

The Dynamics Of The Role Of Legal Politics In The Formation Of Regional Regulations (A Review Of Regional Regulation Of DKI Jakarta Number 2 Of 2020 Regarding The Handling Of Covid-19)

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Abstract. As a legal state, Indonesia's foundation for law formation is intricately connected with legal politics. Legal politics play a crucial role in shaping legislative regulations in Indonesia. Legislative regulations serve as the primary method for creating laws and form an essential element within the national legal system of Indonesia. The research method employed is qualitative research, specifically a literature review. The findings of this research underscore the necessity for guidelines in the process of legislating to create laws that safeguard the population, ensure fair treatment, and protect citizens' rights. Consequently, the legal politics of legislative regulation formation represent a political policy aimed at establishing universally applicable legal rules with the objective of strengthening the sustained development of legislative regulations. These legislative regulations can also take the form of regional regulations, which, too, originate from a process of legal politics.

Keywords: Legal Politics, Policy, Regional Regulations.

Abstrak. Sebagai negara hukum, Indonesia memiliki dasar pembentukan hukum yang tidak lepas dari politik hukum. politik hukum mempunyai peran yang sangat penting dalam pembentukan peraturan perundang-undangan di Indonesia. Peraturan perundang-undangan adalah metode utama dalam pembentukan hukum dan merupakan elemen inti dari sistem hukum nasional di Indonesia. Metode yang digunakan yaitu metode penelitian kualitatif dengan jenis penelitian studi kepustakaan (*literature review*). Hasil penelitian ini menunjukkan bahwa untuk menciptakan hukum yang dapat memberikan perlindungan kepada rakyat, memberikan perlakuan yang adil, dan menjamin hak-hak warga, diperlukan pedoman dalam proses penyusunan peraturan perundang-undangan. Oleh karena itu, politik hukum pembentukan peraturan perundang-undangan adalah suatu kebijakan politik yang diambil untuk menetapkan aturan hukum yang berlaku secara umum dengan tujuan memperkuat pembentukan peraturan perundang-undangan yang berkelanjutan. Adapun peraturan perundang-undangan tersebut dapat berupa peraturan daerah yang mana peraturan tersebut juga terbentuk dari suatu proses politik hukum.

Kata kunci: Kebijakan, Peraturan Daerah, Politik Hukum.

INTRODUCTION

Legislation is a part of the fundamental structure of the legal system. Therefore, discussions about legislative politics are inherently closely related to discussions of legal politics (Yenny, 2014). The term legal politics or legislative politics refers to the idea that law and/or legislation are fundamentally the outcome of drafting or design originating from political institutions (H. M. L. Marzuki, 2006). Law Number 12 of 2011 concerning the Formation of Legislation has replaced Law Number 10 of 2004 concerning Legislation and explains the procedures for the formation of legislation in Indonesia (Munawar et al., 2021). On October 2, 2019, President Joko Widodo signed Law Number 15 of 2019, which amends Law Number 12 of 2011 concerning the Formation of Legislation. The changes in this law are

intended to strengthen the continuous process of forming legislation. Therefore, a restructuring and improvement of the mechanisms for the formation of legislation are required, starting from the planning stage to the monitoring and review process (RI, 2019).

Regional regulations, often abbreviated as "perda," are instruments used to regulate local governance formed through collaboration between the Regional People's Representative Council (DPRD) and the regional government (Barlian, 2016). The authority in the formation of regional regulations is a manifestation of regional autonomy in managing domestic affairs or local governance (Telaumbanua et al., 2023). Regional regulations (Perda) play a strategic role in achieving the goals of decentralization. Within the framework of regional autonomy, the presence of regional regulations is intended to promote full decentralization (Rawasita, 2009). In the past, Regional Regulations were not recognized in the 1945 Constitution before undergoing amendments, leading to their role being overlooked in Indonesia's legal framework. However, after the amendments to the 1945 Constitution, Regional Regulations were provided with a solid constitutional basis, as stipulated in Article 18 paragraph (6), which affirms that Regional Governments have the right to issue regional regulations and other regulations as part of the implementation of autonomy and assistance tasks (Rahayu, 2022).

