

# Establishment of Regional Regulation in Regional Autonomy Implementation

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## Abstract

Regional legislation is a part of Indonesian legislation. Regional freedom in establishing regional legislation is a right, as it is an instrument of regional government legal policy in accommodating the aspirations of the society, overcoming existing problems, or possible problem in the future within the framework of regional autonomy. The establishment of regional regulations in accordance with the interests of the society must implement the principles of regional autonomy.

**Keywords:** establishment, regional regulation, regional autonomy.

## I. INTRODUCTION

In Indonesian literature, the term law state is a direct translation of *rechtsstaat*.<sup>1</sup> According to Mahfud<sup>2</sup> that in general the term law state is considered as a proper translation of two terms namely the rule of law and *rechtstaat*. Meanwhile, S. Tasrif<sup>3</sup> uses the term rule of law, while Friedman<sup>4</sup> points out that the rule of law can be used in the formal sense (organized general power) and in a material sense, in terms of measures of good law and bad law, that is just law or unjust law. On the contrary, O. Notohamidjojo<sup>5</sup> states that with the emergence of the basic ideas formulated in the constitutions of the nineteenth century, and then comes the term law state *rechtstaat*.

Indonesia as a constitutional state regulates regional autonomy in accordance with existing legislation. Regional freedom in establishing regional legislation is a right, because it is an instrument of regional government legal policy in accommodating the aspirations of the society, overcoming existing problems, or possible problem in the future within the framework of regional autonomy. Regional regulation is a part of Indonesian legislation. However, in reality after an evaluation by the Ministry of Law and Human Rights there are 4,000 (four thousand) Regional Regulations throughout Indonesia were canceled, because it did not fulfill the qualifications to be implemented.

The establishment of a regional regulation, which in the end most of the regional regulations were canceled, as a result of the various problems identified as follows:

1. Inadequate legal drafter capacity, both in terms of legal techniques and the legal substance of regional regulations to be established;
2. The regional regulations have not been able to translate the whole government policy into normative language;
3. Regional regulations that is made, substantively, is yet unable to function as instruments of regulation, maintenance and protection;
4. Generally, regional regulation establishment is more directed at increasing local revenues through collection (local taxes and levies), and still very less directed to the systematization / arrangement;
5. As a result of the orientation of regional regulations only for collection, causing the regions (through regional regulations) does not pay attention to the characteristics of the region, and the characteristics of the society in the area concerned;
6. The drafting of regional regulations is undemocratic, which will lead to a lack of disclosure, society participation and the difficulty of creating accountability in the administration of government affairs, especially in relation to public services; and
7. There is a tendency for regions to adopt regional regulations from other regions, due to lack of understanding of the nature of regional regulations as a translation of regional policies that must be adapted to regional specificities.

With such a reality, then in the establishment of regional regulations, the problem should not be allowed to continue, without any effort to anticipate it. Therefore, a solution that can be used as a problem-solving instrument is through legal instruments or legal rules governing the establishment of local regulations.

The authority for the establishment of regional regulations, transparently and limitatively, has been regulated in Law Number 23 Year 2014 on Regional Government. In the General Explanation of Law Number

<sup>1</sup> Soetandyo Wignjosoebroto, *Hukum: Paradigma, Metode dan Dinamika Masalahnya*, Jakarta: Elsam and Huma, 2002, p. 472.

<sup>2</sup> Muh. Mahfud MD., *Hukum dan Pilar-Pilar Demokrasi*, Jakarta: Gama Media, 1999, p.126

<sup>3</sup> S. Tasrif, *The Rule of Law*, Bandung: Alumni, 1982, p.1

<sup>4</sup> Friedman, *Hukum Amerika, Sebuah Pengantar*, terjemahan Basuki, Jakarta: Tatanusa, 2001, p.12

<sup>5</sup> O. Notohamidjojo, *Makna Negara Hukum*, Jakarta: Badan Penerbit Kristen, 1970, p.27

23 Year 2014, it is expressly regulated that the purpose of granting wide-ranging autonomy to the regions is directed to accelerate the realization of the welfare of the society, through improving services, empowerment and society participation.

