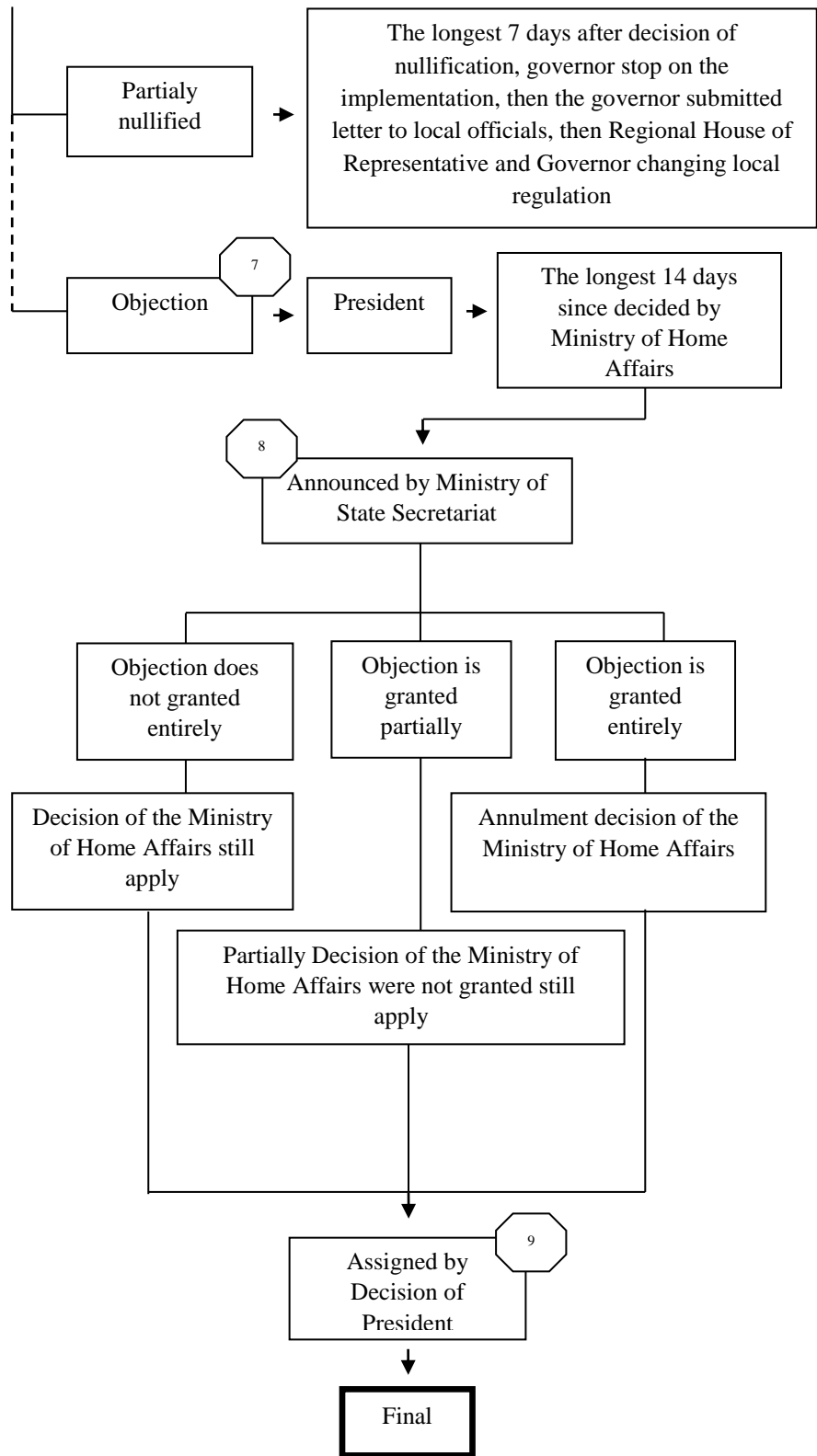
³⁷ Tim UJDIH BPK Perwakilan Jawa Barat, 2017, "*Mekanisme Pencabutan / Pembatalan Peraturan Daerah, Peraturan Kepala Daerah, dan Keputusan Kepala Daerah yang Bermasalah Berdasarkan Peraturan Perundangan-Undangan di Indonesia*", retrieved from <http://bandung.bpk.go.id/files/2017/01/MEKANISME-PENCABUTAN-PRODUK-HUKUM-DAERAH.pdf> at Thursday, 13 April 2017, 04:05 P.M