Regional Regulations (Perda) are all regulations produced by regional governments to implement regulations that have a higher hierarchy (Manan, 2001). The contents of Regional Regulations (Perda) generally cover the following aspects: 1) Regional household affairs and regional government organization; 2) Duties and assistance (Mendebewindl) (Suharjono, 2014). Therefore, Regional Regulations (Perda) are legal outcomes created by regional governments to implement regional autonomy, involving rights and authorities to manage their own household affairs while providing legitimacy to the Provincial Government as an autonomous region (Ranggawidjaja, 1998). Local autonomy encompasses the concept of the independence of regional governments to regulate and manage the governance affairs that are of a domestic nature to their own government (Muin, 2014). In this context, "mengatur" refers to the right of regional governments to create legal products such as regional regulations. It is important to note that regional autonomy is a principle that must be aligned with the concept of the unitary state in the form of the Republic that exists in Indonesia (Ago & others, 2020). Autonomy refers to the freedom and independence of lower-level regional governments to manage some of their own governance affairs, essentially constituting matters of their own household governance (Setiawan, 2018). The right to freedom and independence is the core of the concept of regional autonomy (Bagir Manan, 1993). Freedom and independence in the context of autonomy are not absolute freedom. Instead, this freedom and independence are the

right to operate independently within the framework of a larger unitary system. Autonomy is just one subsystem within a broader unitary system (Manan, 1995). In the context of regional autonomy, local governments have the right to create regional regulations to implement regional autonomy and assistance tasks (Pratama & Pambudhi, 2021). All matters, except those mandated by law as central government affairs, will be part of the affairs and authority of local governments. Every aspect of local government must be based on legal foundations and authorities outlined in the form of legislation.

Because the process of forming regional regulations (Perda) is part of the authority granted to local governments to implement regional autonomy and assistance tasks, as well as to accommodate the specific conditions of the region and provide a more detailed explanation of higher-level legislation (Wicaksono & Rahman, 2020). Therefore, in relation to the formation of legislation, especially regional regulations, the author seeks to provide a more detailed explanation of how Legal Politics can become a relevant discipline in the process of forming regional regulations and the role of politics in that process.

THEORETICAL STUDY

The formation of regional regulations is a complex process that involves inseparable dynamics of politics and legal aspects. In this context, the role of legal politics becomes a determining factor in shaping the foundation and substance of regional regulations (Ibrahim, 2008). In this study, a theoretical review was conducted on the dynamics of the role of legal politics in the formation of Regional Regulation of DKI Jakarta Number 2 of 2020 related to the handling of Covid-19.

1. Legal Politics

At a basic level, legal politics can be interpreted as an in-depth study of the interaction between political policies and legal structures within a society (Suwitri, 2008). Through careful analysis, we can understand how the political process, political decisions, and policy implementation have a significant impact on the evolution of legal structures, the application of laws, and ultimately, their influence on society. The complex interaction between politics and law is highlighted in legal politics. How political policies enter the legal domain, influence the formation of laws, legal policies, and the interpretation of laws by judicial institutions becomes a primary focus. Conversely, the law has the ability to shape the political agenda through its influence on government policies and actions.

Determinants in legal politics not only encompass political ideologies that reflect the values and principles of the ruling group but are also influenced by general elections that can

change the political agenda according to the voters' preferences. The role of interest groups and political lobbying also plays a crucial part in the legislative process, directing attention to specific issues and influencing the implementation of laws.

The impact of legal politics on society is extensive, affecting the levels of justice and equality, as well as the protection of human rights. Understanding legal politics also demonstrates its relevance on a global scale, through international organizations, global agreements, and global policies that reflect the dynamics of legal politics that impact various countries and communities worldwide.

