



## EXECUTIVE RELATIONS AND LEGISLATIVE INFORMATION REGULATION OF CUSTOMARY IN MURUNG RAYA, INDONESIA

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### **Abstract:**

The Law No. 12 year 2011 on the Establishment of Legislation stated that the regulation of district / city legislation is established by the Board of Representatives of the District / City represented by a mutual consent Regent / Mayor. The method used in this research is descriptive qualitative data collection through in-depth interviews, documentation and recording of information (from documents, records, books and regulations) as well as observations (through interviews and documentation). The data analysis technique used is the interactive data analysis Miles and Huberman. Based on the study results, the establishment of the Regional Regulation of the Indigenous Murung Kingdom affected by several factors, both being supporting and inhibiting factors. The supporting factors include the lack of support from the executive and legislative branches. While the limiting factor is not the enactment of the Draft Law on Indigenous People National inconsistency problem and miscoordination are some of the obstacles that arise in the preparation of a law, no unit of the regional organization (SOPD) that specifically take care of the indigenous in the area and lack of communication among stakeholders concerning indigenous issues.

**Keywords:** executive relations, legislative relations, Murung Raya

### **1. Introduction**

Provincial Regulations are legislation established by the Legislative Council with the Governor of the Province with the approval and regulation of Regency / City and is legislation established by the Board of Representatives District / City by mutual consent Regent / Mayor. The formulation of the regional government and the Regional Representatives Council (DPRD) as an element of local government, as stipulated in

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Law No. 23 year 2014 on Regional Government can be understood that the local governance should also be based on the principles of the law.

Local regulations serve as a further elaboration of the legislation is higher, namely: law, government regulation, presidential decree, and other legal products are higher. Local regulations can be classified as legislative are formed by the local legislative body as an integral part of the national legal system. Local regulations should be formed as a single national law, both in the substance they contain, as well as the formal aspect of its formation.

The common understanding stated that local regulations made by the local government, simply can not be separated from the system of national legislation. An important concern in the manufacture of legal products at local level, is that legislation is not simply looking at the boundary of formal competence or regional interests are concerned but should be seen also the possible impact on other regional or national interest.

Regulation of this area in addition to a further elaboration of the legislation that is higher is also a legal instrument (and as *wettelijk regelingen*) made by local governments. It is intended to hold the authority to restore autonomy possessed. Itself regulation as a means of elaboration or legal concretization on legislation which is national, having only an instrument regulating any delegation of tasks (*plichten*) based on the co-administration (*medebewind*) for the area requested assistance.

Law Number 23 year 2014 on Regional Government Local Government mentioned the operation of government affairs by the local government. Meant by the local government is the Governor, Regents, Mayors are equipped with a device area, which consists of the Local Government Organization Regional Secretary, Office, Board and the Regional Technical Institute who is responsible for the head region and Legislative Council as an element of governance in the region. Parliament was formed to carry out the basic function, namely, the function of the establishment legislation, the budget, and oversight.

The focus on the aspects *Perda* (Regional Regulation) refers to the laws established by Parliament by mutual consent Regional Head (Governor, Regent / Mayor). Local Regulation is the substance of the whole framework of Regional Autonomy and Tasks, and accommodates special conditions as well as the region further elaboration of legislation is higher. Laced with legislation, previously required a draft Regulation and it can be derived from the parliament or the head of the region (governor, regent or mayor). The drafts are prepared by the Head of Regional submitted to Parliament. While, the draft regulation are prepared by Parliament and submitted by the leadership of Parliament to the head region. Thus, the local government can be on a balanced status; this because with every function synergies run.

## 2. Research Methods

The approach used in this study is a qualitative one; this because the researcher intends to acquire an in-depth description of the executive and legislative relations in the formation of regional regulation of Indigenous Murung Kingdom. A qualitative approach is a process of research and understanding based on the methodology to investigate a social phenomenon and the human problem (Arikunto, 2004). This study included in this type of descriptive study with the qualitative approach that is intended to intensively study the background of the problem situation and the position of an event that is currently underway, as well as certain environmental interactions social unit that is what is (given). A qualitative descriptive study is a depth investigation on a particular social unit and the results of these studies provide a broad overview and in-depth about a particular social unit. The research subject can be individuals, groups, institutions or communities. Subjects in the study are relatively limited, but the variables studies have a a very broad focus dimensions (Burhan, 2001).