3. Regulation of Ministry of Home Affairs No. 80 of 2015 on the Establishment of Local Regulation
4. Instruction of President No. 1 of 2016 on Acceleration of the Implementation National Strategic Project
5. Instruction of Ministry of Home Affairs No. 582/476/SJ on Revocation of Local Regulation, Regulation of Regional Heads and Decisions of Regional Heads that Hamper Bureaucracy and Investment.
6. Instruction of Ministry of Home Affairs No. 582/1107/SJ on Affirmation Intruction of Ministry of Home Affairs No. 582/476/SJ on Revocation of Local Regulation, Regulation of Regional Heads and Decisions of Regional Heads that Hamper Bureaucracy and Investment.

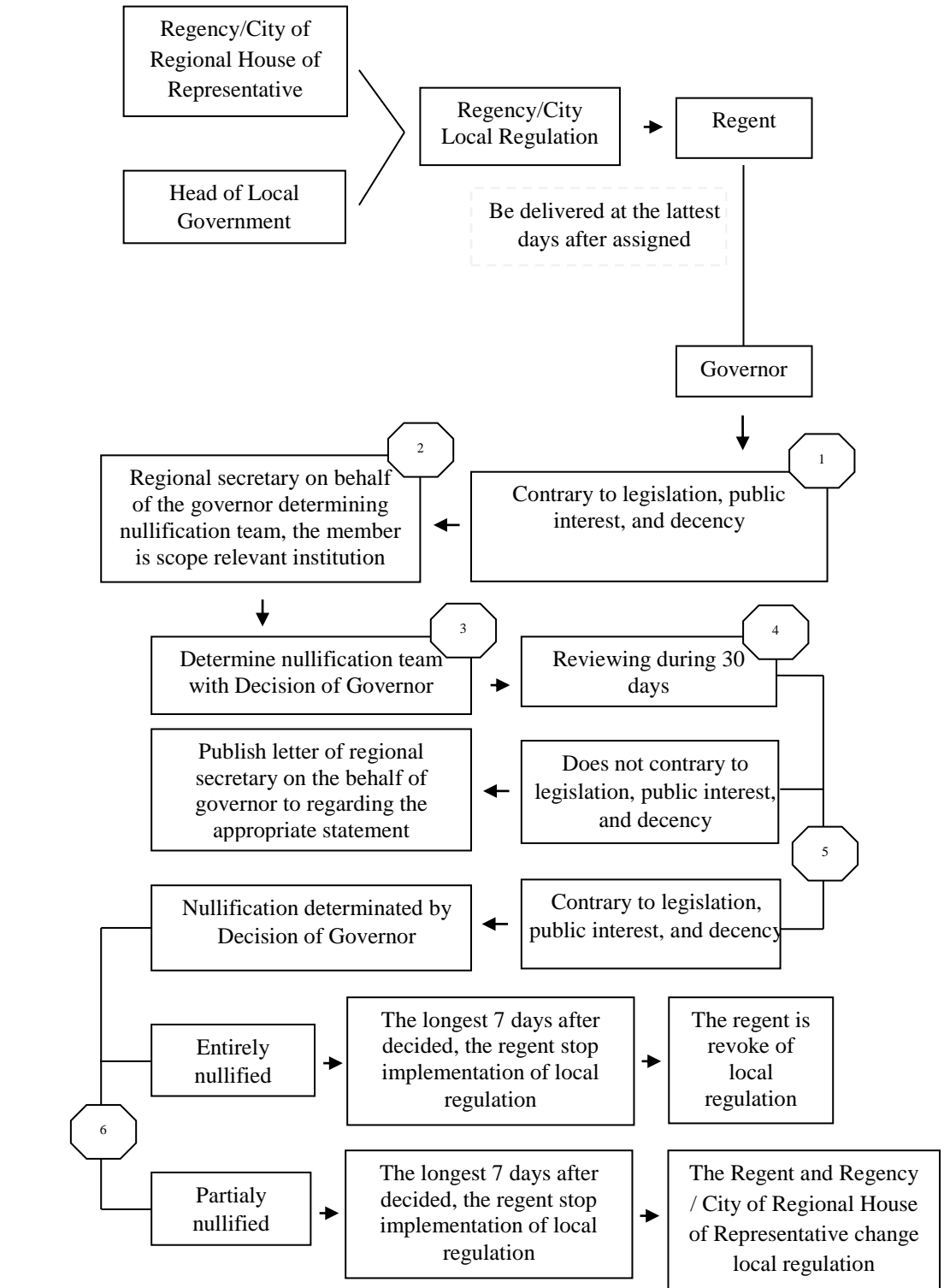
Scheme 1.1 Nullification Local Regulation of Province³⁸



