

Study of Authority from a Civil Law Perspective

Dyah Ayu Vijaya Laksmi

IAI Darul Amal Lampung, Indonesia

E-mail: dyah.ayuvl89@gmail.com

Abstract

The concept of authority plays a pivotal role in the context of civil law, particularly in delineating the powers and responsibilities vested in legal subjects through statutory provisions. This research explores the nuanced distinctions between "authority" and "competence," asserting that authority in civil law is a formal power granted by legislation, whereas competence refers to the scope and nature of the duties assigned. The study adopts a qualitative approach, utilizing descriptive analysis to investigate the legal foundations and implications of authority, particularly its attribution, delegation, and mandate in the legal system. The findings emphasize the complex interplay between state sovereignty and civil law, illustrating how authority functions within legal relationships and its relevance in ensuring accountability. This paper further examines how civil law governs the delegation of authority, its implications for legal subjects, and the underlying principles that guide such delegation. Ultimately, this research contributes to the broader discourse on authority in civil law, highlighting the essential role of legal frameworks in governing power delegation while maintaining legal order and justice.

Keywords Authority, Civil Law, Delegation.

INTRODUCTION

The authority held by government organs or institutions to carry out real actions, make regulations or issue decisions is always based on authority obtained from the constitution through delegation, attribution, or mandate. An attribution refers to the original authority based on the constitution in the Basic Law. In the authority of delegation, a delegation of authority to other government organs must be enforced. In a mandate, there is no delegation in the sense of granting authority; however, the mandated official acts on behalf of the mandate giver. In granting a mandate, the official given the mandate appoints another official to act on behalf of the mandator or mandate giver.

Bagir Manan argued that authority in legal terms is not the same as power or match. Power merely describes the right to act or not act. In law, authority simultaneously means both rights and obligations, or rechten en plichten. In relation to regional autonomy, rights imply the power to regulate oneself (zelf regelen), while horizontal obligations mean the power to govern properly. Vertical obligations mean the power to run the government within an orderly framework of the overall state government (Basuki, 2008).

Regarding the nature of government authority, namely binding, facultative, and free, especially in relation to the authority to make and issue decisions or decrees or decrees or beschikkingen by government organs, so that there are decisions that are binding and free. Bound authority, namely, occurs when the basic regulations determine when and under what circumstances the authority can be used or the basic regulations determine the content and decisions that must be taken. There are two authorities, namely facultative authority, and free authority. Facultative authority is the authority that occurs when the relevant state administrative body or official is not obliged to apply its authority or more or less still has a



choice, even though the choice can only be done in certain matters or circumstances as determined in its basic regulations, while free authority is the authority that occurs when the basic regulations give freedom to the relevant state administrative body or official to determine the content of the decision to be issued or the basic regulations provide a scope of freedom to the relevant state administrative official.

The attributive authority granted by the applicable laws and regulations, often within the same regulations, may be delegated to subordinate institutions/agencies (Remaja, 2017). This delegation of implementation is called the delegation of authority, which may or may not include the transfer of responsibility from the institution/agency that has the attributive authority (the original) to the institution/agency that receives the delegation of the attributive authority (Zaelani, 2018).

Authority, in English, is called authority. In Black's Law Dictionary, authority is defined as "Permission. Right to exercise powers; to implement and enforce laws; to exact obedience; to command; to judge. Control over; jurisdiction. Often synonymous with power. The power delegated by a principal to his agent. The lawful delegation of power by one person to another. The power of an agent to affect the legal relations of the principal by acts done in accordance with the principal's manifestations of consent to the agent." (Black, 1968). This definition shows that authority, from the perspective of state administrative law, is related to power, which allows for the enforcement of rules by force, regulating order. Furthermore, from a civil perspective, authority is linked to the relationship between principal and agent. In the meaning of this relationship, the giving of "orders" from the principal to the agent to carry out the orders given, which is generally referred to as a delegation of power (to do or act something) (Moniung, 2015).