Furthermore, with reference to the purpose of granting autonomy to the regions, and taking into account the position of regional regulations in the context of local governance, it is found some phenomena that can be identified as legal issues. The concretization of the legal matters governing the implementation of regional government, among others:

1. There is a tendency of ineffective and efficient regional government administration;
2. Regional legislation tends to provide a great opportunity to the government compared to the opportunities given to the society;
3. Regional regulations do not specify facilities that are expected to support the realization of society welfare;
4. Regional regulations do not set standard operating procedures for the administration of public affairs, so that in the implementation of government often leads to misuse of authority;
5. Regional Regulation and / or Regulation of the Regional Head does not expressly assign the division of duties, and authority in the framework of the administration of government affairs;
6. Regional legislation does not establish a means of transparency that allows the society to be more active in supervision; and
7. Regional legislation does not establish protective instruments, even there are no provisions that specifically regulate local enforcement mechanisms, and organs authorized to enforce local regulations.

In reality, the implementation of regional autonomy is not accompanied by the readiness of the society and the regional apparatus to deal with it, which is evidenced by the establishment of a relatively large number of regional regulations, and its enforcement is often ineffective and efficient.

However, pragmatically the local regulation is regarded as the closest regulation to aggregate society values in the regions. This opportunity is open, because regional regulations can be charged with values identified as special conditions of the region, so it is possible that a regional regulation has been in accordance with the public interest, but contrary to the higher regulation of regional regulations.

Starting from the above description indicates the existence of empirical facts that numerous regional regulations were canceled, as a result in the establishment which is lack of attention to the requirements that have been determined. Therefore, it is necessary to a deep assessment of the establishment of regional regulations in the system of regional autonomy. Therefore, the issues that will be discussed in this paper are how is the nature of regional regulations in the implementation of regional autonomy? And how is the establishment of regional regulations that are in line with the interests of the society?

## **II. RESEARCH METHODS**

### **A. Type of Research**

The type of research used is normative legal research that views law as a rule, concept and legal principles, especially with regard to the establishment of regional regulations.

### **B. Research Approach**

In this research problem approach is used statute approach; is used in conjunction with the legal rules governing the principles of content material and procedures that must be fulfilled in the framework of the drafting of the regional regulation. In addition is also used conceptual approach which will examine with regard to the juridical concepts that are limitative and substantive matters relating to the implementation of regional autonomy system in the framework of the drafting of regional legislation.

### **C. Types and Resources of Legal Material**

In this study, the types and sources of legal materials are used as follows:

1. Primary Legal Material; namely the primary legal materials that is binding legal materials, consisting of:
  - a. Basic Norms or basic rules of the Preamble of the 1945 Constitution of the State of the Republic of Indonesia;
  - b. Basic Regulation of the 1945 Constitution of the Republic of Indonesia;
  - c. Legislation.
2. Secondary Law Material: includes the entire material of law obtained through textbooks, journals, papers, scientific papers, research results and discussion results, seminars and symposia relevant to the research problem
3. Tertiary Law materials; namely legal substances that provide meaningful clarification or explanation of the primary legal materials and secondary legal materials that have been collected. Tertiary legal materials such as; Legal dictionaries, language dictionaries, encyclopedias and so

forth.

#### **D. Processing and Analysis of Legal Material**

The legal materials collected during the course of the research will be analyzed and linked in such determined step that it can be presented more systematically to answer the three issues in the problem formulation.

Furthermore, the method that will be used in the processing of legal materials collected, it will be conducted by using qualitative analysis that is content analysis. This analysis is used to examine the content of provisions relating to the establishment of regional regulations.