³⁸ See Article 251 Law No. 23 of 2014 on Local Government, Article 128-140 Regulation of Ministry of Home Affairs on Formulation of Local Legal Product.



Scheme 1.2 Nullification Local Regulation of City/Regency³⁹



³⁹ See Article 251 Law No. 23 of 2014 on Local Government, Article 141-158 Regulation of Ministry of Home Affairs on Formulation of Local Legal Product.

2. Nullification of Local Regulation by the Supreme Court

Since 1970 the Supreme Court has jurisdiction to determine consistency legislation under the law as regulated in the hierarchy of legislation. The solutions to disputes between local regulation and higher legislation are found out through judicial review to the Supreme Court.⁴⁰

The legal bases on nullification local regulation through the Supreme Court are as follows:

1. Article 24A paragraph (1) the 1945 Constitution
2. Article 26 Law No. 14 of 1970 on Judicial Power
3. Article 11 paragraph (4) People Consultative Assembly Decree No. III of 1978 on Position and Relation Procedures of Higher State Institution to Inter State Agency
4. Article 11 Law No. 5 of 2004 on Judicial Power
5. Article 20 Law No. 48 of 2009 on Judicial Power
6. Article 9 paragraph (2) Law No. 12 of 2011 on Formation of Legislation.

The Supreme Court has authority to review the legislation under the law; in this part the author discusses the mechanism or

⁴⁰ Simon Butt, "Regional Autonomy and Legal Disorder: The Proliferation of Local Laws in Indonesia", *Sydney Law Review*, XXXII, (2010), p. 185

