

## Community Participation Model in the Formation of Regency/City Regulation in Education Sector in Central Java

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### Abstract

*The effort to achieve the education vision with high quality and extensive coverage is needed a consistent policy so that the quality of education can be achieved. Law No. 20 Year 2003 on National Education System ensures educational opportunities, improving quality and relevance and efficiency of education management. In order to implement educational autonomy regency / municipal government has the authority to establish rules and regulations to be able to manage basic education and secondary education, as well as the educational unit local excellence based, which is regulated by Law No. 23 of 2014 on Regional Government. Meanwhile, related to the establishment of the legislation itself, the Law No. 12 Year 2011 states that community participation is the embodiment of democracy that must be considered and implemented, so that any educational policy in the regions should always be determined based on the aspirations of the people in the region itself. The research approach used in this study is the juridical sociological method or socio-legal research. The study concluded that: 1. as a legal product, regional regulations in education cannot fully accommodate the principle of public participation in the process of formation of the education regulations, 2. The main problem in the formation of local regulations in education because of low public participation both in the process of election the aspirations and the process of internal discussion of regulation of education in local government and in the parliament, beside that, there are also problems in the implementation and evaluation of the education regulations, 3. there are five things to consider to realize the process of establishing regulations of participative education, among others : 1) Publication of draft the effective education regulations ; 2) assurance the procedure, open and effective forum for the community to be involved in overseeing the planning process; 3) procedures to ensure the public where can submit a draft Regional Regulation; 4) clear regulations on the basis of documents which must be available and freely accessible to the public; and 5) guarantees of appeal to the public if the process of establishing the Regional Regulation is not done in a participatory manner. Community participation model in the establishment of a regulatory area must be able to ensure that the public has broad access related to material from the draft regulation to be issued, as well as the assurance that can be imposed that the public has a right to follow the discussion of draft local regulations both by Parliament and by government. There must be certainty that the aspirations of the people as a result of the aspiration process will be used as inputs are prioritized as material in regulatory policy area which would be formed.*

**Keywords:** Local Regulation, communities Participation, The Formation Process

### 1. Background of the Study

In the implementation of regional autonomy widest, the local government has the authority to make policy in order to provide services, community participation, and community empowerment initiatives. This policy decision will be able to accommodate the aspirations of the people, because regional autonomy getting closer the distance between decision-makers and the community.<sup>4</sup>

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<sup>4</sup> Abdurrahman, Some Thoughts about Autonomy, Publisher Media Means Press, Jakarta, 1987, p. 24.

While the definition of the authority is to make legislation in the form of Provincial Regulations that are established by the Board of Representatives District / City joint with Regional Head as mentioned in Article 1 paragraph 8 of the Law of the Republic of Indonesia Number 12 of 2011 Concerning the Establishment Regulation Legislation. Law No. 12 of 2011 also states that the principle of openness is one of the principles in the form of legislation, where in all phases of the process of formation of legislation must be open and transparent. Thus, the whole society has wide opportunity to provide input in the formation of legislation.

Citizen participation in the formation of local regulations is also a form of good governance in accordance with the principles of good governance, including: community involvement, accountability, and transparency.<sup>5</sup> According Satjipto Rahardjo, transparency and public participation in the formation of local regulations is to maintain neutrality in the sense of equality, justice, and protection for all parties, especially the community. The decision and the result of participation reflect the needs and the commitment of the democratic system. According Suparjan,<sup>6</sup> there are three main reasons why public participation has important properties, they are:

1. Public participation is an instrument to obtain information about the conditions, needs, and attitudes of local people without whose presence so the program to create the local regulation cannot run properly.
2. People will trust the development program if engaged in the process of preparation and implementation, because they will know more about the formation of local regulations and will implement them.
3. Public participation is important because of the emergence of assumption that it is a democratic right if the public is involved in the formation of local regulations. In this context, the public has the right to give advice from planning to implementation.

Another authority of the local government in the establishment of local regulations is in the field of education. Under Article 1 paragraph (1) of Law Number 20 Year 2003 on National Education System states that education is a conscious and deliberate effort to create an atmosphere of learning and the learning process to make the students are actively developing the potential for him to have the spiritual power of religion, self-control, personality, intelligence, character, and skills needed by him, society, nation and state. The effort to achieve the vision of education with high quality and wide coverage needed a consistent policy so that the quality of education can be achieved.<sup>7</sup> Law No. 20 Year 2003 on National Education System ensures educational opportunities, improving quality and relevance and efficiency of education management. In order to implement educational autonomy, Article 50 paragraph (5) of Law Number 20 Year 2003 on National Education System states that the regency / municipal government manages the primary and secondary education, as well as the educational unit local excellence based. The Samples in this research are Grobogan, Batang, Pekalongan, and Banjarnegara. These areas were taken on the grounds that the regulatory environment in education made by Law - Law Number 12 Year 2011 on the Establishment of Legislation. According to data from the Legal Bureau of the Government of Central Java Province, the regions were applying newest local regulations educational after the enactment of Law No. 12 of 2011.

