



Regional government law in the implementation of public policy in the regions

Ade Saputra

Faculty of Law, Warmadewa University, Indonesia

Abstract

In a government, bureaucracy, including bureaucracy at the regional level, functions to connect the authorities with the interests of the people so that all the people's interests can be met in accordance with public policy. This public policy is then stated in a law. One of the challenges facing the implementation of regional governance is the lack of quality public policy. Although regional autonomy provides greater authority to regional governments to make policies according to regional needs, there are often limitations in the ability of regional governments to formulate effective and efficient policies. One of the challenges facing the implementation of regional governance is the lack of quality public policy. Although regional autonomy provides greater authority to regional governments to make policies according to regional needs, there are often limitations in the ability of regional governments to formulate effective and efficient policies. Research on Public Policy and Law in the Implementation of Regional Government uses a descriptive research method. The results of the study indicate that the relationship between the central and regional governments regarding the implementation of regulatory authority, which influences the formation aspect through restrictions stipulated in the 1945 Constitution of the Republic of Indonesia and the 2014 Regional Government Law, as well as on the oversight aspect. Public policy and law have an important role in the implementation of regional governance. However, the lack of quality policies, misalignment between central legal policies and implementation in the regions, as well as political and administrative factors can hinder the existence and effectiveness of these policies.

Keywords: Government, policy, region, law

Introduction

The concept of state administration has recently received considerable attention from experts, particularly regarding the use of the terms "state administration" and "public administration." The emergence of these two terms stems from a shift in emphasis from "Administration of the Public" to "Administration by the Public," where the state becomes the sole agent in implementing governmental or state functions. This concept emphasizes the function of the state/government as a public service (Administration for the Public), meaning the state/government serves as a public servant ^[1].

Within a government, the bureaucracy, including regional bureaucracies, serves to connect those in power with the interests of the people, ensuring that all public interests are met in accordance with public policy. This public policy is then embodied in legislation, typically in the form of Regional Regulations or Regent Regulations, which generally regulate general matters with broad objectives. The existence of public policy is inseparable from bureaucracy. Bureaucracy is a government tool for resolving various problems through the creation of regulations and decisions. Although the regulatory function should lie with the legislature, in reality, the regulation-making function is largely carried out by the government, which in practice is played by the bureaucracy ^[2].

Government affairs themselves, in the current context, are regulated by Law No. 23 of 2014 concerning Regional Government (Law on Regional Government 2014). The a quo Law defines three types of government affairs: absolute government affairs, which fall entirely under the authority of the central government; concurrent government affairs, which are divided between the central government and regional governments; and general government affairs,

which fall under the authority of the President as head of government.⁴ Specifically related to regional government, concurrent government affairs delegated to the regions are the basis for implementing regional autonomy.⁵ In fact, the division of concurrent government affairs and their sub-affairs between the central government and provincial and district/city governments is detailed and specifically outlined in the Appendix to the a quo Law. The distribution of government affairs between the central and regional governments also experienced its own dynamics, from the 2004 Regional Government Law regime to the 2014 Regional Government Law, in which several government affairs were 'lost' or shifted in the regulations in the 2014 Regional Government Law ^[3].

In the implementation of regional autonomy, regional governments are granted the right to establish regional regulations and other regulations to implement autonomy and assistance tasks. Naturally, the exercise of regulatory authority within the framework of implementing regional autonomy must adhere to the limitations stipulated in Article 18 paragraph (5) of the 1945 Constitution of the Republic of Indonesia, as mentioned above. Considering the regulatory construction in Chapter VI concerning Regional Government in the 1945 Constitution, the implementation of regional autonomy, including the exercise of regulatory authority within regional government, is based on the existence of government affairs. This demonstrates that government affairs are the core of regional government, which then culminate in public services as a manifestation of the welfare state.

One of the challenges facing regional governance is the lack of quality public policies. Although regional autonomy grants regional governments greater authority to create policies tailored to regional needs, local governments are

often limited in their ability to formulate effective and efficient policies. This may be due to limited human, financial, and technical resources at the local level. As a result, the resulting public policies are poorly directed, unable to solve problems, and do not have a significant impact on society^[4].

Furthermore, issues related to the existence of legal policies also provide important background. Strong and consistent legal policies are a fundamental foundation for regional governance. However, there are challenges in the formulation and implementation of legal policies at the regional level. One obstacle faced is the lack of coordination between the central and regional governments in the legal policy formulation process. Contradictory legal policies between the central and regional governments often hinder effective and harmonious regional governance. Based on the above issues, this study will discuss the impact of the misalignment between central legal policies and their implementation in the regions on the sustainability of regional governance. It will also examine the political and administrative factors influencing the existence of public and legal policies in regional governance and their impact on society^[5].