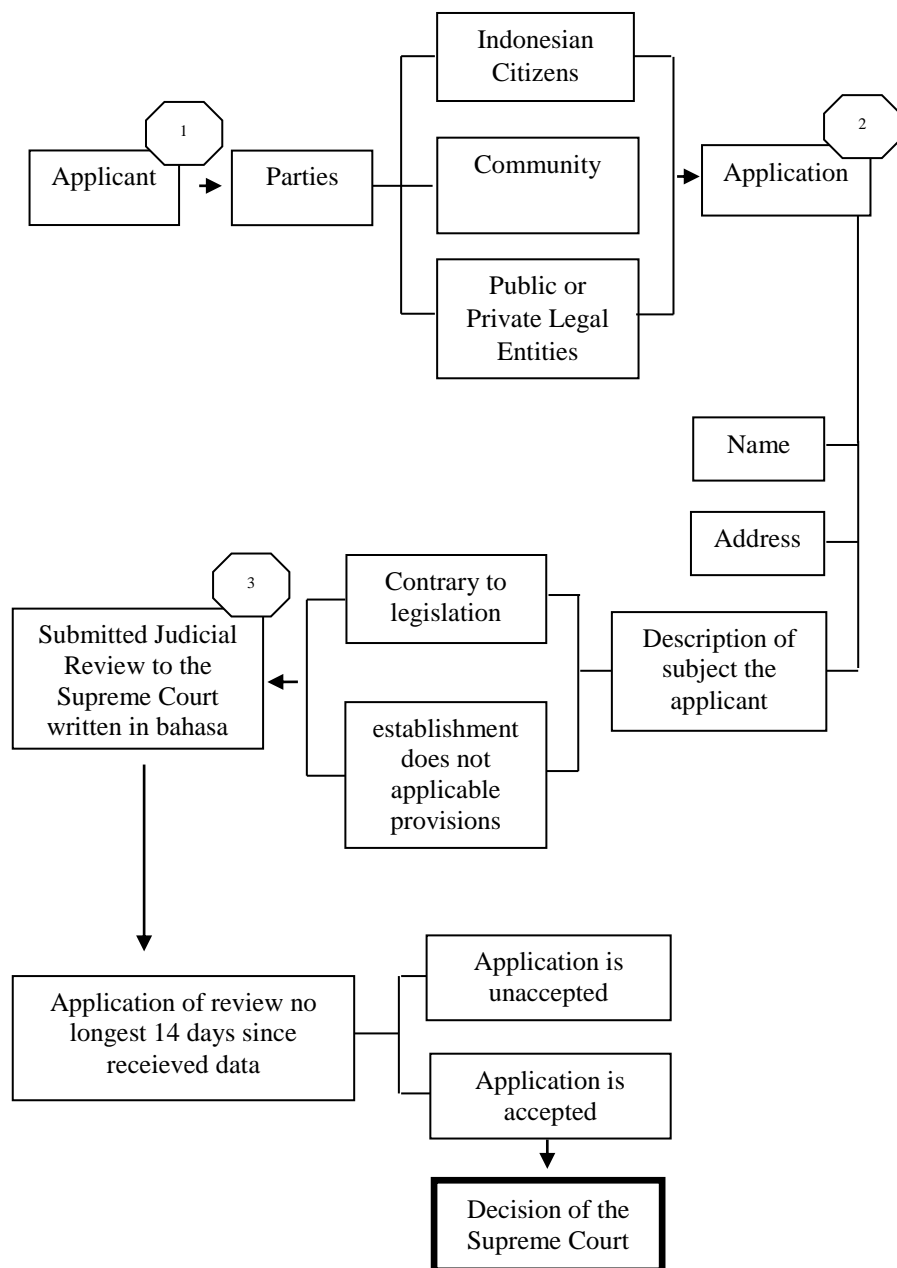
procedure of judicial review through the Supreme Court, as follows:⁴¹

- a). The applicant send direct request of review written in bahasa and submitted to the Supreme Court.
- b). The applicant is only those who lost their enactment of legislation, namely:
 - Indonesia citizens;
 - Indigenous people who are still alive based on development of society and principles Republic of Indonesia;
 - Public or private legal entities.
- c). Application should include:
 - Name and address of the applicant;
 - Description of the subject on which the application that:
 - the substance of paragraphs, articles, and / or parts of local regulation contrary to higher legislation;
 - the establishment does not applicable provisions;
 - Things that are requested to be decided.
- d). Request of review to the Supreme Court no longer than 14 (fourteen) days since data recieved;
- e). The Supreme Court argued the applicant is ineligible, so the request or application is unaccepted;

⁴¹ Hukum Online, “*Prosedur Uji Materiil Perda di Mahkamah Agung*”, retrieved from <http://www.hukumonline.com/klinik/detail/lt559a47cad176c/prosedur-uji-materiil-perda-di-mahkamah-agung-> at Tuesday, 21 Maret 2017, 10.12 P.M

- f). The Supreme Court argument on the request of application has clear reason for deciding the application is granted or not.

Scheme 2.1 Nullification of Local Regulation through the Supreme Court



According to Ni'matul Huda, the mechanism of nullification of local regulation which is in contrary with higher legislation is made by the Minister of Home Affairs. It includes judicial review. Review regulation under the law in this case the local regulation is done by authority the Supreme Court as mandated by the 1945 Constitution. The Supreme Court can't nullify local regulation that are contrary to public interest and decency because of two reasons which are not juridical aspect, but social issues which are strongly agreed to be nullified by the Ministry of Home Affairs.⁴²

D. Differences of Review Local Regulation between the Supreme Court and the Government

So far in practice in Indonesian legal system on review of local regulations (formal and material) is not only done by the judiciary but also done by legislative and/or executive institutions. Therefore, review may also be done on draft called as preview. In other word, review of local regulation is part or element in Indonesian legislation system.⁴³ This part discusses the difference of review of local regulation between the Supreme Court and the Government.