The research location is in Parliament Murung Raya, Central Kalimantan Province. Research resources are represented by the Local Government Murung Kingdom, Member of Parliament Murung Kingdom, Damang Customary Chief, and Community Leaders. In a qualitative study which became the instrument is the researchers themselves. This section describes how researchers act as a research instrument. In this study, data collection tools are photography, documents, and voice recorder. Data collection techniques include: 1) in-depth interviews to obtain primary data in this study, to achieve the purpose of the study, 2) documentation, in the form of a collection of records, books, papers, regulations, research journals and other written material related to the research topic.

Qualitative analysis is meaning as an understanding of the analysis based on logical arguments. The technique used in the study by Miles and Huberman, namely: 1) reduction of data, focusing on the simplification of abstraction and transformation of raw data or raw data that appears in the written record in the field. 2) presentation of complex data in a systematic form to be more simple and selective, and can understand its meaning (narrative text), 3) the withdrawal of the conclusions to describe a pattern of events that occurred. The conclusion is based on a matrix that is made to find a pattern that is consistent with research. Validation data in this study using triangulation. Triangulation is a technique that checks the data inspection data utilizing something else outside of this data (Moleong, 2004; Burhan, 2001). The process of examining the data in this study conducted by measuring and comparing data from interviews with the observation of the data along with other compliance data.

## 3. Results and Discussion

In this study of Lindblom (1980), the policy makers, in the system of democratic government, are seen as an interaction between the two major actors, namely the Inside

Government Actors (IGA) and Outside Government Actors (OGA) (Widjaja, 1986). The actors involved policymakers since it is still in the form of public policy issues in the agenda-setting up the decision-making process takes place. Inside were included in the category of Government Actors (IGA) Executive (specialized staff of government), and the bureaucratic apparatus. While that is included in the category of Government Outside Actors (OGA) of them, the legislature, the judiciary, political parties, interest groups, and pressure groups and the media. Some actors or organizations that influence the policy-making process, among others:

- 1) Legislative and executive produced through elections (elected officials);
- 2) Officer or bureaucrat who was appointed (appointed officials);
- 3) Interest groups (interest groups);
- 4) Research organizations; and
- 5) Mass media (Winarno, 2002).

In addition to these five things, other aspects that influence public policy, among others:

- 1) Form of state organization;
- 2) Bureaucratic structure;
- 3) Community organizations;
- 4) Business group.

The groups involved in the public policy formulation process are divided into two groups, namely the cast and the official / unofficial (Winarno, 2002). Cast group and are the official agents of the government (bureaucracy), the president (executive), legislative and judicial branches. While the cast and unofficial groups include: interest groups, political parties, and individual citizens. In general, the actors involved in the formulation of public policy, namely, public actors, private actors and public actors (civil society) (Kuncoro, 2014). All three of these factors are important in the process of public policymaking. The important thing in the process is the formulation of public policy.

Policy formulation is a tough task because it requires assessment and seriousness of the actors involve. Mistake or error in the formulation of policies can impact on the implementation, so that what the objectives of the policy were made to improve the welfare of the community is only political. The policy formulation process is not done properly and comprehensively. The results were formulated policies do not achieve an optimal level. That is, it might not be implemented (unimplementable) (Winarno, 2002). As a result, it becomes difficult policy goals and targets to achieve so that the public issues raised in the community can not be solved.

Of course, the resulting policy fits the needs of the community. One alternative would be done is the government's will to build a network with actors outside the government, that private actor and civil society actors (Silalahi, 1986). The government is no longer appropriate actors look unofficially as "political opponents" but it was when the government makes actors as a "friend" in speaking of products in the area of public policy. Some public policies issued must inevitably be worth a "political". In the

view of elite theory, public policy can be seen as the values and choices of the ruling elite. Principal arguments of this elite theory are that it is not the people who determine public policy, but it comes from the ruling elite and implemented by officials and government agencies.