Challenges and critiques of legal politics arise, particularly concerning the potential manipulation of the law for specific political interests and legal uncertainty due to unstable political conditions. In the pursuit of a legal politics that is just, key steps such as enhancing transparency, accountability, and public understanding of the law become crucial (Santoso et al., 2023). Legal politics must move towards a system that is not only just but also trustworthy by the public.

2. The Process of Formulating Regional Regulations

The process of forming regional regulations is a complex series of stages that involves various parties to create regulations applicable at the regional level (Kaisupy et al., 2020). In this context, various key aspects are involved in the process. Before the initiation of regional regulation formation, a feasibility study needs to be conducted to identify the needs and relevance of new regulations. This includes an analysis of issues that need to be regulated and their impact on society and the environment. The draft of regional regulations is discussed by a team or working group consisting of various stakeholders, such as members of the Regional People's Representative Council (DPRD), legal experts, and other relevant parties (Nurdin, 2020). They thoroughly discuss each article and provision in the draft regional regulations.

To ensure broader representation of interests, public consultation is necessary. The public, non-governmental organizations, and other stakeholders can provide input and perspectives on the draft regional regulations. The draft regional regulations are then discussed and evaluated by members of the Regional People's Representative Council (DPRD) (Kharisma & Jumiati, 2022). This process involves discussions, amendments, and voting to determine approval for the draft. After the regional regulation is enacted, monitoring of its implementation takes place. Evaluation is conducted to assess its effectiveness and impact on society. If necessary, the regional regulation can be revised to improve its performance.

Local regulations must be in line with national-level regulations, such as laws, to ensure their legal validity. If discrepancies are identified, revisions or adjustments need to be made.

After going through all stages, the local regulation is signed by the regional head and published for enforcement. This process marks the end of the formation of local regulations. During the formation process, the executive and judiciary play a role in providing input and ensuring that the local regulations comply with legal principles and the constitution (Irwansyah, 2021). The process of forming local regulations involves careful steps and collaboration among relevant parties. By ensuring public participation, alignment with higher-level regulations, and monitoring implementation, local regulations can be more effective and have a positive impact on the served community (Mungkasa, 2011).

RESEARCH METHOD

The research method used is qualitative method, specifically literature research. This type of research focuses on legal aspects, adopting a normative research method. In legal studies, this research emphasizes the consistent relationship between legal norms and legal principles, as well as between legal rules and legal norms. Data for this research are collected through literature review, exploring relevant literature related to the research object. The primary source of literature is complemented by various works discussing the subject, including opinions from legal experts, which the author uses for this research.

RESULT AND DISCUSSION

The Role Of Legal Politics In The Formation Of Regional Regulations

Legal politics, according to legal expert Padmo Wahjono, is the policy that underlies the determination of the direction, format, and content of the law to be formed, as well as the criteria to be used to regulate an issue (Nugroho & others, 2015). This includes regulations that govern the life of society and the state in general. In the context of Indonesia, legislation plays a central role in the national legal system (Anggraeni, 2019). They are also highly effective tools for legal reform due to their binding and coercive nature (Usman, 2014). Legal politics plays a key role in the formation of legislation and the national law of Indonesia, as it is used as a guide to establish values, compose, shape, and develop the national law in this country (M. Marzuki et al., 2017). Therefore, the legislators should always be committed to the state's objectives in lawmaking. This is to ensure that justice, benefits, and legal certainty for the society are always an integral part of every legal product produced.