⁴² Interview with Prof. Dr. Hj. Ni'matul Huda, SH., M.Hum, Thursday, 13 April 2017 at Faculty of Law Universitas Islam Indonesia

⁴³ Machmud Aziz, "Pengujian Peraturan Perundang-Undangan dalam Sistem Peraturan Perundang-Undangan Indonesia", *Jurnal Konstitusi*, V, (2010), p. 146.

**Table 1. Differences of Review Local Regulation between
the Supreme Court and the Government⁴⁴**

No	Category	The Supreme Court	The Government
1	Type of Review	Judicial Review	Executive Review
2	Form of review	Filed of objection	<ul style="list-style-type: none"> a. Preventive supervision by the Central Government to draft of local regulation on budget, taxes, retribution, and urban development. b. Repressive supervision by the Central Government to region on implementation of local autonomy.
3	Institutions	The Supreme Court	Department of Home Affairs assisted with: <ul style="list-style-type: none"> a. Department of Financial b. Department of Public Works c. Ministry of Justice and Human Rights
4	The nature of authority	passive is waiting a request from the applicant	Active is supervision and evaluation to all local regulation (repressive supervision)

⁴⁴ Nomensen Sinamo, 2016, *Ilmu Perundang-undangan*, Jakarta, Jala Permata Aksara, p. 173

5	Legal Basis	<ul style="list-style-type: none"> a. Article 24A Paragraph (1) the 1945 Constitution b. Article 11 paragraph (2) point b Law No. 4 of 2004 c. Article 34 paragraph (1) until (5) Law No. 5 of 2004 d. Regulation of the Supreme Court No. 1 of 2004 	Article 251 Paragraph 1 and Paragraph 2 Law No. 23 of 2014 on Local Government
7	Review Standard	<ul style="list-style-type: none"> a. Contrary to higher legislation b. Establishment does not fulfill requirements. 	<ul style="list-style-type: none"> a. Contrary to higher legislation b. Contrary to public interest
8	Duration	The application filed to the Supreme Court no longest 180 days after promulgation of local regulation	<ul style="list-style-type: none"> a. Local regulation submitted to government no longest 7 days after enactment. b. The regulations were nullified then President Regulation determined no later longest 60 days since recieved
9	Time of Execution	No longest 90 days after the fulfill of application so local regulation should be revoked by Regional House of Representative with Local Head	No longest than 7 days after the implementation of nullification then Local Head stop the implementation of local regulation, then Regional House of Representative with Local Head revoke the regulation.

10	Legal Form	Supreme Court Decision	President regulation (Decision of Ministry of Home Affairs)
11	Legal Remedies	Final and binding	Filed a complaint to the Supreme Court

The differences of judicial review and executive review is that judicial review is conducted by the Supreme Court while executive review is conducted by minister and governor. Another difference is that there must be a judicial review applying to the Supreme Court while the executive review initiative comes from the Minister of Home Affairs.

E. The Issues of Nullification of Local Regulation

1. Legal Vacuum in Local Government

Review of local regulation done by the government (executive review) rises problem that needs to be studied. First, review of local regulation done by Central Government has two reasons: in contrast to public interest and to higher legislation as regulated in Article 250 paragraph (2) Law No. 23 of 2014. Review of local regulation related to "public interest" is conducted by the central government in a wide scope. The term of "public interest" can be interpreted as a national interest or local interest. Contrary to public interest is a regulation that disrupt the harmony of the society, public services, peace, and discriminate the society. See

Article 251 Paragraph 2 Law No. 23 of 2014 on Local Government.