Peter S & Yeni quoted (Noviana, 2020), explain that the term "authority" is a highly influential element in Administrative Law (Governance Law), because the government can manage its obligations based on the authority it will receive. In the Big Indonesian Dictionary (Zaelani, 2025), authority is defined in line with the word "authority," namely the power and right to do something.

Wirjono Prodjodikoro in (Iskandar, 2025) argues that Civil Procedure Law is a series of regulations that determine how individuals must behave before the court and how the court must act, so that civil law regulations can be implemented properly. ASIKIN quoted (Rusmana, 2020) That Civil Procedure Law in general can be defined as a set of rules that regulate the process of resolving civil cases through the courts, starting from filing a lawsuit to implementing a court decision.

This research aims to analyze the study of authority from a civil perspective, particularly as it relates to the concepts of authority, delegation of authority, and the accountability arising from that delegation. This research is expected to open a critical discourse in understanding legislation that can be implemented in the realm of delegation of authority in various sectors of the legal profession and government. This will result in comprehensive data related to this research.

METHOD

According to Rahardjo, as quoted by (Waluyo, 2024), a research method is a way to obtain and seek tentative truth, not absolute truth. The result is scientific truth. Scientific truth is open to continuous testing, criticism, and even revision. Therefore, there is no best method for seeking truth; there is only the right method for a specific purpose, according to the existing phenomenon. Budiharto, as quoted by (Suryana, 2024), states that the choice of research method must be tailored to the research being conducted to achieve optimal results.

This study attempts to analyze and describe the understanding of authority from a civil law perspective. The type of research used in this study is a descriptive analysis method. According to (Arifudin, 2020), descriptive analysis is empirical research that investigates a specific symptom or phenomenon in a real-life setting. The results of this study were collected using primary and secondary data.

The approach used in this research is a qualitative one. According to Bogdan and Taylor in (Sofyan, 2020), a qualitative approach is a research procedure that produces descriptive data in the form of written or spoken words from people and observable behavior. According to (Supriani, 2023), this method involves transcribing data, coding field notes, and interpreting the data to draw conclusions.

This research uses qualitative research with field research methods (field research). According to (Wahrudin, 2020), this approach is tailored to the main objective of the research, namely, to describe and analyze the Understanding of Authority from a Civil Law Perspective. Therefore, this method will be able to explain the research problems (Arifudin, 2021).

Selecting the right data collection technique is crucial to the scientific validity of a study. The data collection techniques used in this study were observation, interviews, and documentation.

Technique can be seen as a means of carrying out technical work carefully using the mind to achieve goals. Although research is an endeavor within the scope of science, it is carried out to systematically collect realistic data to realize the truth. Research methodology is a means of finding a solution to any problem. In this case, the author collected information about the analysis of Understanding Authority from a Civil Law Perspective for Personal Interests, articles, journals, theses, ebooks, and others (Tanjung, 2020).

Because it requires library materials for its data sources, this research utilizes library research. Researchers require books, scholarly articles, and other literature related to the topics and issues they are exploring, both printed and online (Rusmana, 2021).

Seeking information from data sources requires the use of data collection techniques. Amir Hamzah in (Paturachman, 2024) claims that data collection is an effort to gather information related to the topic being studied. The author uses library research methods to collect data. Specifically, the author begins with a library search to gather information from books, dictionaries, journals, encyclopedias, papers, periodicals, and other sources that share the perspective of Understanding Authority from a Civil Law Perspective.

Furthermore, Amir Hamzah said that data collection means various efforts to collect facts related to the topic of discussion that is being or will be explored (Juhadi, 2020). These



details can be found in scientific literature, research, and scholarly writings, dissertations, theses, and other written sources. According to Arifudin, data collection can be conducted in various circumstances, using different sources, and employing different techniques.