## **2. Problem Statements**

Based on the background of the issues mentioned above, the problems will be observed are:

- 1) How is public participation in the establishment of the Regional Education Regulations in Central Java?
- 2) What are the problems in the establishment of Regional Regulation participatory Education in Central Java?
- 3) How does the solution and participation model that can be used to overcome the problems faced by the Government of Regency / City in Central Java to issued a Local Regulation in Education participatory?

## **3. Research Objectives**

Based on the problem above, the purpose of this study are as follows:

- 1) To analyze and describe the implementation of public participation in the establishment of local education regulations in Central Java Regency / City.

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<sup>5</sup> Mas Achmad Santosa, Good Governance and Environmental Law, ICEL, Jakarta, 2001, p. 87

<sup>6</sup> Hempri Suyatna Suparjan, Community Development of Building Up Empowerment, Publisher Aditya Media, Yogyakarta, 2003, p. 53.

<sup>7</sup> Emzir, Critical Issues of Education Policy in regional autonomy era, Ghalia Indonesia, Jakarta, 2010, p. 15.

- 2) To analyze and describe the problems in the establishment of local regulations participatory education in Central Java.
- 3) To analyze and describe efforts to overcome the problems faced by the Government of Regency / City in Central Java in issuing regional regulations in participatory education, and also the participation model that can be applied in the process of establishment of local regulations in education.

#### **4. Research Method**

The research approach used in this study is the method of juridical sociological or socio-legal research. Research carried out in Central Java, samples were Grobogan, Pekalongan, Banjarnegara, and Batang. The type of data was using primary data such as interviews, questionnaires. The respondents consisting of Commission D of Parliament, Local Law Government Section, the Education Council, Department of Education and the Indonesian Teachers Association (PGRI) and supported by secondary data. Data was analyzed using qualitative analysis methods. Qualitative research methods are methods that are interactive.<sup>8</sup>

#### **5. Literature Review**

##### **a. Regional autonomy**

Regional autonomy is a right implies the power to manage his own family, which is the authority to organize and serve the interests of the local community, independently and aspiration, within the framework of the applicable legislation. As an embodiment of a public policy, regional autonomy in Indonesia has four (4) main objectives, namely:

- (1) Encouraging improvement of public services and the development of local creativity;
- (2) Improving the harmonious relationship with local governments and between regions in authority and finance;
- (3) To ensure a growing sense of nationalism, democracy, and prosperity;
- (4) To create a wider space for the region's autonomy.<sup>9</sup>

##### **b. Democracy**

Democracy is a system of government where the people hold the power in the name of democracy could take decisions to establish and enforce the law, while the authority to regulate in the form of law is acquired and maintained through free elections and followed by most of the adult citizens of a country.<sup>10</sup> A democracy ideally have: (1) equal voting rights in the decision making binding collective, (2) effective participation, i.e. equal opportunity for all citizens in the process of collective decision-making, (3) disclosure of the truth, that is the equal opportunity for everyone to give assessment on the course of political processes and governance logically, (4) The final control of the agenda, that is existence of exclusive power for the people to determine the agenda which should and should not be decided by the government, including delegating that power to other people or institutions that represent society, and (5) the inclusion, namely the involvement of the community which covered all adults in relation to the law.

##### **c. Regional Regulation Formation**

The formation of local regulations besides under Law No. 12/2011, should also refer to the Law No. 23 of 2014 on regional administration, Government Regulation No. 72 Year 2005 on regional, as well Home Affairs regulation No. 29 of 2006 on establishment of guidelines and mechanisms of drafting local regulations, Ministry of Home Affairs regulation No. 53 of 2011 on establishment of local regulations. Such regulations have provided an opportunity for the public to participate in the formation of legislations. Formation of Regional Regulation is the process of formation of local regulations that basically started the process of planning, design, formulation, discussion, approval, enactment, dissemination, and evaluation (Article 1 of the Act. No. 12 of 2011).

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<sup>8</sup> Miles and Huberman, *Qualitative Data Analysis, Source Books About New Methods*, University of Indonesia Press, Jakarta, 1992, p. 15-21

<sup>9</sup> Hoessein, *implications of globalization for Democratic Governance at Local Level*, Telstar, 1997, No. 47.