Local regulation is regulation made by local legislation (*local wet*), then "public interest" is referring to the interest of local people. The problem is how to use an instrument to interpret local regulation conducted by the central government, what is the standard to measure if regulation is in contrary with the public interest? Since the province and district or city in Indonesia has diverse and plural society, the nullification of local regulation done by the Ministry of Home Affairs on Alcoholic Beverages created a bigger problem that is increasingly widespread distribution and consumption in the society and causing a legal vacuum. Whatever the reason of Ministry of Home Affairs on nullification of local regulation on alcoholic beverages, the ministry should wait the draft or bill which discussed by the government and the House of Representatives.⁴⁵

⁴⁵ Republika.co.id, "*Penghapusan Perda Miras Ciptakan Kekosongan Hukum*", retrieved from <http://nasional.republika.co.id/berita/nasional/hukum/16/05/23/o7mitd282-penghapusan-perda-miras-ciptakan-kekosongan-hukum> at Friday 12 Mei 2017, 9.30 P.M

2. Unsyncronize of Indonesian Legislation

According to Indonesian Dictionary, syncron means in line or harmony.⁴⁶ Synchronization of legislation can be interpreted as alignment of legislation governing a particular field in order to the material does not overlap and can comply with each other. Synchronization of legislation can be done in two ways, namely vertical and horizontal synchronization.

Vertical synchronization is the over looking of regulation which governs particular life. Vertical synchronization refers to the hierarchy of legislation.

Horizontal synchronization is the same legislation which governs the same field. Horizontal synchronization should be done cronologically according to time stipulation of relevant legislation.

Nullification of local regulation can be done verticaly and horizontal synchronization causes the discussion of nullification through vertical and horizontal.⁴⁷ Review of local regulation has a dualism regulation namely executive review and judicial review called as unsyncronize of legislation.

⁴⁶ Kamus Besar Bahasa Indonesia, 2015, Edisi Ketiga, Cetakan Ketiga, Departemen Pendidikan Nasional Balai Pustaka, Jakarta.

⁴⁷ Sudut Hukum, "Sinkronisasi Hukum", retrieved from www.suduthukum.com/2016/11/sinkronisasi-hukum.html at Wednesday, 17 May 2017, 5.22 P.M

3. Decreasing of Economic Growth in the Region after Nullification Local Regulation.⁴⁸

The purpose of nullification of local regulation is considered to foster permits process and investment in the regional.⁴⁹ In this part there author show the growth of local economic after the nullification of local regulation. It is very interesting to study whether the nullification of local regulation conducted in third quarter of 2016 can improve local economy or not.

The growth of Indonesian economy in fourth quarter of 2016 was 4.9 percent, lower than third quarter of 2016 of 5.0 percent. The fourth quarter of 2016 of all islands in Indonesia got positive growth and the highest growth are found in Maluku and Papua. In overall economic growth in eastern province of Indonesia has increased, while in western province of Indonesia it has decreased significantly. The average growth in Maluku, Papua, Sulawesi, and Java is higher than that of other 33 provinces.

During the fourth quarter of 2016, economic growth in Maluku and Papua was 14.7 percent, it was an increasing achievement if compared to third quarter of 2016 of 13.6 percent.

⁴⁸ Deputi Bidang Ekonomi Kementerian PPN / BAPPENAS, “*Perkembangan Ekonomi Indonesia dan Dunia Triwulan IV Tahun 2016*”, retrieved from www.bappenas.go.id/files/update_perkembangan_ekonomi/LAPORAN%20TRIWULAN%20IV%20TAHUN%202016-FINAL.pdf at Friday, 7 April 2017, 5.47 P.M.

