
UTILIZATION OF ACADEMIC PAPERS IN FORMULATING REGIONAL REGULATIONS IN KUDUS REGENCY

Naili Azizah

Muhammadiyah Kudus University
nailiazizah@umkudus.ac.id

Abstract

This article examines the importance of using academic texts in the preparation of Regional Regulations and the factors behind the inclusion of academic texts in the preparation of regional regulations in Kudus district. The Regional Regulations studied were the Kudus Regency Regional Regulations in 2015, 2016, 2017, 2018, 2019, and 2020. This article is non-doctrinal legal research and is a qualitative descriptive study. The data in this article uses data from in-depth interviews and documentation studies. From this research, it was found that several factors became the factors for the inclusion of academic texts in the formation of the Kudus Regency Regional Regulation Draft, among others, because in Law Number 12 of 2011 concerning the Formation of Laws and Regulations - Invitation recommends the inclusion of academic texts in the preparation of a draft Regulation. Area. Also, the holder of authority from forming regulations who has a background in the field of law, and the involvement of academics who are involved in helping the process of forming regional regulations in Kudus Regency. particularly regarding the formation of laws and regulations is also one of the reasons for the inclusion of academic papers. There are also regional regulations that do not make use of academic texts, namely regional regulations on regional budgets and regional expenditures, regional regulations on accountability for the APBD, regional regulations for amendments, and regional regulations on revocation.

Keyword: *Utilization, Academic Manuscripts, Regional Regulations, Local Government*

A. INTRODUCTION

One of the mandates of Article 18 of the 1945 Constitution is that Indonesia is divided into regions. Regional governments are given rights and autonomy to regulate their regional affairs. As a form of embodiment of the mandate of regional autonomy, the Government, regions are given the obligation to carry out the formation of regional regulations to carry out development in their regions. The product of regional laws is essentially a consequence of Indonesia's decentralization concept.

To implement regional autonomy and make Regional Regulations, proper formulation, and an ideal foundation are needed. Basic knowledge about the hierarchy of laws must be possessed by the formulator of regional regulations. To facilitate the study of regional regulations making, an academic paper is

needed. In Permendagri No. 80/2015, it is explained that an academic paper is a text of the results of research or legal studies and other research results on a particular problem that can be scientifically accounted for regarding the regulation of these problems in the Draft District Regulation as a solution to the problems and legal needs of the community. The essence of academic manuscripts is in scientific truth. This is because the draft academic draft of laws and regulations was prepared as a result of academic research in line with the critical, rational, objective, and impersonal scientific principles.

However, along the way, many regional regulations were canceled, because they contradicted regulations of a higher degree or because they caused economic problems, burdens the regions, and has an impact on environmental damage. A problematic regional regulation will be carried out by an executive review by the government and it will be seen whether regional regulations are against the public interest or the hierarchy of legislation in Law No. 15 of 2019 concerning Amendments to Law No. 12 of 2011 concerning the Formation of Legislative Regulations, it has been explained that the separation of the types and hierarchies of the Provincial Local regulation and the hierarchy of the Local regulation Kabupaten Kota.

Jimly Ashiddiqie revealed that to create an effective legal system, a restructuring of legal institutions is needed which is also supported by qualified human resources. Therefore, by involving academics and the public in the formation of regional regulations, districts/cities can minimize the cancellation of regional regulations. Seeing the importance of academic papers in the formation of regional regulations, researchers are interested in making articles on the Utilization of Academic Texts in Preparing Regional Regulations in Kudus Regency.

B. RESEARCH METHODOLOGY

The research method used is non-doctrinal legal research (sociological), with a qualitative descriptive analysis.¹To analyze the problem under study, the researcher tries to understand the rules or legal norms, data, or literature that is processed systematically and logically, comprehensively.

¹Soetandyo Wignjosoebroto, *Penelitian Hukum sebuah Tipologi dalam Masyarakat*, 1974, hal

C. DISCUSSION AND RESEARCH RESULT

1. Position and Function of Academic Text in Law no. 15 of 2019 concerning Amendments to Law No. 12 of 2011 concerning the Formation of Legislative Regulations

Academic Manuscripts are texts of the results of research or legal studies and other research results on a certain problem that can be scientifically accounted for regarding the regulation of the problem in a Draft Law, Draft Provincial Regulation, or Regency / City Regional Regulation Draft as a solution to the problem and community legal needs.²In line with that, Agussalim A. Gadjong described that the formation of regional regulations has experienced a paradigm shift, which must be based on research carried out directly in the community so that the research will produce recommendations on problems that exist in society.³

Academic papers have a strategic position in the formation of ideal regional regulations.⁴UU no. 15 of 2019 concerning Amendments to Law No. 12 of 2011 concerning the Formation of Laws and Regulations regarding statutory regulations, has set new regulations that are different from Law No. 10 of 2004, in which the laws and regulations describe the types and levels of laws and regulations in Indonesia, that is, lower regulations must not conflict with higher regulations. This difference in the principle of hierarchy is not principled, this is because "the right forming organs" mean that the forming officials are right ". Regarding conformity, it is regulated in Article 5 Letter C Law No. 12 of 2011.⁵

Also, regarding the material content both in Law no. 10 of 2004 and in Law no. 15 of 2019 concerning Amendments to Law No. 12 of 2011 concerning the Formation of Laws and Regulations there is a similarity in editorial content, namely "Material contained in statutory regulations is material contained in statutory regulations by the type, function and hierarchy of statutory regulations".In law no. 12 of 2011 stipulates the content of laws and regulations in Article 6 paragraph (1), namely that the content of laws and regulations must contain several principles: Protection, Humanity, Nationality, Kinship,