<sup>10</sup> Samuel P. Huntington, *Third Wave of Democracy, Moulds Second*, Pustaka Utama Grafiti, Jakarta, p. 4

#### **d. The Society Participation**

Political participation of society is essentially a guarantee to be given to the people to be able to participate in the process of organizing state and access a variety of public policies freely and openly as the embodiment of the system in the hands of the people's sovereignty in the form of democracy.<sup>11</sup> Sherry Arnstein<sup>12</sup> in *A Ladder of Citizen Participation* create 8 (eight) schemas of the level of people's participation in policy decisions. The highest level is the citizen control. Down to the level is the delegated power, the Third is a partnership, then Stairs fourth to sixth indicate pseudo participation, consisting of placation of consulting and informing. Stairs seventh and eighth are therapy and manipulation indicates a lack of participation.

### **6. Research Result**

#### **a. The public participation of the central java in the formation of local regulations of education**

Community participation in the formation of educational regulations in four regions of research can be seen in the following description:

1) The establishment of Education Local Regulation in Grobogan has fulfilled provisions regarding the right of public participation in the formation of legislation. Local Regulation was establishment of Education Initiative by Local Parliament of Grobogan. Community element that are considered specialists / experts in giving views on the education draft represented by PGRI (Unity of Indonesian Teachers) turned out concurrently performed by the office of the District Education Office Grobogan. If that is associated with the concept of law responsive, then the resulting regulations do not have the ability to recognize the public desire and commitment towards the achievement of substantive justice.<sup>13</sup>

2) The involvement of elements of the community in the discussion of local regulations on education in Pekalongan was minimal, which is reflected in the involvement of professional organizations elements PGRI (Unity of Indonesian Teachers) education are minimal in any discussion of the draft process.<sup>14</sup> As well as the involvement of the board of education only discuss with the Department of Education on education elements, and not get involved in the discussion at the meeting of Local Parliament.<sup>15</sup>

3) In particular, associated with establishment of community involvement in education policy have been accommodated by the Banjarnegara District Government through Local Regulation No. 7 of 2013 on the role of the community in the field of education. The establishment process of educational policies that have been implemented by the Banjarnegara district Government by involving the community through education board as identified by the researchers showed a good effort from the local government in order to implement the principles of democracy participative by establishing a participatory policy in the field of education.

4) The draft local regulations of Education in Batang proposed by local government Batang. In the process, the Department of Education intends to conduct a participatory process with the formulation of draft education by public hearing inviting elements of the board of education, teachers, and principals. In this process there are two issues that arise, they are: a) Elements of the education council chaired by a former Head of Education Department of Batang, while the chairman of PGRI (Unity of Indonesian Teachers) ruled by an Education active staff of Batang District, b) the education draft material in Batang District includes the interests from schools managed by the Batang Ministry of Religious Affairs. The quite crucial problem is the Ministry of Religion has the same importance to the management of the schools within the scope of its management, as big as the interests of the Government of Batang.

<sup>11</sup> Samuel P. Huntington & Joan M. Nelson, *No Easy Choice: Political Participation in Developing Countries*, Harvard University Press, NY, 1977, p.4.

<sup>12</sup> See in Esmi Warassih, *Community Empowerment in Creating Interest Law, (Process of Law Enforcement and the issue of Justice)*, the Agency Publisher Diponegoro University, Semarang,; and in "Bimo Nugroho, People's Participation Makes the Law", Pages opinions in Kompas dated August 1, 2002 ,

<sup>13</sup> Philippe Nonet dan Philip Selznick, *Law and Society In Transition : Toward Responsive Law*, Harper and Raw Publisher. New York, p. 59

<sup>14</sup> Results of interviews with Rejo Herbeno (PGRI (Unity of Indonesian Teachers) Chairman Pekalongan), dated February 9, 2016 10:00 pm

<sup>15</sup> The results of interviews with Drs. Aaron Jury SH, MM, (Chairman of the Board of Education Pekalongan) On February 9, 2016, 13.00 pm

## **b. Problems fronted in formulate the regional regulations Participatory Education in Central Java**

In general, the problems were encountered in establishment of participatory education regulations in the research area consists of three main problematic, which is described as follows:

### **1) Problems in the Electoral Process of Societies Aspirations**

In the four study areas, the process of people's aspirations to obtain a picture of the aspirations of the people in regional of education policy planning is done with very limited concept of election. There are conditions where the public representation of the elements of the board of education or PGRI (Unity of Indonesian Teachers) was minimal. Results of research have shown the existence of membership in the board of education occupied by government staff. But elements of educational organizations are involved only at certain stages of the discussion in the process of aspiration. This makes them less give the final shape of the regulation of education itself.

