

Strengthening Criminal Law and Bureaucracy Reform Program for Enforcement of Regional Regulations

Niko Jati Kusumo¹, Azis Budianto²
{puterakusuma281291@gmail.com}

Universitas Borobudur, Jakarta, Indonesia¹²

Abstract. Criminal law is to regulate crimes and violations of the public interest and these actions are punishable by a punishment which constitutes suffering. [1] While Bureaucratic Reform is an Acceleration Program on changes in Government governance in the fields of Politics, Economics, Bureaucracy and Law. This study aims to describe the enforcement of regional regulations and the resolution of criminal violations in the evaluation of Regional Regulations every year within the Regional Government and minimize criminal violations starting from the process of forming Regional Regulations. While the approach used in this research is normative juridical law research and the type of research is literature review. The results of this study conclude that the factors that cause criminal violations every year in the evaluation of regional regulations include the formation of regional regulations that are not yet optimal and the enforcement of regional regulations by the Civil Service Police in the field.

Keywords: Enforcement of Regional Regulations; Settlement of Criminal Offenses; Understanding of Criminal Law and Implementation of Bureaucratic Reforms

1 Introduction

Laws are written regulations made by the government through agencies authorized to form various written regulations such as: the constitution, laws, presidential decrees, government regulations, ministerial ministerial decrees and regional regulations.[2] Furthermore, Law Number 12 of 2011 concerning the Establishment of

Legislation Article 7 paragraph (1) states that one type of Legislation is Provincial and Regency/City Regional Regulations.

The government institutions that have authority within the Regional Government are the Provincial and Regency/City Regional People's Representative Councils (DPRD). DPRD members have the main task, one of which is the formation of Regional Regulations with Regional Apparatus Organizations (OPD) or other government institutions, this is based on Law Number 23 of 2014 concerning Regional Government Articles 96 and 149. If Regional Regulations have been stipulated and promulgated then the authority to enforce Regional Regulations is attached to the Civil Service Police Unit in accordance with Law Number 23 of 2014 concerning Regional Government Article 255 paragraph (1).

Regional regulations contain the threat of imprisonment or fines and administrative sanctions in their enforcement by the Civil Service Police Unit. The enforcement of Regional Regulations in the field is almost not optimal in its implementation because there are still many officers who do not understand Criminal Law and Constitutional Law, so that it is not in

accordance with the Annual Regional Regulation Evaluation Report. For example, in the field, sourced from the author, who serves as a Civil Servant at the Ministry of Home Affairs and a resource person for the formation of Regional Regulations/Bureaucracy Reform and Experts within the Regional Government that one of the violations of Regional Regulations is Fights between Groups that damage Public Facilities, Units the Civil Service Police immediately coordinated with the Police in the local area. However, the violators are only given a warning or a mandatory report, even though all violators should be processed first until the trial level at the Prosecutor's Office. The Prosecutor's Office gives the Final Decision and no decision is made in the initial process by the Civil Service Police Unit and the local Police.

This is very influential in evaluating regional regulations every year because the formation of Regional Regulations uses a fairly large Regional Revenue and Expenditure Budget (APBD). Enforcement of regional regulations has not been optimal from various aspects.

2 Research Methods

Type of research is library research, namely research that uses secondary data. [3] The overall writing and data collection used in this study was obtained based on the Legislation, Books, Documents and Research Archives adapted to cases in the field.

Meanwhile, the method used in writing this research uses a normative juridical system, namely in obtaining data based on an assessment of primary law, written law, and secondary legal materials related to research problems. This study examines the evaluation of a Legislative Regulation that is adapted to the conditions of problems in the field and looks at problem solving using understanding/programs as an example of providing an understanding of Criminal Law and entering the Bureaucratic Reform program in Institutions or Regional Apparatus Organizations within the Regional Government which has the authority to Enforcement of Regional Regulations.

3 Results and Discussion

3.1 Factors Causes Enforcement of Regional Regulations is not Optimal

Overall Acceptance and Placement of State Civil Apparatus within the Regional Government has not been adjusted to the educational background of each individual, this can be seen from one of the Regional Apparatus Organizations, namely the Civil Service Police Unit which is not entirely members or officers with a legal education background. So, in the enforcement of Regional Regulations, if the officers do not have a legal background, they should at least be given an understanding of the law in this case criminal law. Every year the Civil Service Police Unit carries out Competency Development that is tailored to its duties, but in the study, there is no specific material related to Criminal Law, but not all officers are involved in development or Education and Training due to limited budgets each year is limited.

The reasons above are quite a big factor in the basic enforcement of regional regulations in the field, so that in the enforcement of Regional Regulations there are still many officers who complete the Restorative Justice where the Indonesian people prioritize Culture and Family. The development of the idea that culture can be brought into the scope of law is a big mistake because usually every settlement can be done amicably. The restorative justice approach is assumed to be the most recent shift from the various models and mechanisms that work in the criminal justice system in dealing with criminal cases at this time. [3]

The settlement of criminal cases should be carried out at the Prosecutor's Office level in terms of giving a decision so that every evaluation of regional regulations every year is in accordance with the number of violations in the field with reports that are followed up on the settlement and decision of the case at the prosecutor's office.