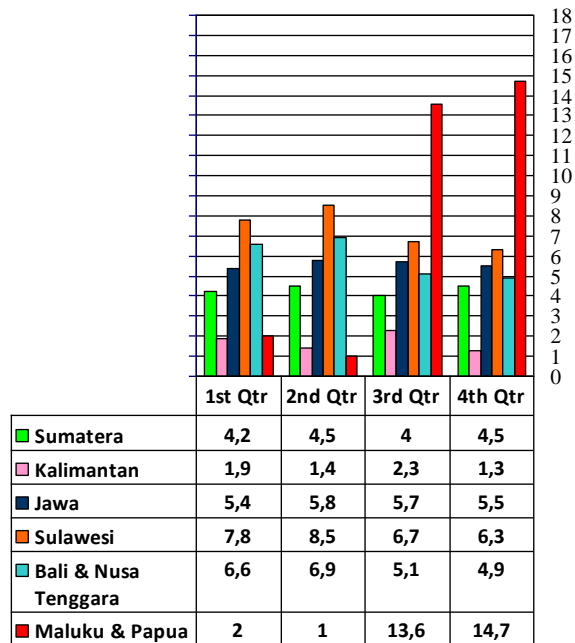
⁴⁹ Sindonews.com, “*Kemendagri Paparkan Cabut Ribuan Perda*”, retrieved from <https://nasional.sindonews.com/read/1117254/12/kemendagri-paparkan-alasan-cabut-ribuan-perda-1466071352> at Friday, 7 April 2017, 3.35 P.M

The average of economic growth in Sulawesi island was 6.8 percent lower than third quarter of 2016 which was 6.7 percent.

Meanwhile, the average of economic growth in Java was 5.5 percent lower than to third quarter of 2016 which was 5.7 percent. Bali and Nusa Tenggara in fourth quarter of 2016 reached 4.9 percent lower than to third quarter of 2016 which was 5.1 percent.

The average of economic growth in Sumatera island in the fourth quarter of 2016 was 4.5 percent. It is relative similar to the fourth quarter of 2016 but higher than to third quarter of 2016 which was 4.0 percent. Meanwhile, economic growth in Kalimantan island was 1.3 percent lower than to third quarter of 2016 which was 2.3 percent.

**Diagram 3.1 Average Growth of Biggest Island in Indonesia on
Qtr 1 - Qtr 4 2016 (Percent)**



Source: Statistic Indonesia

The Nullification of thousands of Local Regulations done by the Minister of Home Affairs was conducted in the third quarter of 2016 precisely in July 2016. Based on statistics above, it is found that the nullification has not provided economic growth and investment in the region. The evidences above indicate that bigger islands in Indonesia decreased their economic growth such as Sumatera, Maluku and Papua. While, for Kalimantan, Bali, Nusa Tenggara, Sulawesi and Java had low economic growth.

According to Trade Minister, Enggartiasto Lukita the complexity of licensing is an obstacle in investment regions.⁵⁰ For example, the province of West Papua is still low in legal certainty which reflected from many overlapping policies between central and regional government. The unfavorable implementation of decentralization program has resulted the region on investment policies is unclear. The diversity of investment policies inter regency has decreased investment interest. Some of regulations at the central level has a legal ambiguity that creates doubt in the region for implementation of investment development.⁵¹

One factor that influences the growth of Indonesian economy is the realization of Foreign Investment (PMA) and Domestic Investment (PMDN). On January 30th, 2017 the Minister of Energy and Mineral Resources (ESDM) and the Head of Investment Coordinating Board (BKPM) launched a 3 Hour Licensing Quick Service related to infrastructure in Energy and Mineral Resources sector. This innovation is government effort to increase investment which is easier for investors.⁵²

⁵⁰ Liputan6.com, “Jurus Pemerintah Hilangkan Hambatan Investasi di Daerah” retrieved from <http://bisnis.liputan6.com/read/2625295/jurus-pemerintah-hilangkan-hambatan-investasi-di-daerah> at Tuesday 30 Mei 2017, 16.24 P.M

⁵¹ Rencana Pengembangan Wilayah dan Investasi Provinsi Papua Barat 2007-2026 Badan Perencanaan Pembangunan Daerah Provinsi Papua Barat retrieved from <http://www.batukarinfo.com/system/files/Bab%207%20Final.pdf> at Wednesday 31 Mei 2017, 07.18 A.M

⁵² Deputi Bidang Ekonomi Kementerian PPN/BAPPENAS, “Perkembangan Ekonomi Indonesia dan Dunia Triwulan IV Tahun 2016”, *op.cit.* p. 116.

