

Accommodation of Local Wisdom in the Formation of Regional Legal Products

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Abstract. Efforts to carry out regional development in Indonesia must be emphasized on the idea of making policies based on a need that exists in society. Therefore, regional autonomy has been going on so far to build regional authority autonomously to be one of the alternatives in development. However, the direction of regional autonomy should be emphasized in efforts to accommodate local content in the regions. In the results of this study, the authority of autonomous regions in the form of regional legal products must be carried out not only by emphasizing the implementation of higher regulations but also by accommodating existing development in the regions by accommodating local wisdom or local content in the regions. Local content is not only emphasized on culture but both natural resources and human resources are the main parameters of development in the region.

Keywords: Local Wisdom, Legal Product, Legal Formulation

1 Introduction

Since the delegation of authority to regional governments in Indonesia to administer governance with broader powers than before, the responsibilities of regional governments have become increasingly complex.[1] Regional governments serve as an extended arm of the central government to ensure the well-being of communities in their respective areas, a duty that must be executed within the framework of a unitary state. Unlike federal systems with their own constitutions, regional governance in Indonesia, despite granting local authority, operates within the same constitutional framework. However, in specific instances, the existing constitution in the United States provides uniform regulations across states, akin to the regulations at the federal level. For instance, all tariffs, levies, and excise duties must be uniform across the United States to ensure a stable and controlled economic environment.[2]

Similarly, in Indonesia, authority in areas such as religion, finance, and fiscal matters largely remains with the central government. Nevertheless, in Indonesia, there have been fluctuations in the authority granted to regional governments, which can be retracted by the central

government at any time.[3] Central government control is crucial to maintain a unitary state system, as it prevents the potential fragmentation of the nation and uncontrolled policy implementation in national development.[4]

This is of paramount importance because the concept of a unitary state remains a fundamental pillar, as enshrined in Pancasila. Pancasila has served as our guiding principle for a considerable period, demonstrating its ability to unify diverse ethnicities, races, and religions within the framework of the Unitary State of the Republic of Indonesia (NKRI).[5] Thus, considering these factors, it can be asserted that the principle of a unitary state must continue to be a fundamental aspect of the local governance process, which is characterized by autonomy.[6]

These conditions necessitate that the concept of regional autonomy is clearly defined, including the actual boundaries of its implementation. When considering the provisions within the 1945 Constitution of the Republic of Indonesia, Article 18, Paragraph (1) explicitly divides the Unitary State of the Republic of Indonesia into provinces and further subdivides provinces into regencies and cities, each of which has its own local government regulated by law. This provision unequivocally emphasizes the concept of a unitary state in the context of regional governance.[7]

However, in practice, there are provisions that affirm the autonomy of regional governments.[8] This autonomous nature is stipulated in the delegation of authority as stated in Article 18, Paragraph (5), which declares that regional governments exercise autonomy to the fullest extent, except in matters determined by law to be the affairs of the central government. This autonomy defined in Article 18, Paragraph (5) is further emphasized in the authority of regions in shaping legal products.

The authority for legal products referred to is stated in Article 18, Paragraph (6) of the 1945 Constitution of the Republic of Indonesia, which declares that regional governments are authorized to establish regional regulations and other regulations to implement autonomy and support tasks. By asserting the term "autonomy," it is possible to consider that, in legal thought, there are distinct local conditions in each region that need to be accommodated. In this regard, regional autonomy essentially emphasizes the freedom of regional governments to accommodate local conditions in the formation of regulations, referred to as local wisdom. Local wisdom is implemented when it is regulated by prevailing legislation.[9] Such an examination allows for the possibility that the conditions brought about by regional policies are, in essence, another form of local policies applied within regions. The existence of such policies naturally requires regional government administrators to be accommodating to the needs of the community, first and foremost, within the framework of autonomy.

2 Method

The normative approach is the method used to assess the validity of legal norms in this study.[10] This is crucial for the purpose of examining the extent to which the validity of local legal products is established when incorporating local wisdom into regional legal products. Qualitative analysis serves as one of the parameters used to dissect a substantial amount of secondary data within the framework of prevailing legislation in Indonesia.