Observation is part of the direct research process of examining the phenomena being studied (Damayanti, 2020). This method allows researchers to directly observe and experience the atmosphere and conditions of the research subjects (Rahmah, 2024). The observations in this study focused on the Understanding of Authority from a Civil Law Perspective.

The interview technique in this study is a structured interview, namely an interview conducted using various established standard guidelines, questions are arranged according to information needs and each question is needed to reveal each empirical data (Azzahra, 2024).

Documentation is a data collection technique using existing written documents or records (Rahmah, 2022). Documentation comes from the word document, which means written objects. In implementing the documentation method, researchers investigate written objects, such as books, magazines, meeting minutes, and diaries. According to Moleong in (Sari, 2025), the documentation method is a way of collecting information or data through examining archives and documents. Furthermore, according to (Bahriah, 2022), the documentation strategy is also a data collection technique proposed to research subjects. This data collection method using the documentation method is carried out to obtain data on the state of the institution (research object), namely the Utilization of Understanding Authority from a Civil Law Perspective.

Moleong, as quoted by (Arifudin, 2024), explains that the collected data was analyzed using an interactive analysis model consisting of data reduction, data presentation, and conclusion drawing. Syarifah et al (Nurjaya, 2008) explain that data reduction is carried out by filtering relevant information, presenting data in a systematic narrative form, and drawing conclusions based on research findings. To ensure data validity, this study used source triangulation, namely comparing information from sources. According to Moleong (Anggela & Husni, 2021), source triangulation helps increase the validity of research results by comparing various perspectives on the phenomenon being studied.

Muhadjir dalam (Sholihat, 2023) states that data analysis is the activity of conducting, searching, and organizing records of findings systematically through observation and interviews so that the researcher focuses on the research being studied. After that, make a discovery material for others, edit, classify, and present it. Data validity techniques using triangulation techniques cover techniques and sources. Data analysis using the Miles and Huberman model in (Maharni, 2021) consists of data collection, data reduction, data presentation, and drawing conclusions.

RESULTS AND DISCUSSION

Authority and Sovereignty in Civil Law

The research findings reveal a significant distinction between authority and power within the framework of civil law. Authority is derived from the legal system and is explicitly

granted by law, while power can emerge from various sources, including unconstitutional means. According to Black (1968), authority is inherently a legal right that allows for the enforcement of laws and regulations, ensuring that public officials act within the boundaries of the law. Sovereignty, as discussed by Basuki (2008), provides the foundation for authority. It is the highest form of power, rooted in constitutional and international law, allowing the state to enforce its legal norms both internally and externally. Sovereignty is exercised through delegated authority, where government agencies are empowered to make decisions and issue regulations that bind the public.

Delegation of Authority in Government

The study also identifies the critical role of delegation in the functioning of governmental institutions. Delegation of authority is defined as the process by which a higher authority transfers powers to subordinate agencies or officials, as regulated by Law No. 30/2014. The research indicates that while delegation facilitates the practical implementation of governance, it does not absolve the delegating agency from accountability. As Zaelani (2018) explains, the responsibility and accountability remain with the original authority even after the delegation process. This finding is supported by the concept of “delegative authority,” where the delegation of powers occurs only under specific legal conditions, ensuring that the powers are used within a legal framework and subject to judicial review.

Attribution and Mandate in Legal Administration

Attribution, the grant of authority derived from the constitution or statutes, is another essential element discussed in this research. It is distinct from delegation in that attribution confers original powers to public officials or agencies, allowing them to act in the public interest. The findings highlight that attribution cannot be transferred, unless explicitly authorized by law, and remains a crucial source of public authority. This is evident in the principles outlined in Article 1, points 22 and 23 of Law No. 30/2014, where attribution provides new powers to agencies and officials. Mandates, on the other hand, involve assignments to carry out tasks on behalf of the principal, without transferring authority. As Moniung (2015) argues, mandates maintain the original responsibility with the delegator, ensuring that public officials can only act within the scope of their assigned duties.

