

Functions of the House of Representatives of the Regional (DPRD) Life In Making Democracy In The Region

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Abstract

Regional autonomy is a form of democracy in the context of the implementation of the State unitary (*eenheidstaat*). Regional autonomy is an organization of democratic life. The people through their representatives (DPRD), participate in local democratic governance. Parliament is a representative of the people who are legally and politically has a strong legitimacy to realize democracy in the region

1. The Democratic Autonomous Region

Decentralization literature have tended to give the impression that decentralization is *basic* to democratic governance (*democratic governance*) which is the essence of good governance (*good governance*) with the main elements of public participation.

Declaration of the values involved in the implementation of regional autonomy mentioned above has a strong foothold. *Firstly* regional autonomy as *local* translation *Autonomy* is essentially the autonomy of local communities. Communities within a certain territory that have the autonomy that has a variety of government functions that are locality. Through government institutions, civil society, and the private sector, regional autonomy is managed in synergy for the commonweal. In this regard needs to digest the concept of "*local government*" which covers the (sub) concept of "*government*" and "*local*". through autonomy, the local community has the capability, flexibility and independence prejudiced build itself. Thus, the local community can channel sound (*voice*) and make a selection (*choice*) for the improvement of the livelihoods of her. But decentralization is not sovereignty. In this case the implementation of regional autonomy remains within the framework of national law and within the framework of the broader public interest.

Second, the term (concept) *local government* can contain three meanings. *Structurally* meaningful local government. In this sense the term is often interchangeable with the term *local authority*. Functionally meaningful *local* government. Both terms have differences with the central government and state government. In terms of Local Government is not commonly used designation branch (function) judiciary. It is therefore better to use the functions policy formation and implementation of policies. Policy formation function given to institutions charging functionaries based on ownership, while the function giving implementation to bureaucrats on the basis of the appointment. The third sense can be listened to in the United Nations publication (1961) which defines *local government* as: *A political subdivision of a nation or (in the federal system) state roommates is constituted by law and has substantial control of local affairs in clouding the power to impose taxes. The governing body of such an entity is Elected or otherwise locally selected*

Third, the existence of *local government* is based on the belief in the value of the presence and involvement of a number of power deployment decision makers in many different localities. Local government to facilitate assibilate and responsiveness, as both legislators and local officials to stay close to the decision being made, the people whose lives are affected and shaped the region environment. Smaller scale than the central government which makes it more vulnerable to the demands and interests of the local.

Fourth, because of the presence of local governance is closely related to the presence of power in view of the diversity and differences in response between the locality needs to be accommodated. Differences are also important to the learning process.

Fifth, the concept of democratic that we know for the first time it is used in relation to the urban *local* governance at that time in the ancient Greek city-state called. ⁴ (Michael Goldsmith; 1980: 16) In the State there are the demands of the nation to revive the concept of community participation in terms of participatory democracy (*participatory democracy*) to accompany the representative democracy (*representative democracy*).

Sixth, in an environment that is changing global demands are fundamental re-conceptualization of the role of local government institutions, civil society, and the private sector in the governance process. Traditional ways in the government has failed to address the issue of public participation in social life, economy, and politics. Inadequate governance processes have traditionally resulted fecklessness society, the absence of the public's willingness to participate, and the more alone apatite society from / and against the government, and the

administration's policy agenda is dominated by an elite, big and another side role of government in policy-making and implementation. There was no accountability and transparency.

2. As the Regional Legislative Council

In the Law No. 32 of 2004 on Regional Government is determined that the holding power to establish local regulations is Parliament. Such provisions similar to the provisions of Article 5, paragraph (1) of the 1945 Constitution as amended in 1999 with the first change. Article 5 paragraph (1) of the 1945 original that reads "*The president holds the power to make laws with the consent of the House of Representatives*". As a counterpart, in article 20, paragraph (1) of the 1945 First change of 1999 that affirmed "*the House of Representatives holds power to make laws*".

In Article 41 of Law 32 Than 2004 on Regional Government, Parliament has determined that the legislative function, budget and oversight. Regarding the duties and responsibilities specified in Article 42 paragraph (1), namely:

- a) Establish regulations discussed with regional head for approval together;
- b) Explain and approved the draft law on the budget along with the head area;
- c) Implement regulation and supervision of the implementation of laws and other regulations, regional head arrangements, budgets, local governments in implementing the policy of regional development programs in implementing the program development regional, and international cooperation areas;

In addition, by law adding that in addition to the duties and powers as aforesaid, the council carry out other duties and powers set out in the legislation. That is, in addition to the duties and powers referred to in Article 42 paragraph (1), the duties and authority of Parliament still be coupled with legislation.

Thus, the Law on Local Government above clearly affirmed that the regulatory agencies that make up the area is not the governor, but the parliament. It can be read in the formulation of Article 42 paragraph (1) which states that a Council has the duty and authority to "*establish regulations discussed with regional head for approval with*". Of course, in the area to make regulations, local council and governor should discuss it with together for joint approval. If consent is not permissible, then the governor could not approve the draft local regulations become binding regulations that apply to the public, and the draft local regulations should no longer be promoted within the trial period in question.

Each district is required to draft regulations are discussed together with the governor of the provincial assembly. Also determined that even Parliament can also take the initiative or the initiative to submit draft local regulations. If the draft local regulations Parliament initiative was not approved by the governor, the draft local regulations it also can not be brought forward again in the concerned trial period. It means that the position of Parliament in the process of formation of exclusively local regulations. Forming local regulations that remained was the head of the regional government and parliament which together constitute a unity government institutions of the province referred to Article 18 paragraph (6) of the 1945 Constitution.