The view of elite theory in policy formulation, of course can not solve public problems, it only gives birth to new problems because there is no room for the public to participate in formulating policies. Though the new governance framework for ensuring good governance needs to be a synergy between government, private and civil society. Within the framework of good governance, joint action (collective action) is a must. Within this framework, the government's desire to monopolize policy and enforce the policy should be abandoned and directed toward a policy that is inclusive, democratic and participatory. Each of these policy actors have to interact and influence each other (mutually inclusive) to formulate a policy following the needs of the community. People who take part in social interactions can be divided into two groups, namely:

- 1) actor or behavior, that is, those who are behaving in a certain role.
- 2) target (target) or other people who have a relationship with the actor or behavior.

The behavior is seen as the role of forming and the goal or the result, regardless of the means of achieving or the result, but not the particular way in a role that the sanctions of society. A position is a group of people together which have recognized the difference from other groups based on the nature of the properties they have in common.

The role of the legislature in the formulation of regional regulations in the Regional Representative Council is enormous. The draft of this regional regulation is in accordance with the mechanism of making regional regulations according to statutory regulations. Where regulations of this area have been through a long discussion process and involve various parties that had to be in the process of making these regulations. After a thorough discussion by the executive, the next is the delivery of the draft law to the legislative body of Parliament to be discussed together. In order to obtain the approval of Parliament do deliberation together people from the executive to the draft bylaw that has been proposed by the executive, with reference to the Standing Orders of Parliament, which is where the discussion conducted by the Regional Legislation Board (Balegda) or Special Committee of Parliament together with the Development Team Legal Products Area.

At this stage of the discussion, a draft regulation on the Regional Indigenous is discussed by Parliament with the Regents for approval together. As known Ranperda can come from Parliament and can also come from the initiative of the head region. Discussion of draft local regulations are better known by the stage of discussion draft local regulations which is the stage of manufacture of local regulations. Discussion of draft local regulations made after the design phase of local regulations has been approved and has decently discussed at the plenary session.

Setup settings of the Institute of Traditional and Cultural in the area of the Murung Kingdom aims to help local governments in the implementation of development in all fields, especially the fields of religion, culture, and society, as well as empowering, preserving and developing the customs and culture the Murung Kingdom. Customary institutions together with the local government development plan to function following the procedure indigo and customs and habits developed in the community for the sake of harmony, balance, justice, and prosperity. The existence of Regional Regulation on customs has a function as control security, tranquility, harmony, and order both preventive and repressive society.

In embracing all the people within the Murung Kingdom especially indigenous people needed to unify, maintain and preserve the culture and local customs. Concerning the customs of Legislative Murung Kingdom is expected as an effort to preserve the customs or habits of a positive community to enrich the local culture and empower people in the organization of local governments. That's a development of formation of Indigenous Regulations that need to be enacted and many parties are involved, the need for good communication together with indigenous peoples, traditional leaders, local government and legislature.

All the factions decided to be studied were brought to plenary to hear their general views. The general views of these factions have point that someone may accept and some reject. After the general view of the faction was returned to the leadership, because in the general view the faction was said to accept on condition that it is discussed in the form of a special committee. So, a special committee was formed. After the general opinion of the faction then the DPRD wrote to the faction to each send proportional representation. After finalizing, we submit it to the special committee and then submit it to the leadership. DPRD leaders submit to provincial law firm for assistance. The result of this law firm assistance is brought by the leadership of Parliament to the Consultative Council for the plenary schedule. In the deliberative body meeting, all members present declared a quorum and agreed that this draft law was brought to the plenary for a set together.

The plenary meeting of the Parliament Murung Kingdom which has agendas: 1) signing of the decree of the Council concerning the approval of the Parliament Murung Kingdom on the draft regulation to be enacted into local regulations, and 2) the signing of the agreement together with the Head of Regional and District Murung Kingdom on the draft regulation was witnessed by the chairs fraction. Based on the research that the executive and legislature are participating at the formation of the Regional Regulation of Indigenous Murung Kingdom have been established properly and following the standards and mechanisms, and implementation to grasp and understand the main functions, functions, and responsibilities of each, both individually and institutionally. Although sometimes, there are misunderstandings between the parties involved in the process. Thus, the relationship between local governments and legislators is a working relationship that is equal in status and nature of a partnership. Equal footing means that the local government agencies have the same position and alignment, meaning not

supervise each other. This is reflected in regional policymaking in the form of regional regulations. The partnership means that between the Regional Government and Parliament are equally partners-workers in regional policy-making to implement regional autonomy following their respective functions so that between the two institutions is to build a working relationship are mutually supportive and not an opponent or competitor to one another in exercising its functions.