In the process of forming regional regulations (Perda), politics also plays a significant role, especially within the scope of the region itself. Some perspectives in the legal field state that legal politics encompass the concepts, principles, core policies, and expressions of

government desires related to the formation, establishment, and enforcement of the law. In the context of regional regulations, this relates to how legal institutions and policymakers in the region guide and instruct law enforcers in determining the direction and substance of the law to be created at the regional level, with the aim of achieving the state's objectives (DAERAH & HAM, n.d.). Regional regulations also fall into the category of legislation, and this is in accordance with the hierarchy of legislation regulated in Article 7 paragraph (1) of Law Number 12 of 2011 concerning the Formation of Legislation (Aditya & Winata, 2018). In the process of forming legislation, there are several principles of legislation formation, including (Putri, 2016):

1. The principle of clarity of purpose means that every process of legislation formation must have a clear goal to be achieved.
2. The institutional principle refers to the existence of officials or parties with authority in the process of legislation formation. However, this process can be legally invalidated if not carried out by the authorized party.
3. The principles of conformity of type, hierarchy, and material content indicate that in the process of legislation formation, attention needs to be given to the alignment between the type of regulation used, its hierarchical position, and the content or material contained within it to conform to the legal hierarchy order in place.
4. The principle of enforceability, meaning that every formation of legislation must carefully consider how its effectiveness and accuracy of implementation can be achieved.
5. The principle of utility and results refers to the importance of creating legislation that is genuinely necessary and beneficial for the community.
6. The principle of clarity in formulation emphasizes the technical requirements in drafting legislation, including clear formulations, rules, systematic arrangements, and the use of terms and legal language that are easily understood and interpreted in each article.
7. The principle of openness in the formation of legislation refers to the principle that every stage, from planning to promulgation, must be carried out openly and transparently.

Therefore, there must be adherence to and fulfillment of the principles in the formation of legislation during the regional regulation drafting process (Pangemanan, 2016).

Regional Regulations or Local Regulations (Perda) are legal products resulting from mutual agreement between the Regional People's Representative Council (DPRD) and the

Regional Head (Governor, Regent, or Mayor). The content of Perda covers all matters related to the implementation of regional autonomy and assisting tasks. The formation of Perda aims to accommodate aspirations and specific conditions in an autonomous region. This Regional Regulation is divided into several sections, including (Barlian, 2016):

- a. Provincial Regional Regulations, which apply in the provincial territory. This regulation is formed by the Provincial DPRD with the joint approval of the Governor.
- b. Regional Regulations of the Regency/City, which apply in the regency/city area. This regulation is formed by the Regency/City DPRD with the joint approval of the Regent/Mayor. Regency/City Regulations are not subordinate to Provincial Regulations.

Regional Regulations (Perda) come into effect after being announced in the official regional publication. At the time of the announcement, the regional authorities are also obliged to send a copy of the Perda to the central government no later than 7 (seven) days after the Perda is enacted. If it turns out that the Perda that has been established and announced contradicts higher-level laws and regulations, the central government has the authority to annul it.

In the formation of Regional Regulations (Perda), there is active involvement in the political process used to create laws. This is reflected through the participation of authorized parties, including the Provincial DPRD or District/City DPRD together with the Governor or Regent/Mayor, in the process of forming Perda. The DPRD and Regional Heads are selected through a politicization process before being ultimately elected through direct elections. Thus, it can be seen that political interaction is an integral part of law formation, especially in the context of Perda formation, where there is mutual influence, intervention, and collaboration between the parties involved in legislative activities, namely between legislative and executive institutions in the law formation process (Firdausy, n.d.). Therefore, it can be said that there is a role and interaction of politics and law in the process of forming regional regulations.

The Process Of Legal Politics In The Formation Of The DKI Jakarta Provincial Region

The goal of the Indonesian state, as expressed in the Preamble of the 1945 Constitution of the Republic of Indonesia, is to safeguard all Indonesian citizens and all elements of Indonesian society and to enhance collective welfare. In relation to the Covid-19 pandemic, which is a health issue requiring full attention from the government at this time, it has caused various social and economic problems for the public. Therefore, the government is deemed necessary to enact Governor Regulation Number 3 of 2021 regulating the implementation of

Regional Regulation Number 2 of 2020 regarding the handling of the Corona Virus Disease 2019.