However, Article 18 paragraph (6) of the 1945 Constitution it is not sure who is more mainstream role in the formation of the local regulations. Both Law No. 32. Year 2004 on Local Government and Law No. 12 of 2011 on the establishment of legislation are equally stressed in terms of togetherness between the regional head of Parliament, both at provincial and district level / city. But in reality the practice field, what needs to be set and how to manage it is determined by the information, expertise, and other support facilities.

3. Political sensitivity Regional Legislative

One of the benchmarks to assess the performance of members of parliament is to look at their political sensitivity. Political sensitivity here is an ability to understand, appreciate and give compassion to the problems, struggles and fate of an area and the constituents they represent. Political sensitivity also shows how much the quality of care members of parliament to fight for the public interest.

Based on the definition used, and especially if it is associated with the functions and powers of members of Parliament in the field of legislation (law establishment) political sensitivities at least can be viewed from two aspects. *Firstly*, how the members of Parliament who represent the people able to understand the problems experienced by the people, for later intervene in his capacity as the holder of power through the establishment of laws that legislative help resolve the issue. While *the latter*, how parliamentarians aspirations and interests of the people, so many problems trying to intervene populist able to comprehensively understood at the level of a fundamental nature, not just the surface level. So try to offer solutions through product regulation is really on target.

When referring to the mechanism of the formation of legislation in parliament is known so far, the manifestation of the political sensitivity of the first, is strongly associated with the act of Parliament to determine the populist issue to be solved, which is based on a scale that translates into the formulation of the plan to form

regulations. Prioritization usually done at the beginning of the term of office, together with the government as partners in the establishment of parliament through legislation local regulations.

While the manifestation of the political sensitivity of the second, the media has used Parliament to engage people both in setting priorities and in determining the substance of the various regulations that result. Participation and aspiration of the people are represented normally provided in certain stages of the mechanism of legislation, such as the meetings of public hearings (public hearing) is held in the Parliament and parliamentarians interaction with constituents during the recess.

4. Processing Proficiency Aspirations

As a representation of the people in the state administration system, every member of Parliament is required to mandate, speak out and articulate the needs of the people through the functions and authority of the state-owned. One of them, and especially, is the function and authority of **legislation**. functions and authority to use the very significant assess the overall performance of Parliament because of their direct product in the form of regulations not only has implications for governance, but also to the implementation of the functions and powers of Parliament in the field of the other, and of course to the benefit of society represented.

Therefore, the position of member of parliament as the legislator requires absolute professionalism so that the resulting regulations acceptable to the parties affected by the setting, and is considered good and satisfactory by the community as a whole. Local legislators have a responsibility to build a foundation and determine the direction of improvement of the law. As public officials, they are required to always improve their performance, characterized by the creation of a departure from the ideas of the good, the management is coordinated and neat since the planning phase until a satisfactory output quality and accountability. That certainly can be realized if adequate proficiency supported.

Proficiency is a technical capability that supports the execution of the functions and role of members of parliament. This technical capability further elaborated as knowledge of awareness of the responsibility of the council members about their rights and obligations. There are two important elements that build technical skills, ie knowledge of the rights and obligations as well as awareness of the *ethos*, ethics and etiquette as representatives of the people. Two elements must be supported by a good method in capturing information, process and process it to produce a policy. Thus, the performance of Parliament in the establishment of regulations is not only indicated by the weight of the product, but also be seen from the work process, the mechanism of action as well as the values and spirit of the built in carrying out the functions and powers of legislation.

5. Post Scriptum

Can conceptually built a basic proposition that, regional autonomy is a form of democracy in the context of the implementation of the unitary state (*eenheidstaat*) Regional autonomy is a container democracy. The people through their representatives (DPRD), participate in local democratic governance.

Support for democracy is limited and dominated by elites will not be enough. Without a more solid democratic, and based on public participation, democracy is fragile today will turn into *an authoritarian dictatorship* in the future.

REFERENCES

- Gofrey R. Njeru., Local Government and Urban Politics, New York Longman, 2000.
Hamza Baharuddin, Legal Standing of NGOs in the Public Service Order Against Control, Dissertation, Airlangga University, Surabaya, 2007.
Kell Antof and Jack Novack, Locality Development and the Building of Community, Macro Practice Massachusetts, Illinois, FE Peacock Publishers, 1998.
Michael Goldsmith, Politics, Planning and City, London, Hutckinson & Co. Publisher, Ltd.. 1980.
William Hampton, Grassrots Democracy, Halifax, Nova Seotia, Dahhousic University, 1991.
UN “ *Dezentralitation for National and local Development*”, New York, 1961.
UUD NRI Tahun 1945
UU No. 32 Tahun 2004 tentang Pemerintah Daerah.
UU No. 12 Tahun 20011 tentang Pembentukan Peraturan Perundang-Undangan.

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published by Intellectual Makassar Law of 2005), the Law on Performance Analysis of Legislation House of Representatives (the journal of the Faculty of Law UMI Islah, No.. 7 Volume 1V, August-October, 2002). NGOs and political parties function in Creating Clean Government in 2008 (the journal of the Faculty of Law reconciliation UMI 2008), Thinking About Law 'A Critical Reflection' (Book published by Literal Copyright Nala), Constructivism Police (book published by Reader Reflections, 2010), Law Issues In Controversy-Makassar 2012 (book published by Reader Reflections, 2012).

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