Legislative and executive formation of regional regulation of Indigenous Murung Kingdom already performs the duties and functions of each and has been supported by legislation and regulations for the state of law, in the administration of state government must not be separated from Regulation Legislation as positive law in Indonesia. Understanding Regulation Legislation referred to in Article 1 of Law No. 10 Year 2004 on the establishment of Regulation Legislation containing the rules established by the state agency or authorized official and generally binding.

In the establishment of Regional Indigenous Regulations, the rules are essential to provide guidance manufacture. In this case, the settings set of actors, processes, and schedules the establishment of the regional regulation. Furthermore, the orderly Establishment Regulation Legislation should be initiated since the time of the planning, creation, and promulgation. The support of the legislature, namely the creation of a harmonious relationship between the executive and the legislature in the context of the administration of government administration area to some extent also determine the creation of an enabling environment for the success of development programs in the area, because the pattern of relationships balanced and egalitarian between these two institutions need constantly being upgraded in an effort to maintain political stability in the region (Thoha, 2011).

Good communication patterns between these two institutions in both stages of formulation and implementation gave birth to a policy that is right on target.

Interior Minister Regulation No. 52 of 2014 mandates that governors, regents/mayors recognition and protection of customary law communities by establishing the Committee of Indigenous People in the Regency / City which verifies for the establishment and protection of Indigenous Peoples. Discoordination and inconsistency are some of the constraints that arise in the preparation of the act, and no units of the regional organization (SOPD) that specifically take care of the problem customary in the area.

Lack of communication among stakeholders concerning indigenous issues is also a limiting factor because communication is a bridge of understanding among the people so that they can share ideas and knowledge. For that communication is necessary, because without communication offender can not give or receive a confirmation in cooperation. This can affect a process of communication and interaction between people (Nurcholish, 2007; Joeniarto, 1992).

Democracy and decentralization of development will realize the distribution policy of the centers of authority. Therefore, it is important to open up public space as much as possible for the community to increase access, to participate in the entire chain

of development in the area procession. One component of the community that is deemed to have real authority in the hands of the public is the existence of customary. Stronger indigenous rights are necessary so the partnership between the government and indigenous framed in a harmonious relationship. This occurs with the establishment of relations between the executive and the legislature out of the role of various actors. Actors in policy may mean individuals or groups, where these actors engage in certain conditions as a policy subsystem. The involvement of actors in the formation process of regional regulation has become a distinguishing feature of public policy. The important fact is that the policy was formulated by involving many parties.

#### **4. Conclusion**

Analysis, discussion, and determination in the formation of Indigenous Local Regulation in the Murung Kingdom have followed the procedure of preparation, establishment of regional regulations following the actual legislation. However, through mechanisms and processes long before the legislation was passed. Analysis, discussion, and determination were affected by several factors, both supporting or inhibiting factors. The supporting factors include the legislation and the support of the legislature. While the inhibiting factors in the process of regional regulation of the Indigenous Murung Kingdom that is not yet the enactment of the draft Law on Indigenous People nationally as a reference in the formation of regional regulation.

Inconsistency problem and miscoordination are some of the obstacles that arise in the preparation of the act, the central government policies that sometimes overlap between the regulations of the other regulations (law on environment and law on forestry and law about mining). No unit of the regional organization (SOPD) specifically take care of the customs area as well as a lack of communication among stakeholders concerning indigenous issues is also a limiting factor, because communication is a bridge of understanding among the people so that they can share ideas and knowledge.

Regional Regulation on Customary in the Murung Kingdom is a commitment and consistency of Parliament Murung Kingdom Sector Legislation Amanah area to follow the Constitution of the Republic of Indonesia Year 1945. It can be affirmed that the legislative program is a planning program in the field of law. Legislative program is not a legal formation program although this aspect of major concern. The legislative program includes coaching program also unwritten law (including the development of customary law). Establishment of Regional Regulation of Indigenous Murung Kingdom gives hope to the indigenous peoples in the Murung Kingdom for protection and its recognition that indigenous territories, customary law, property, and custom objects as well as institutional / government system.

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