### **III. RESULT AND DISCUSSION**

#### **A. The Nature of Regional Legislation in Regional Autonomy Implementation**

Etymologically, the term autonomy comes from the Latin word "*autos*" meaning "*alone*" and "*nomos*" meaning "*rule*".<sup>1</sup> Therefore, etymologically the word autonomy has meaning as *zelfwetgeving* or self-rule<sup>2</sup> or self-governing.<sup>3</sup> The term autonomy, according to Logemann means as freedom or independence, but not independence. However, limited freedom or independence is a manifestation of the opportunity that must be accountable for.<sup>4</sup> The nature of the Regional Regulation in the Implementation of Regional Autonomy accounted for. In line with that view, autonomy means the freedom to maintain and promote the special interests of the region, with its own finances, determining its own laws and self-government.<sup>5</sup> In addition, van der Pot in Koesoemahatmadja, considers that *autonomie*<sup>6</sup> is *betekent andersen het woord zou doen vermoeden-regeling en bestuur van eigen zaken van wat de grondwet noemt eigen huishouding* (autonomy actually encompasses legislation and self-government strictly that has been set forth in the constitution (*grondwet*), or it can be inferred to be holding its own household). Meanwhile, J.J. Schrieke, argues that the autonomy is "*eigen meesterschap*" (freedom), "*zelfstandigheid*" (independent), not "*onafhankelijkheid*" (independence).<sup>7</sup>

Regional regulations are laws and regulations established by DPRD and Head of Regional which have function as:

1. Policy instruments to implement regional autonomy and co-administration tasks as mandated by the 1945 Constitution of the Republic of Indonesia and legislation of regional government aspect
2. Accommodating the diversity of regions, channeling the aspirations of society in the region. However, the regulation is still within the framework of the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia.
3. Development equipment in improving regional welfare
4. Regulation of the implementation of the higher legislation. Therefore, in order not to overlap between regional regulation with higher regulation so it is necessary to pay attention to the following aspects:
  - a. The aspect of authority which is expressly required in the provision of Article 1 paragraph (1) of Law Number 12 Year 2011 concerning the Establishment of Laws and Regulations;
  - b. The aspect of openness is that every establishment of regional regulation requires openness for the society, either for academicians and practitioners to participate in the process of planning, preparation and arrangement to provide input or consideration orally or in writing in accordance with the provisions of legislation;
  - c. The supervision aspect that is in the establishment of regional regulation should be supervised, either in the form of preventive supervision on the draft of regional regulation or repressive supervision on the regional legislation.

One of the functions of regional autonomy is in the context of strengthening national integrity. With autonomy, there will be a mechanism in which regions can realize a number of political functions towards national government; power relations become more equitable, therefore the regions will have confidence. With autonomy, the democratic process can be exercised and will be supported the realization of democracy in the government and eventually regional development will be achieved.

Regional autonomy can work well when considering the functions that exist in regional autonomy such as the function of political education, restore the political rights of society in the region, establish democracy from bottom and accelerate development in the region.

#### **1. Regional Autonomy and Political Education**

Many people do not realize that one of the main functions of regional autonomy is the function of political

<sup>1</sup> Krishna D. Darumurti and Umbu Rauta, *Otonomi Daerah Perkembangan Pemikiran dan Pelaksanaannya*, Bandung: Citra Aditya Bakti, 2000, p.14

<sup>2</sup> Danuredjo, *Otonomi di Indonesia Ditinjau dalam Rangka Kedaulatan*, Jakarta: Laras, 1967, p.10

<sup>3</sup> Saleh Syarif, *Otonomi dan Daerah Otonom*, Jakarta: Endang, 1953, p.7

<sup>4</sup> Y.W. Sunindhia, *Praktek Penyelenggaraan Pemerintah Daerah*, Jakarta: Bina Aksara, 1987, p.35

<sup>5</sup> J. Wajong, *Asas dan Tujuan Pemerintah Daerah*, Bandung: Bina Cipta, 1975, p.5

<sup>6</sup> Van der Pot in RDH. Koesoemahatmadja, *Pengantar ke Arah Pemerintahan Daerah di Indonesia*, Bandung: Bina Cipta, 1979, p.15

<sup>7</sup> *Ibid.*, p.16

education. With the establishment of regional government, a number of institutions in democracy will also be formed, especially political parties, groups of interest, pressuring group, local mass media and people's representative institutions. These institutions will play a strategic role in the framework of the political education of citizens, instilling values and norms relating to the life of the nation and state. These values include values that are cognitive, effective or evaluative.