3.2 Settlement of Criminal Violations

In the annual evaluation report of Regional Regulations by the Regional People's Representative Council (DPRD) and the Supreme Audit Agency (BPK) a discrepancy is found between the number of violations in the field and the results of the prosecutor's decision, this is because the settlement of violations uses the Restorative Justice so that the case settlement file did not reach the prosecutor's office. This inspection is carried out based on a sampling test by supervisors and auditors.

This evaluation has an impact on local government revenues in the legal and economic fields where the violator is supposed to pay a fine or receive a sanction, but is only released on conditions that require reporting. The community also sees progress in supervising the enforcement and evaluation of regional regulations so that local governments should be more careful in implementing and evaluating regional regulations.

3.3 Understanding of Criminal Law and Bureaucratic Reform Programs

Based on Presidential Regulation Number 11 of 2015 concerning the Ministry of Home Affairs, it is explained that the Ministry of Home Affairs has the task of carrying out affairs in the field of domestic government, one of which is Regional Autonomy. This was followed up by the Minister of Home Affairs Regulation Number 13 of 2021 concerning the Organization and Work Procedure of the Ministry of Home Affairs where one of the Work Units that provides the Domestic Government Human Resources development program for State Apparatus is the Human Resources Development Agency.

So, the Human Resources Development Agency as the initiator and technical implementer in terms of education and training-based development has issued Minister of Home Affairs Regulation Number 71 of 2020 concerning the Implementation of Education and Training for Civil Service Police. In the implementation of Education and Training there is a curriculum or learning based on Normative Law and problems in the field, but the lack of some material related to technical Criminal Law. This greatly affects the knowledge of the Civil Service Police Unit in carrying out the enforcement of regional regulations.

In addition to the problems in terms of learning above, one way to solve problems in the enforcement of Regional Regulations is to include the Bureaucratic Reform Program. This is regulated in Presidential Regulation Number 81 of 2010 concerning the Grand Design of Bureaucratic Reform 2010-2025 which contains 8 Areas of Change, namely as follows:

- Change Management
- Organizational Arrangement and Strengthening
- Legislation
- Human Resources
- Management Arrangement
- Strengthening of Supervision
- Strengthening of Performance Accountability
- Improving the Quality of Public Service

Overall Areas The above changes are included in the current government administration to make comprehensive changes with the aim of realizing world-class government, but in this case the author only focuses on the area of changing the arrangement of laws and regulations as a

program settlement on the enforcement and evaluation of Regional Regulations. This program focuses on public services and all local government administration activities can be accessed through social media/Public Service Malls/government performance reports so that the public/legal experts/or the government can provide input on the performance of local governments.

This input is very important in the category of supervision of a regional regulation that has been issued by the Regional Government, because usually supervision is only carried out by internal and external sections within the government environment even though the community can also supervise.

4 Conclusion

The sub-optimal enforcement of local regulations is because the Civil Service Police do not understand Criminal Law due to diverse educational backgrounds. In addition, the settlement of criminal violations in regional regulations prioritizes the Restorative Justice, this is good for the electability of local government performance which focuses on the principles of justice and kinship but contradicts the implementation of laws and regulations in Indonesia. All settlements of cases must be resolved at the prosecutor's office and not in the field so that the enforcement and evaluation of regional regulations can be optimal, this encourages the implementation of regional regulations that are free from budget findings by local governments and free of criminal violations because they cause a deterrent effect or as an example to the community. The community will judge that those who violate regional regulations will be dealt with fairly and through a trial process so as to reduce the number of violations each year.

To resolve some of the factors above, the authors include an understanding of Criminal Law technically in every learning/development/or Education and Training for Civil Service Police so that in carrying out regional regulation's enforcement can be optimal, the optimal is in accordance with normative law or positive law in Indonesia. In addition, the author also includes a bureaucratic reform program in all regional government administration, especially in the enforcement of regional regulations so that their implementation is optimal and open, if a government program can be supervised by the community, it can indirectly reduce the number of violations of regional regulations every year.

References

- [1] Muchsin, *Efforts in Legal Studies*, p. 84, Iblam Publisher, Jakarta, 2006.
- [2] Soedjono Dirdjosisworo, *Introduction to Legal Studies*, p. 25-26, PT Raja Grafindo Persada Publisher, Depok, 2019.
- [3] C. Maguire, *Literature Research: A Luxury or a Necessity?*, Aust.Library J. P.299, 2011.
- [4] Jonlar Purba, *Law Enforcement Against Acts Minor Crimes with Restorative Justice*, p.56, Jala Permata Aksara, Jakarta, 2017.
- [5] Law Number 12 of 2011 concerning the Establishment of Legislation.
- [6] Law Number 23 of 2014 concerning Regional Government.
- [7] Presidential Regulation Number 81 of 2010 concerning the Grand Design of Bureaucratic Reform 2010-2025
- [8] Presidential Regulation Number 11 of 2015 concerning the Ministry of Home Affairs.
- [9] Minister of Home Affairs Regulation Number 71 of 2020 concerning the Implementation of Education and Training for Civil Service Police.
- [10] Minister of Home Affairs Regulation Number 13 of 2021 concerning Organization and Work Procedures of the Ministry of Home Affairs.