The Role of Civil Procedure Law in Exercising Authority

Civil Procedure Law plays a significant role in determining how authority is exercised in the judicial process. The research finds that authority within the context of civil law is closely linked to the enforcement of legal rights, particularly in resolving disputes through the courts. Civil Procedure Law governs how individuals or institutions should behave before the court, and how the court, in turn, must execute its duties. The relationship between civil law and authority is crucial for ensuring the orderly functioning of the judicial system, where all parties involved in a dispute are afforded their rights. This aligns with the views



of Iskandar (2025), who notes that the application of authority within the judicial system is pivotal in maintaining justice and legal order.

Public and Private Authority: The Principal-Agent Relationship

The relationship between authority and the principal-agent dynamic is another key theme in this study. In civil law, authority can often be delegated through agency relationships, where an individual (the principal) grants authority to another (the agent) to act on their behalf. This delegation, however, does not involve a transfer of responsibility but rather the authorization to act within a specified scope. The findings suggest that this relationship is critical in both private and public law, as it provides a framework for managing legal actions without relinquishing accountability. This is reflected in the broader civil law concept of representation, where agents act within the scope of their powers, and their actions bind the principal to the legal consequences of those actions (Moniung, 2015).

Authority, Accountability, and Legal Frameworks

The research underscores the importance of accountability in the exercise of authority. The findings reveal that public officials and institutions must be accountable for their actions, particularly when authority is delegated or exercised in the public interest. As Mardiasmo (2002) highlights, accountability mechanisms ensure that authority is not abused, and public resources are managed transparently. This study emphasizes that accountability mechanisms should be embedded in legal frameworks, ensuring that delegated authority remains within the bounds of the law and that officials are held responsible for their decisions. In the context of delegation, the research finds that accountability is shared between the delegating authority and the recipient, which aligns with the principles outlined in Law No. 30/2014, ensuring that all decisions made under delegated authority are scrutinized and subject to review.

Authority and Legal Order: The Need for Clear Legal Provisions

The study concludes that for authority to function effectively in civil law, clear and precise legal provisions must govern its exercise. This includes delineating the boundaries of authority, specifying when and how it can be exercised, and establishing mechanisms for oversight. The results indicate that both attribution and delegation require careful legal scrutiny to prevent misuse and ensure that powers are exercised in the public's best interest. As Zaelani (2018) discusses, delegating authority without clear legal guidelines can lead to a lack of transparency and accountability, which undermines public trust in government institutions.

In sum, this research highlights the critical role of authority in civil law, particularly in ensuring legal order and governance. Authority, whether attributed, delegated, or mandated, forms the cornerstone of legal systems, facilitating the exercise of power while maintaining accountability. The findings of this study underscore the need for comprehensive legal frameworks to ensure that authority is exercised within the limits of the law, with adequate safeguards to prevent its abuse.

CONCLUSION

Based on the results of the research discussion above, it can be concluded that authority has a different meaning from authority or competence. Authority is a formal power derived from the law, while authority itself is a specification of authority, meaning that whoever here is a legal subject granted authority by law, then the legal subject is authorized to do something within the authority due to the law's orders. Civil Procedure Law is often referred to as formal civil law because it regulates the process of resolving disputes through courts that are officially recognized as valid in accordance with the law. Relationships arising from legal actions do not always end harmoniously, sometimes conflicts or disputes arise that lead to the judicial process. To enforce the rights arising from legal relationships, rules and procedures are needed so that the dispute can be processed in accordance with applicable law. In addition, the concept of civil law also recognizes the agency relationship between the principal and agent which is conceptually like the granting of general power of attorney, which emphasizes the concept of management and representation of the agent to the principal. In such a relationship, there is no transfer of responsibility, although there is a delegation of the implementation of tasks from the principal (the grantor of the power of attorney) to the agent (the recipient of the power of attorney).

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