Experience shows that meeting organized by political parties, representatives of the people or dialogue between the Mayor/Regent and the community is a very beneficial process for the three dimensions of political education. Thus regional autonomy has a very significant integrative dimension for a state. Not to mention the existence of political parties, and groups of interest that exist in the region that assisted in establishing the political character and prepare individuals to be recruited to engage in the political process.

## **2. Restoring Political Rights of Society**

Regional autonomy is also the restoration of the political rights of society in areas that have encountered the process of marginalization and even alienation, especially during the highly centralized New Order period. One of the most prominent dimensions related to the political rights of citizens is regional political recruitment. In the New Order era, for example, regional political recruitment was strictly closed because it was determined by a completely non-transparent mechanism, and did not allow society to decide who would lead them either in politics or in government. Society in the regions had no chance to get involved in the process. Even if there is, their involvement is only limited to enliven the nomination level of candidates, but the determination was belong to particular institutions. Meanwhile DPRD was basically only entitled to form decision formally. Usually, not only limited to political position in government, even to become chairman of the party is determined by the same mechanism. As a result, the society encountered an alienation process, which then brought local characteristic implications, namely the establishment of excessive regional sentiments as experienced today in regional government.

Another matter relates to the restoration of the rights of the society is the creation of public policy in the region, where the Regional Government has the right to determine its authority and responsibility.

## **3. Establishing Democracy From the Bottom**

Decentralization has an effect on the establishment of democracy from the bottom, because with the existence of an independent regional government supported by proper and correct democratic practices, it will become a pillar for the development of democracy in national government.

Democracy which is developed from the bottom will create a balance pattern of relationship mechanisms between the government and the regions, as regional society will have recruitment opportunities or development planning in the regions and will be able to provide control over national governance. Thus democracy is not just limited to its central domain. Society in the region are entitled and must be able to express clearly and explicitly that not all matters that have been decided by Central Government is true and in accordance with the will of the society in the region.

## **4. Regional Autonomy and Development Acceleration**

The region determines its priority scale and how to plan and realize it into a development policy in the region. Therefore, the Regent / Mayor along with DPRD must have the ability to set priorities. The autonomy is not synonymous with raising the Regional Budget Income (PAD) through levies. However it is the main task of regional government to provide facilitation to the interaction process with various parties. Regional governments should be able to facilitate business permits, cut off bureaucratic networks of convoluted and provide certain incentives for people who want to invest. In addition, people in the region must create a conducive business climate to attract investors to invest in the region. Politicians must ensure the creation of political stability and governance, due to the business community is confident that the capital they will cultivate will not be in vain. Similarly, workers should show reasonable attitudes and demands and negotiate with the guarantee that the production process will be continuously progressing.

## **5. Regional Regulation as a Legislative Product**

In Article 7 of Law Number 12 Year 2011, there is a divergence pattern of national legal products that are designed in the form of legislation level namely:

- a. The legal products regulating the official regulations mentioned in the legal system based on the 1945 Constitution of the Republic of Indonesia;
- b. Typology of any legal product that is hierarchically higher in rank and any legal product that hierarchically has a lower legal standing among the products of legislation;
- c. Typology of any legal product that is hierarchically under the law and/or Perpu (Government Regulation)
- d. Typology of any legal product recognized by its validity other than those mentioned in Article 7 paragraph (1) of Law Number 12 Year 2011.

## **6. Regional Regulation as a Legal Product**

The order of the legislation contains some important principles to note, because a good regulation should contain

principles such as:

- a. The higher legislation of its position may be the basis or legal basis for lower rank legislation;
- b. Lower rank legislation should not deviate or conflict with higher rank legislation;
- c. The contents or materiel of lower legislation should not be distorted or contrary to higher-level statutory legislation;
- d. A legislation can only be revoked or replaced or amended by higher laws or at least with the equivalent;
- e. Similar laws and regulations when subscribed to the same contents, the latest regulations shall apply, although not expressly stipulated that the old rules are revoked.