### **2) Problematic in the process of the drafting the local Education regulation discussion**

Community involvement in the education the process of discussion of draft regulations in four regions of research based on the results of the study are at a very low level. it is clearly reflected in the absence of a pure representation of the people who actually are involved in the process of discussion of the draft. The concept of a public hearing which ideally can provide a very wide opportunity to the public to express their aspirations related to education proposed draft regulations, in fact never really implemented in accordance with the concept of in participatory public hearing, but the form of the concept of public hearing is limited. The general meeting of such hearings have not been able to really bring all elements of society representatives who have an interest, concern and even abilities related to education policy in the area of research.

### **3) Problems in Implementation Process of Local Education Regulation**

Some of the major problems associated with the implementation of regulations in the area of education research include:

*a) The absence of follow-up to the implementation of the Local Regulation in the form of Regent / Mayor Regulations*

Regent Regulation should be an implementing regulation and the technical details of the local regulations, hence the absence of a Regent Regulation in Grobogan that regulate the educational aspects as a follow up of the education regulations that have made the implementation of regulations promulgated be at a standstill.

*b) Academic Manuscript preparation of legislation do not involve an experts team from universities*

Batang regency held academic papers based formulation from the district government own initiative and also an input from questionnaires. The method of collecting the aspirations of education conducted by using questionnaires which unsuccessful to get a comprehensive community aspirations. Its caused taking the opinion that the choice has been determined by the initiator of the questionnaire spreader, so the phenomenon known public education cannot be captured by the initiator.

### **4) Problems in the Evaluation Process of the Local Education regulation**

The main problem in the evaluation process is the ability of the evaluator to conduct the evaluation itself. Board of Education is the key factor in the process of evaluation of education policies in the region because the evaluation of the education council is expected to produce an outcome of evaluation always be in sync with the aspirations of the people. Researchers found that across the research areas the board of education has never done scientific studies related education of policies and its implementation.

## **c. The Efforts and Public Participation Model which can be Applies to the formation process of Participatory Education Regional Regulation in Central Java**

The most appropriate solution to the establishment of participatory education regulations is by restore the essence of democracy in the process of formation of educational regulation itself. This can be done only by accommodating the workings of legal theories oriented on improving the welfare of the people, because essentially a manifestation of democracy as a principle of government in the name of popular sovereignty only aspire to increase the overall prosperity of the people.

In principle, the law-making process takes place in four major phases, namely the initiation stage, the stage of socio-political, juridical stage, and the stage of distribution or dissemination.<sup>16</sup> The initiation phase signifies the birth or the emergence of an idea in the community. Activities that occur in stages starting with the socio-political process, discuss, criticize, and defend the initial idea coming from the community through the exchange of opinions between the various factions and forces in society. Juridical stage is the final stage where the idea was formulated more technically be legal provisions, including the establishment of legal sanctions. Phase dissemination or distribution is the socialization stage of a legal product. The starting point can be a reference to rearrange the process of involving the active participation of the community is expanding political debate in parliament to civil society.<sup>17</sup>

It is not only the state officials and representatives of the people, but also all citizens to participate in political discourse to take joint political decisions. Radicalization through classical law concept of state sovereignty shifted from the decision-making process in parliament to the process of participation in the public space. Popular sovereignty is not a substance that freezes at the gathering of the representatives of the people, but are also found in various forum of citizens, organization, non-government, social movements or in short wherever discourse about shared interests of citizens launched. Community participation in the establishment of local regulations must be guaranteed that the public has access which is sufficient to determine all pertinent information a draft regulation to be issued. the public has the right definite and can be forced to get involved in the process of discussion of a draft regulation to be issued and the assurance that any input from the public is very important and influential on policy matters that should be used as the material that will be included in the substance of the policy.