3 Result and Discussion

Since the establishment of the Indonesian state, the choice and aspiration of being a state governed by the rule of law have been instrumental in shaping the nation.[11] The essence and definition of a rule-of-law state revolve around the assurance of human rights for every Indonesian citizen. However, to maximize these ideals, there is a need for sustained strategic policies to ensure the welfare of the population. One of the government's initiatives in this regard is the implementation of regional autonomy, which decentralizes decision-making based on the unique circumstances, conditions, and needs of each region.[12]

To ensure that the conditions and circumstances in each region are incorporated into policy, it is essential to first regulate these considerations within the framework of legal products.[13] This is underscored in the Indonesian constitution, as stated in Article 18 of the 1945 Constitution, which allows regions to establish regional regulations based on the principles of autonomy and delegated tasks.[14] The principle of autonomy becomes a fundamental alternative in achieving equitable regional development. In this context, when adopted in terminological form, the concept of regional autonomy is often referred to as local wisdom. In general terms, local wisdom is often described as the distinctiveness, uniqueness, or other terms denoting the specific conditions and circumstances of a region that are not found in other areas. It is the result of the collective thinking of the local community.[15]

In contemporary Indonesia, the meaning of local wisdom is often limited to traditional songs, regional games, and the like, which only represent a small fraction of a region's local wisdom, mainly within the context of culture.[16] Local wisdom in a region is developed based on the distinct conditions that characterize that area, enabling it to serve as a means of supporting regional development based on emerging identifications. In a broader sense, local wisdom also becomes one of the instruments for every activity in a local or regional context to be developed, encompassing aspects such as human resources, natural potential, and more, representing another dimension of local wisdom that should be cultivated accordingly.

Within the realm of policy, the incorporation of local wisdom should indeed be a significant consideration. The uniqueness of a region in the Republic of Indonesia does exhibit different characteristics and conditions from one another.[17] Therefore, such potential should be preserved and become a distinguishing feature that reinforces the autonomous authority held by regional governments.[18] The authority of regional governments in establishing local governance is extensive, to the point where certain regions, which faced disparities in development during the New Order era, were granted special privileges.[19]

However, such authority primarily emphasizes granting regional governments the flexibility to devise local policies in accordance with the specific conditions and circumstances within their regions.[20] These localized conditions are referred to as regional local wisdom. The existence of regional local wisdom naturally influences the direction and policies to be implemented in those areas. The orientation of regional governments depends significantly on the community's recognition of the respect for prevailing laws, which renders regional conditions distinct from other areas. On the other hand, the orientation of regional governments must also be highly dependent on the natural conditions and circumstances that need to be harnessed through regional government policies.

The concept of prioritizing local wisdom in regions ensures the orderly administration of governance, as regional policies are determined by the alignment between local conditions and the policies adopted.[21] Regional governments have often faced challenges in formulating policies that adapt to local wisdom while being responsive to regional needs. The application of local wisdom can yield several advantages in every region of the Republic of Indonesia.[22] These benefits include fostering cohesion between different regions in the development of the area, where this cohesion is based on the conditions and circumstances prevailing in each region when formulating regional policies. Here, each region is not seen as competing in development but rather emphasizing mutual complementarity between one region and another.

On the other hand, local governments, by prioritizing regional uniqueness through the instrument of local wisdom, can enhance their competitiveness in developing their regions, whether based on natural resources or human resources. It is essential to implement this approach given the rapid advancements in technology. Local governance must support the empowerment of natural resources and human resources. Some regional conditions indicate a current line of thinking that development is often solely driven by the achievement or efforts to absorb budgets, rather than the development of local wisdom. This is evident in regional legal products that are created merely to comply with higher-level regulations and serve as instruments for delegated tasks in the region.[23]

An example can be found in the provinces of Papua and West Papua, with a combined budget of Rp 87.7 trillion. Despite the substantial budget allocation, development in Papua falls short of expectations. The well-being of the local population in Papua is not optimized, considering the circumstances and development priorities of the community. The regional autonomy budget is not maximized by local government administrators due to a focus on budget absorption.[24] Therefore, it is essential to establish guidelines for local wisdom in regional regulations or legal products. This is because local wisdom, which subsequently becomes a community requirement, should be incorporated into technical policies in the region. The Indonesian Constitution, in Article 18, Paragraph (6), affirms that regional governments, in administering governance in their regions, can establish regional regulations and other legal products based on the principles of autonomy and delegated tasks. Some regions have already implemented this approach, as seen in Bali, which has had implications such as increased local revenue from tourism, especially from foreign tourists, by preserving cultural uniqueness through regional regulations.

4 Conclusion

The evolving concept of regional autonomy in recent times places a greater emphasis on local governments having more flexibility in administering their regions. Regional governments have become instrumental in determining the extent to which policies align with the interests of the community and support the welfare of the people. This initiative is developed by regional governments through the incorporation of local content. Regional governments must position local content within their regions, emphasizing both natural resources and human resources, which allows for the identification of regional uniqueness.

Synergy between regulations at both the central and regional levels become a crucial factor in achieving maximum autonomy in local governance. It is through this synergy that the full potential of regional autonomy in the administration of local governance can be realized.

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