Etymologically, legislation is a translation of "*wetgeving*", "*gesetzgebung*", which contains two meanings. First, it means the process of forming the same kind of rules from the highest to the lowest, produced by attribution or delegation of legislation. Second, it means the whole product of the rules of the state.<sup>1</sup> Norm is derived from the word *nomos*, which means value and then its meaning is simplified to the norm of law. Plato's work entitled *Nomoi* is usually translated into English as *The Law*.<sup>2</sup>

In general, the legal norm may be legal decisions such as (a) as a result of adjustment activities in administrative manner (*beschikking*), (b) as the result of judgment with verdict by judge; (c) as the result of regulation activities (*regelling*) either in the form of legislative such as legislative acts or form of regulation in the form of executive acts.

Based on above description, the principle of normative control or testing system of legal norms can be conducted by the institution itself (internal control), or by other institutions (external control) depending on the creating subject and the object tested from a legal product. If the legal product is created by an official or state administrative body (regulative product) characterized by: (a) an abstract norm, (b) should have regulator characteristic (*regelling*), (c) be binding in general, therefore the testing through the mechanism of executive review or administrative review. Especially with regard to the decision of an official or a state administrative body which is contained and implemented administratively in concrete, final and individual, then the testing process falls within the realm of one of the organs of the judicial authorities.

Hence, all forms of irregularities or mistakes in the conduct of state administration in the form of making legal products which is contained and regulation characteristic (*regelling*) can be supervised through executive review. While the legal products of normative decisions which is contained and administrative determinations (*beschikking*) can be supervised through control of judiciary. In addition, if the judiciary conducts the tests, then the judicial review process is specifically directed to the regulation (*regelling*) that has been approved. The process of judicial review of any regional legislation or legislation that is hierarchical under the law should be based on a certain normative benchmark or standard.

There is a difference between the basic norms intended by Kelsen and Merkl. The difference is that<sup>3</sup> if the basic norm of Merkl as a place of dependence on the norms under it, is the framework of thinking for theory level of the rule of law, it can indeed be substituted (such as amendment of the Constitution as the highest legal norm). While Kelsen's basic norm, is something abstract, assumed, unwritten and universally applicable, it forms the basis of all legal sources in a formal sense and it is *Meta juristic* in character.<sup>4</sup>

Regional regulation is very important in the implementation of autonomy because regional regulations can smoothen regional development from all sectors. Therefore, regional regulation is necessary in the implementation of regional autonomy, because it can be utilized as a means to regulate the region itself in accordance with the goals to be achieved.

## **B. Establishment of Regional Regulations in accordance with the Public Interest.**

A legislation in order to have effective power, it must have a strong foundation in the formulation of legislation including regional regulations to implement effectively.

### **1. Principles of Establishment of Regional Regulations**

The establishment of local regulations is based on the following principles:

- a. The principle of transparency, which is a process to provide information on the upcoming establishment of a policy and an opportunity for society to provide input and supervise the government. Transparent processes must be able to eliminate boundaries between government and non-government.
- b. Participation, it is intended to encourage the creation of public communication in increasing public understanding of the government's decision-making process. Participation reduces the likelihood of conflict in implementing a decision and supports the application of accountability. Public participation is reflected in the opportunity to review the draft decisions. The opportunity to provide input and

<sup>1</sup> Muh. Mahfud. MD., *Op.Cit.*, p.143

<sup>2</sup> Plato, *The Laws*, translated by Trevor J. Saunders, Penguin Books, 2005, p.28

<sup>3</sup> Jazim Hamidi, *Revolusi Hukum Indonesia; Makna, Kedudukan dan Implikasi Hukum Naskah Proklamasi 17 Agustus 1945 dalam Sistem Ketatanegaraan RI*, Jakarta: KonPress, 2006, p.55-56

<sup>4</sup> *Ibid.*, p.57



feedback to the inputs, therefore government may take a decision.

- c. Coordination and cohesiveness. Relating to the relationship between government and organizations within the government provides mechanisms that involve other agencies in decision-making as a whole. Cohesiveness requires a harmonious combination of insight and coordination to suppress conflict, limit ineffectiveness and, above all, limit the number of legal products.