Method

Penelitian ini merupakan penelitian hukum This research is a normative legal study conducted using secondary data,¹¹ with a descriptive nature,¹² and both evaluative and prescriptive.¹³ The data used in this study include: First, primary legal materials, namely the 1945 Constitution of the Republic of Indonesia, the Regional Government Law, other related laws and regulations, and Constitutional Court decisions related to the Regional Government Law. Second, secondary legal materials include journal articles, books, research findings, and other scholarly articles relevant to the study of regional government and its regulatory authority. Public policy research uses descriptive research methods, which are used to describe current or ongoing problems.

Result and discussion

1. Constitutional Framework for Regional Government Regulatory Authority

As explained previously, regional government in Indonesia has experienced its own dynamics throughout the history of the Indonesian state, including in the context of changes in regional government regulations in the amendments to the 1945 Constitution of the Republic of Indonesia. This, among other things, demonstrates a paradigm shift in the relationship between the central government and the regions, from a previously centralized one (especially during the New Order era) to a decentralized one.¹⁴ This also demonstrates the state's position in affirming the role of regional governments within the framework of the Unitary State of the Republic of Indonesia.

The pattern of central-regional relations, which previously seemed paternalistic and centralized, has been transformed into a partnership and decentralization model. This is demonstrated, for example, by the strengthening of regional autonomy through the affirmation of that regional governments have the authority to regulate and manage their own governmental affairs, and are authorized to exercise the broadest possible autonomy, except for governmental affairs designated by law as central government affairs.¹⁶ Thus, the authority to self-regulate (*zelfregelen*) and self-manage

(*zelfbestuuren*) governmental affairs, as mentioned above, essentially embodies the concept of regional autonomy explicitly stipulated in the 1945 Constitution of the Republic of Indonesia^[6].

Furthermore, although regions are granted the broadest possible autonomy to regulate and manage their own governmental affairs, there are limitations to the exercise of this authority, namely, as long as they do not regulate governmental affairs designated by law as central government affairs. This is a logical consequence of Indonesia's construction as a unitary state, in principle, there is only one government, namely the central government, which has supreme power in the field of government. However, as reflected in the formulation of articles regarding regional government in the 1945 Constitution of the Republic of Indonesia, Indonesia does not adopt the concept of a fully unitary state,¹⁷ but rather the concept of a decentralized unitary state, in which certain tasks are regulated and managed independently by the regions. Therefore, regional governments are constructed as elements of the national government, not as independent territorial units^[7].

In relation to regulatory authority in the regions, the delegation of some authority from the central government also implies the authority to regulate in order to implement the delegated authority. This is linked to decision-making, where, under the concept of decentralization, regions or lower-level governments can make decisions and determine the issues they directly address or handle^[8].

In the context of implementing regional government authority to regulate and manage its own government affairs, the source of authority is a crucial point, considering that, in principle, regions within the framework of a unitary state must not conflict with the central government. Furthermore, in the context of Indonesia as a state governed by the rule of law, the source of such government authority must be based on legal provisions, which are contextually derived from statutory regulations, whether through attribution, delegation, or mandate^[9].

2. The Impact of the Misalignment Between Central Legal Policy and Regional Implementation on the Sustainability of Regional Government

In the context of regional governance in Indonesia, the misalignment between central legal policies and their implementation at the regional level has a significant impact on the sustainability of regional governance. When central legal policies are out of sync with local conditions and needs, ineffective and unsustainable implementation can occur. Therefore, it is crucial to understand the impact of this misalignment and how it impacts regional governance^[10].

First, the misalignment between central legal policies and their implementation at the regional level can lead to a gap between policy objectives and local realities. Legal policies designed for the national context do not always take into account the specifics and differences of Indonesia's diverse regions. Consequently, policy implementation that is not aligned with regional conditions can hinder the achievement of development goals and increase public dissatisfaction with local government^[11].

Furthermore, this misalignment can also lead to diverse interpretations and applications of legal policies at the regional level. When central legal policies are too general

and unspecific, variations in the understanding and application of policies at the regional level can occur. This can create legal uncertainty and injustice, where the same law can be interpreted and applied differently in different regions. Legal uncertainty can hinder investment and economic growth, while injustice can disadvantage certain groups or regions. Furthermore, misalignment between central legal policies and their implementation at the regional level can also result in excessive administrative burdens for regional governments. If regional governments are required to implement complex policies that are not relevant to the local context, this can strain their resources and administrative capabilities. The lack of resources and capacity to implement legal policies can hamper the efficiency and effectiveness of regional governance and lead to increased bureaucracy.