## **7. Conclusion**

The research concluded that:

- 1) As a legal product, regional regulations in education cannot fully accommodate the principle of public participation in the process of formation of the education regional regulations,
- 2) The main problem in the formation of education regional regulations is more in the form of low levels of public participation in the process of aspiration and also in the process of internal discussion of regional regulations of education in local government and in the parliament, as well there are problems in the implementation and evaluation of the regional regulations of the education sector,
- 3) There are five things to consider in order to realize the process of establishing regional regulations participatory education, among others: a) Publication of the effective education draft regulations ; b) assurance procedures and open and effective forum for the community to be involved in overseeing the planning process; c) procedures to ensure the public can submit a Regional draft Regulation; d) clear regulations on the basis of documents which must be available and freely accessible to the public; and e) guarantees of appeal to the public if the process of establishing the Regional Regulation is not done in a participatory manner. Community participation in the formation of regional regulations should ensure that the public has broad access related to material from the draft regulation to be issued, as well as the assurance that can be imposed that the public has a right to follow the discussion of draft local regulations whether made by Parliament or the government. There must be certainty that the aspirations of society as a result of the aspiration process will be used as inputs are prioritized as material in policy of regional regulations which will be formed.

## **8. Implications**

### **a. Theoretical implications**

There are many loopholes that make community participation cannot be done optimally, either in the form of community delegation of authority and the aspiration process is not regulated clearly and in detail in the regulations. The concept of community representatives have not got a decent portion for the formation of the education regional regulations, thus making the level of public participation was low in the establishment of educational regional regulations in four areas of research.

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<sup>16</sup> Such a view was, as stated by Harry C. Bredemeier using systems theory framework developed by Talcott Parsons (Harry C. Bredemeier, "Law as an Integrative Mechanism", in William M. Evan (ed.), 1962, Law and Sociology, New York, The Free Press of Gloencoe, page 73-

<sup>17</sup> Habermas in Halim Hamzah, Op. Cit, p. 123.

## b. Practical Implication

In fact capturing aspirations of society was far from the ideals of the establishment of participatory local regulations. The provisions on public participation included cannot be applied because of the many flaws in the explanation regarding the rights and authority of the community. The implementation process of public participation itself is not clearly regulated, both forms of participation that can be done, and the obligation of the government to involve the participation of the community until the other provisions are needed to address the results of participation carried out by the community.

## 9. Recommendation

- 1) The involvement of active community in the discussion of the education regional regulations at the local level is absolutely necessary, but the shape can be represented in the expert group that has been previously established;
- 2) The government has an obligation to ensure that any information is actually displayed and communicated to all citizens, and then open up communication channels to facilitate various community feedbacks on the course of the discussion.
- 3) It is very important to be able to appoint members of the public interest representatives who have the competence and expertise to the area to become speakers from local regulations to be issued

## Bibliography

- Abdulrahman.1987. *Some Thoughts about Autonomy*. Jakarta: Publisher Media Means Press.
- Ainur Rahman dkk.2009. *Participation and Democracy in Development*. Malang: Averroes Press.
- Mas Achmad Santoso.2001. *Good Governance and Environmental Law*. Jakarta: ICEL.
- Hempi Suyatna Suparjan.2003. *Community Development of Building Up Empowerment*. Yogyakarta: Aditya Media.
- Emzir, dkk.2010. *Critical Issues of Education Policy Autonomy Era*. Jakarta: Ghalia Indonesia.
- Hoessein.1997. *The implications of globalization for Democratic Governance at the Local Level*. Telstra. Number 47.
- SamuelP. Huntington and Joan Nelson.1994. *Political Participation in Developing Countries*. Jakarta: Rineka Reserved.
- Samuel P. Huntington and Joan M. Nelson.1977. *"No Easy Choice: Political Participation in Developing Countries"*. NY: Harvard University Press.
- Philippe Nonet and Philip Selznick.1978. *Law and Society In Transition: Toward Responsive Law*, Harper and Raw Publisher. New York. translated by Raisul Muttaqiem. Bandung: Nusamedia.
- Satjipto Rahardjo.1991. *Legal studies*. Bandung: Alumni.
- Sam M.Chan and Tuti T.Sam.2005. *SWOT Analisis Educational Policy in Autonomy Era*. Jakarta: King Grafindo Persada.
- Syamsudin Haris. 2007. *Decentralization and Regional Autonomy*. Jakarta: LIPI Press.
- Suparjan.2003. *Community Development from Development to empowerment*. Yogyakarta: Aditya edia.
- Siti Zuhro.2010. *Chaotic Local Regulation: Parsing Problems and Solutions*. Yogyakarta: Waves.
- Moh.Mahfud MD.1993. *Political Developments Law, Study on the Influence of Politics on the Characters Product Configuration Law*, dissertation in Law at the Graduate UGM.
- Mulyono. 2010. *The concept of financing education*. Sleman: AR-Ruzz Media Group.
- Nimatul Huda.2005. *State of Law, Democracy and Judicial Review*. Yogyakarta: UII Press.
- Jazim Hamidi.2008. *Establishment of Participatory Local Regulation*. Jakarta: Performance Library