To realize the interests of the region based on the aspirations of society, regional governments are given a great responsibility in terms of regulation in the field of legislation in organizing the government and development for the interests of society. Authority alters regional regulation is a manifestation of the implementation of autonomy rights owned by a region and otherwise regional regulation is one of the means in the implementation of regional autonomy.

## 2. The Foundation for the Establishment of Regional Regulations

Law Number 12 Year 2011 contains complete arrangements concerning system, principle, type and content material, establishing process started from planning, preparation of drafting technique, formulation, discussion, validation, enactment and dissemination.

In order to establish quality legislation, both national and regional levels, the laws and regulations shall at least meet the following three bases:

- a. Philosophical foundation, legislation must contain a description containing the philosophy or nation's life view. All existing moral values accumulate in Pancasila, because it is a view of life, the ideals of the nation, and the philosophy of life.
- b. Juridical Foundation is a legal basis on which the legislation is based. This is important to mention, because if it is not inferred in such condition therefore it is deemed the institution is not authorized to issue legislation. The juridical basis here can be divided into two kinds namely; (1) Formal juridical basis, namely the provisions of law that designate or authorize the institution or environment of office to make a legislation; (2) Materiel juridical foundation, namely the legal provisions that determine the content of the established legislation.
- c. Sociological Foundation, namely that every provision contained in the rules is in accordance with the general belief or legal awareness of society. The rules stipulated must be in accordance with living law.

## 3. The Process of Establishing Regional Regulations

Kuncoro Purbopronoto uses the term system that is sometimes replaced by principle.<sup>1</sup> While van der Pot in Koesoemahatmaja argues that there are three famous teachings on the content and broad of regional household, namely: (1) Teaching of household materially (*matriele huishoudings begrip*), (2) Teaching of household formally (*formile huishoudings begrip*) and (3) Teaching of household in real terms (*reele huishoudings begrip*).<sup>2</sup> Similar as Soewoto's opinion that in the literature are known three types of theories of regional autonomy, namely *first*, the theory (teaching) of the material household, a theory which requires a clear and detailed division of the duties of the central government and regional government. This division of duties is included in the law of the establishment of autonomous regions; *second*, theory (teaching) of formal households, a theory that does not require detailed division of tasks at the central and regional governments. Distribution considerations are based solely on the principle of assignment of duties to the regional government or central government based on practical and rational considerations; And *third*, real household theory (teaching), a theory of assignment of local government on the basis of real ability of regional government in carrying out task. The benchmark of task that could be carried in each autonomous is based on ability of each region.<sup>3</sup>

The draft regional regulation (Ranperda) may result from DPRD and the Governor or Regent/Mayor. In other words, Ranperda can be created based on the initiative of Governor or Regent/Mayor or by DPRD through proposal of initiative. Therefore, both have the same right to propose Ranperda. The submission of Ranperda requires discussion and agreement with the DPRD with the Governor or Regent/Mayor and promulgated by the Regional Secretary in the Regional Gazette Sheet in order that the law has legal binding power.

Ranperda from DPRD initiative rights can be submitted by members, commissions, coalitions of commissions or equipment of the DPRD specifically dealing with legislation. This Ranperda, then proposed to the DPRD chairman to be discussed in the DPRD Internal Plenary Session. If it is approved, then the chairman of Parliament to the Governor or Regent/Mayor with a letter of introduction DPRD submits it. On the contrary, if the intended Ranperda is based on Governor/Regent/Mayor proposal, firstly official prepares Ranperda, body, office or other position of regional government coordinated with bureau/law department and legislation. The intended Ranperda then handed to Governor/Regent/Mayor, if it is approved it would be conveyed to DPRD

<sup>1</sup> Kuncoro Purbopronoto in M. Solly Lubis, *Pergeseran Garis Politik dan Perundang-Undangan Mengenai Pemerintahan Daerah*, Bandung: Alumni, 1983, p.28

<sup>2</sup> RDH. Koesoemahatmadja, *Op.Cit.*, p.16

<sup>3</sup> Soewoto, *Suatu Kajian Historik, Teoretik, dan Yuridik Pelimpahan Kekuasaan Kepada Daerah*, Majalah Hukum Yuridika FH-UNAIR, No. 5 and 6 Tahun V, September-December 1990.

along with letter of introduction of Governor/Regent/Mayor.