In the process of forming Regional Regulations, two legislative authorities are involved: the Regional People's Representative Council (DPRD) of DKI Jakarta Province and the Governor of DKI Jakarta. DKI Jakarta, as a Special Capital Region, has special autonomy authority, including in the formation of regional regulations to meet the needs of its region. In the context of the Covid-19 pandemic that began in 2020, DKI Jakarta, as the capital city of the Republic of Indonesia, has the authority to take measures to control the spread of Covid-19. The Provincial Government of DKI Jakarta, together with the DPRD of DKI Jakarta Province, took the initiative to form a legal product in the form of a Regional Regulation, which was eventually promulgated as Regional Regulation Number 2 of 2020 concerning the Handling of Covid-19. In the process of forming this regional regulation, the local government needs to comply with the provisions stipulated in Law Number 12 of 2011 concerning the Formation of Legislation so that the regional regulation becomes an effective legal basis to combat the Covid-19 pandemic and protect the community (Rohman, 2020).

On November 12, 2020, the Governor of DKI Jakarta, Anies Baswedan, signed Regional Regulation (Perda) DKI Number 2 of 2020. This regulation consists of 11 chapters and 35 articles that regulate nine different aspects. One of the main provisions in this Covid-2019 Handling Regional Regulation is the obligation for residents, especially in the DKI Jakarta Province, to wear masks according to the Covid-19 pandemic prevention protocol. This regulation provides a legal basis for taking action against violations of this obligation. For individuals who violate the mask-wearing rules, this Regional Regulation stipulates specific sanctions. Article 9, paragraph 1 of the regulation states that any individual not wearing a mask will be subject to sanctions, which may include social work, such as cleaning public facilities, or an administrative fine with a maximum amount of IDR 250,000.00 (Two Hundred Fifty Thousand Rupiah). In addition to regulating the obligation to wear masks, this Regional Regulation also covers various other aspects such as large-scale social restrictions (PSBB), the use of information technology, cooperation and collaboration, economic recovery, social protection, monitoring, evaluation, funding, and criminal provisions.

The implementation of this Governor's Regulation has had a significant and substantial impact in the field, and it is deemed quite effective in regulating public behavior regarding the use of masks as part of health protocols. Since the regulation was enforced and intensified, the public has become more aware of the importance of maintaining health and protecting themselves from the spread of the virus, which is a significant issue in the country.

Additionally, people tend to avoid social sanctions or administrative fines that could harm them financially. The positive impact of Governor's Regulation Number 2 of 2020 is clearly visible in the significant reduction in the number of violations related to non-compliance with mask usage from August to December 2020 compared to the period from January to March 2021 (Prayogo, n.d.). The establishment of the Governor's Regulation on the Handling of Covid-19 is a serious measure by the Government to create a regulation that can address the challenges of the pandemic in Indonesia, especially in Jakarta, which serves as the country's center. With this regulation, it is hoped that the public will become more legally aware and actively contribute to creating a better health condition, so that the Covid-19 pandemic can be promptly addressed and ended.

CONCLUSION

Legal politics is the policy that regulates various rules applicable in the life of society and the state. Legal politics plays a central role in the formation of legislation and national law in Indonesia, as it serves as the foundation for determining the values, establishment, formation, and development of law in this country. It is crucial that legislation always focuses on achieving the goals of the state, thereby reflecting principles of justice, benefit, and legal certainty that are beneficial to society.

In the process of forming regional regulations (Perda), there is a political component that plays a role, especially in the context of regional regulations at the local level. Perda is the result of collaboration between the Regional People's Representative Council (DPRD) and the Regional Head (governor, regent, or mayor). The process of forming Perda involves active political interactions, where members of the Provincial DPRD or District/City DPRD collaborate with the Governor or Regent/Mayor. Additionally, political roles are evident in the selection of DPRD members and Regional Heads, which undergo a politicization process before being elected through direct elections. In this process, the interaction between legislative and executive powers plays a role, influencing and intervening in the legal formation. This concept is also relevant to Regional Regulation of DKI Jakarta Number 2 of 2020 regarding the Handling of Covid-19 discussed in this writing.

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