Therefore, based on previous description, local regulation becomes one of factors on economic growth in the region. The easier and simpler the licensing system, the more attractive the region becomes.

F. Statistics of Nullification Local Regulation by Ministry of Home Affairs 2016

This chapter presents data of local regulations that were nullified by Ministry of Home Affairs in 2016. Totally there are 1.765 (one thousand seven hundred and sixty five) regulations.

Table 2. The Substance of Local Regulations are Nullified

No	Material of Local Regulation	Amount
1	Retribution	741
2	Tax	276
3	Local Government	249
4	Service and Permits	122
5	Mining and Energy	93
6	Natural Resources Management	57
7	Administration, Demographic and Civil Registration	51
8	Education	40
9	Agriculture, Livestock, and Forestry	40
10	Village Government	37

11	Company and Employment	25
12	Social Community	21
13	Shuttle and Transportation	8
14	Health	5
Total		1765

Source: Ministry of Home Affairs

The number of local regulations nullified regarding to retribution are 741. Second position is related to Tax as many as 276. Third position is occupied by 249 regulations related to Local Government.

Table 3. Consecutively Provinces Nullification of Local Regulation

No	Provinces	Amount
1	East Java	142
2	West Java	136
3	North Sumatera	133
4	Central Java	123
5	South Sulawesi	121
6	Central Kalimantan	74
7	West Kalimantan	69
8	South Kalimantan	66
9	East Kalimantan	66

10	Aceh	65
11	South Sumatera	60
12	West Sumatera	60
13	Riau	53
14	West Nusa Tenggara	53
15	Southeast Sulawesi	49
16	East Nusa Tenggara	45
17	Special Region of Yogyakarta	43
18	Jambi	43
19	Bangka Belitung	43
20	Lampung	40
21	Banten	36
22	Papua	34
23	Bengkulu	33
24	Central Sulawesi	28
25	Riau Islands	28
26	Maluku	25
27	Bali	23
28	North Maluku	20
29	West Papua	19
30	West Sulawesi	13
31	North Sulawesi	11
32	Gorontalo	5
33	North Kalimantan	4

34	Special Capital Region of Jakarta	2
Total		1765

Source : Ministry of Home Affairs

In east Java there were 142 regulations nullified by local government. In west Java there were 136 regulations while in North Sumatera there were 133.

G. A Proposal for a Better Mechanism Regarding of Nullification Local Regulation

Based on legal norms that have been regarded as a solid guideline to resolve legal problems in the society, the society can solve the problems of local regulation on Sharia that are contrary to national legal systems. Based on legal system, there are three steps for using a better mechanism of nullification of local regulations. First, it is done through repressive supervision that is a nullification of local regulations referring to local government conducted by supervising local regulation of city or regency.⁵³

Second, it is done through judicial review to the Supreme Court in order to declare the local regulation is invalid or null and void. According to Article 24A paragraph (1) the 1945 Constitution and Article 11 paragraph (2) Law No. 4 of 2004 on Judicial Power the

⁵³ See article 91 paragraph 2 point e Law No. 23 of 2014 on Local Government

Supreme Court has authority to examine legislation under the law which is in contrary with higher legislation or it's establishment is not applicable to the provision.

Third, it is conducted through local legislation program (*Prolegda*). According to the provisions on establishment of legislation, each region can make Legislation Program. The contains of legislation program can be explained into the annual program. Through local legislation program (*Prolegda*) selection of materials can be used as the guidance of regulations in accordance with Pancasila.⁵⁴

Nullification of local regulations that contrary to higher regulation should be done in order to minimize the legal confusion. According to Oppenheim, the nullification of legislation which contrary to public interest must be seen as legal norm to achieve and protect the higher interests.⁵⁵

The 1945 Constitution has given authority to the Supreme Court to review legislation under the law, and to review product of local law.

⁵⁴ Moh Mahfud MD, 2010, "*Perdebatan Hukum Tata Negara Pasca Amandemen Konstitusi*", Jakarta, Rajawali Pers, p. 11-12.

⁵⁵ Ni'matul Huda, 2010, *Problematika Pembatalan Peraturan Daerah*, *op. cit.*, p. 308.