Dissemination of Ranperda which is originating from the DPRD is carried out by the Secretariat of the DPRD, while the dissemination of Ranperda from the Governor or Regent / Mayor is implemented by the Regional Secretary. If in a future session period, the Governor or the Regent / Mayor was conveyed Ranperda consisting same material, the discussed material would be Ranperda delivered by DPRD, while Ranperda submitted by the Governor/Regent/Mayor would be used as comparison, discussion. Ranperda discussion in DPRD exercises by DPRD along with Governor/Regent /Mayor, through the Board Session, the Special Committee Session, Conference and Meetings Equipment, Plenary Session. Ranperda may be withdrawn before discussed jointly by DPRD and the Governor/Regent/ Mayor. Meanwhile, Ranperda, which is being discussed, can only be withdrawn by mutual consent of DPRD and Governor/Regent/ Mayor.

Ranperda that has been agreed jointly by DPRD and Governor/Regent/Mayor delivered by the Chairman of DPRD to Governor/Regent/Mayor to set a regional regulation to be established within a maximum period of seven days from the date of approval. Raperda that has been agreed jointly and submitted by the DPRD shall be implemented and Governor/Regent/Mayor, by signature within thirty days at the latest since the Ranperda is jointly approved by the DPRD and and Governor/Regent/Mayor. If the Raperda is signed by and Governor/Regent/Mayor within thirty days since Ranperda was approved, the Ranperda will be proclaimed as legitimate into regional regulation and shall be promulgated by endorsement sentence which reads "the Regulation declared officially". This sentence should be affixed on the last page of a regional regulation prior to the enactment of the draft of regional regulations into the Regional Gazette Sheet. The establishment of regional regulations is one of the main pillars for the implementation of regional government. To create a proper regional regulation, it is necessary to pay attention to the basics and criteria of its establishment. A good law consists of two, namely; (a) Hierarchy of Legislation and, (b) Society Participation.

The hierarchy of legislation theory derives from Hans Kelsen, *Stufenbawtheori* explains that the legal norms are tiered in a hierarchy of order, in which a lower norm applies, is sourced and based on higher norms, and so on until a norm that can be traced further and is hypothetical and fictitious such as the basic norm (*grundnorm*). Furthermore, this theory is developed by Nawiasky which asserts that there are four major groups of norms that are sequentially from top to bottom, namely fundamental norms (*staatsfundamentalnorm*), formal rules (*staatsgrundgesetz*) formal laws (*formell gesetz*) and rules of implementation parallel to the rules of autonomy (*verordnung and autonome satzung*). Fundamentals are set first (presupposed) by the society. The basic rules are the rules that are still common, still in the outline and still a single norm that has not affiliated with secondary norms. Implementation rules parallel to the rules of autonomy serve the provisions of the law.

Society participation in the establishment of regional regulations is a form of good governance in accordance with the principles of good governance. In addition, with the participation of the society, the result of regional regulations can reflect the general social reality in society. Basically the urgency of public participation in the establishment of regional regulations as follows:

1. To capture the knowledge of the skills or experience of the society in order the regional regulation that is created is really qualified as a proper regional regulation;
2. Ensure that regional regulations are in accordance with the realities that exist within the society to develop a sense of belonging, a sense of responsibility, and the accountability of regional regulations.
3. Growing trust, respect, and recognition of society to regional government.
4. Supervision over Regional Regulations.

#### IV. CONCLUSION

In closing, the authors can conclude the important matters, namely the nature of regional regulations in the implementation of regional autonomy is as a policy instrument in the implementation of regional government as wide as possible. The establishment of regional regulations in accordance with the interests of the community must implement the principles of regional autonomy and materials as well the content of regional regulations should not conflict with the public interest and higher legislation.

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