Furthermore, misalignment between central legal policies and their implementation at the regional level can also impact coordination between the central and regional governments. When central legal policies do not take into account regional aspirations and needs, regional governments may feel disrespected and less involved in the decision-making process. This lack of coordination and dialogue between the central and regional governments can exacerbate misalignment and hinder progress and harmonization in regional governance^[12].

Therefore, addressing misalignment between central legal policies and their implementation at the regional level is crucial to maintain the sustainability of regional governance. The central government needs to consider regional specificities and needs in designing more inclusive and responsive legal policies. Involving regional governments, academics, and other stakeholders in the policy formulation process can improve understanding and coordination between various levels of government. Furthermore, effective communication and coordination mechanisms are needed between the central and regional governments in implementing legal policies. Open and mutually supportive dialogue between the two parties can reduce inconsistencies, facilitate information exchange, and strengthen the capacity of regional governments to better implement legal policies^[13].

Overall, the misalignment between central legal policies and their implementation at the regional level has a significant impact on the sustainability of regional governance in Indonesia. To achieve better development goals, efforts are needed to strengthen coordination, participation, and shared understanding between the central and regional governments in designing and implementing more responsive and effective legal policies^[14].

Political factors significantly influence the existence of public and legal policies at the regional government level. Local politics, including power dynamics and political competition, can influence the policy formulation and implementation process. For example, when ruling political parties at the regional level have different visions and goals than those of the central government, political obstacles can arise in formulating and implementing consistent policies. Political misalignment between regional and central governments can lead to inconsistent legal policies, uncertainty, and even political conflict, negatively impacting both regional governance and the public^[15].

In addition to political factors, administrative factors also influence the existence of public and legal policies in

regional governance. The administrative capacity of regional governments, including the ability to plan, budget, and implement policies, is crucial to ensuring successful implementation. Administrative inability to formulate quality policies and implement them effectively can hinder the achievement of development goals and increase excessive bureaucracy. Furthermore, administrative factors also involve inter-institutional coordination and effective communication. A lack of coordination and communication between various local government units can lead to misaligned legal policies, inconsistent implementation, and uncertainty in the implementation of public policies^[16].

The impact of these political and administrative factors on the community is important to consider. When political and administrative factors influence the existence of public policies and laws, this can result in inadequate and inequitable public services. Communities can face barriers in accessing basic services, such as education, health care, and infrastructure, due to policy misalignment. Furthermore, policy misalignment can lead to social injustice, where certain groups or regions may not receive the same benefits as others^[17].

Furthermore, political and administrative factors can also affect the level of community participation in decision-making processes. When public policies and laws do not reflect community aspirations and needs, communities can feel disengaged and lose trust in local government. This lack of community participation can hinder the exchange of information necessary to formulate policies that are more responsive and tailored to local needs. As a result, communities can become dissatisfied with local government and deteriorate government-community relations. To address the negative impact of political and administrative factors on the existence of public policy and law in regional governance, steps need to be taken. First, it is crucial to strengthen the administrative capacity of regional governments in policy formulation and implementation. Training, technical guidance, and human resource development in public administration can help improve the quality and effectiveness of regional governance. Furthermore, increasing transparency, accountability, and public participation in the decision-making process can strengthen public involvement in regional governance^[19].

Furthermore, strengthening coordination between regional and central governments is crucial. Better dialogue and cooperation between the two parties can reduce inconsistencies in legal policies, strengthen mutual understanding, and enhance harmonization in regional governance. Effective coordination can also ensure that public policy and law are more responsive to community needs^[20].

Conclusion

Based on the analysis and discussion, the following conclusions can be drawn: First, within the constitutional framework, the authority to regulate regional governments in carrying out government affairs stems from the provisions of Article 18 paragraph (2) in conjunction with paragraph (6) in conjunction with Article 4 paragraph (1) of the 1945 Constitution of the Republic of Indonesia. This regulatory authority can take the form of regional regulations or other regulations within the scope of regional government. Furthermore, the implementation of this regulatory authority must of course be subject to the

limitations imposed by the 1945 Constitution of the Republic of Indonesia, particularly regarding government affairs that fall within the domain of the Central Government. This is also inseparable from the implications of the relationship between the central government and the regions regarding the implementation of regulatory authority, which influences the formation aspect through the limitations stipulated in the 1945 Constitution and the 2014 Regional Government Law, as well as the oversight aspect. Public policy and law play a crucial role in the implementation of regional governance. However, a lack of quality policies, a misalignment between central legal policies and their implementation in the regions, and political and administrative factors can hinder the existence and effectiveness of these policies. Addressing these challenges requires greater public participation, better coordination between the central and regional governments, increased administrative capacity, and a better understanding of the law. These steps are expected to enable local governments to provide better services and be more responsive to community needs.

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