²Lihat UU No 15 Tahun 2019 tentang Perubahan atas Undang-Undang Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan

³ Marwan, Hakikat Naskah Akademik dalam Pembentukan Peraturan Daerah yang Responsif', Disertasi Program Pascasarjana Universitas Hasanuddin Makassar, 2017hlm 165

⁴ Ibid, hlm 167

⁵ Raegen Mic Arthur Rambli, 2016 "Kedudukan dan Fungsi Naskah Akademik dalam Pembentukan Peraturan Daerah Kabupaten/ Kota Menurut UU No 12 Tahun 2011, Lex Crimen Vol. V. 4/ Apr-Jun, hal 23

Nationality, Bhinneka Tunggal Ika, Justice, Equal position in law and government, Order and legal certainty; and/or Balance, harmony, and harmony⁶

Meanwhile, the process or the initial stages of forming a regional regulation starts with planning. In planning, there is a draft, draft, or initial conception of a Regency / City Local regulation. The stages are different from the stages in the formation of regional regulations. Law no. 10 of 2004 was put forward by a Doctor of Brawijaya University, Malang, namely Jazim Hamidi, and friendsstate that he explained that there were six stages in the formation of a regional regulation, namely the planning stage, the design stage, the discussion stage, the invitation stage, the socialization stage, and the evaluation stage.⁷Based on Imam Sofwan⁸, there are several stages of regional regulations that are passed, namely compiling a Draft Regional Regulation or Ranlocal regulation which is carried out by the DPRD, then a special committee is formed, the Draft Regional Regulation is discussed in the Regional Government, then followed up by a team from the Province, and after the stages are complete it will be finalized.

In preparing the academic paper itself, several things must be prepared⁹:Budget, the underlying laws, and regulations. Other supporting documents and data are directly related to the formulation of Local regulation. Composer/resource is the person who has the capacity, ability, related to material and legal drafting, and good coordination.

Of the several things prepared in the preparation of academic manuscripts in the holy district, this indicates that there is seriousness, the principle of openness, and access for the public to participate in the formation of regional policies. Where the utilization of academic papers is carried out in several regulations made, this can be seen from the involvement of resource persons (academics) to compile an academic paper, which assesses the social, cultural, economic, and environmental conditions in Kudus district.

⁶ Lihat UU No. 15 Tahun 2019 Tentang Perubahan Atas UU No. 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan (Pasal 6 Ayat (1).

⁷ Raegen Mic Arthur Rambli, 2016 "Kedudukan dan Fungsi Naskah Akademik dalam Pembentukan Peraturan Daerah Kabupaten/ Kota Menurut UU No 12 Tahun 2011, Lex Crimen Vol. V. 4/ Apr-Jun, hal 24

⁸Wawancara dengan Imam Sofwan, Kepala Bagian Hukum dan Persidangan pada tanggal 29 Juni 2020

⁹Wawancara dengan bapak Wahyu, Ketua biro hokum pemerintah daerah Kudus pada 15 Juli 2015

Public participation in the preparation of academic manuscripts is obtained at the research stage by the compilers of academic texts, where at that stage the compilers are expected to be able to explore the actual conditions of society and the aspirations/needs of the community for regulation in the form of a regional regulation, to answer problems or provide solutions to a problem in society.¹⁰

2. Awareness-forming factors include Academic Texts in the formulation of Local regulation in Kudus Regency

The holy district is an area located in Central Java. This district has issued many regional regulations, a city which is famous for its religiousness also has a distinctive regional regulation, one of which is the regional regulation on entertainment venues. Also, the holy area government has produced and implemented many of the regional regulations that have been made. Since 2015-2020 there are 57 (fifty-seven) regional regulations that have been stipulated and promulgated, and not all regional regulations in the Kudus district have academic texts.¹¹

The systematic preparation of Academic Papers has been specified in Attachment I of Law no. 15 of 2019 concerning Amendments to Law No. 12 of 2011 concerning the Formation of Legislative Regulations, that the Technique for Preparing Academic Draft Laws, Draft Provincial Regulations and Draft District / City Regulations, are as follows:

- ✓ TITLE
- ✓ PREFACE
- ✓ TABLE OF CONTENT
- ✓ CHAPTER I : Introduction
- ✓ CHAPTER II : Literature Review and Practical Empirical
- ✓ CHAPTER IV : Philosophical, Sociological, and Juridical Basis
- ✓ CHAPTER V : Scope, Regulation, and Scope of the Materials of Laws, Provincial Regulations, or Regency / City Regulations.

2015 ¹⁰Wawancara dengan bapak Wahyu, Ketua biro hukum pemerintah daerah Kudus pada 15 Juli

2015 ¹¹ Wawancara dengan bapak Wahyu, Ketua biro hukum pemerintah daerah Kudus pada 15 Juli

✓ CHAPTER VI: Conclusion and Suggestion

✓ Bibliography

The systematics of making academic papers are applied in the regional regulations that have been formed in the Kudus district. There are 57 Regional Regulations in Kudus from 2015 to 2020, however, there are several types of regional regulations that do not have academic texts, namely: Local regulation on the Regional Revenue and Expenditure Budget, Local regulation on Accountability for the APBD, Local regulation on Amendment to the APBD, Local regulation which is a Revised Local regulation, Local regulation which is a Local regulation for revocation¹²

Apart from the five categories of Local regulations that do not accompany the text, other local regulations are formed with good planning, namely by including academic texts. Kudus Regency DPRD also involved academics from universities. Several factors influence policymakers in the holy district so that they take serious action in including academic papers, namely:¹³

- a. There is the awareness that Law No.12 of 2011 concerning the Formation of Legislation, as amended by Law Number 15 of 2019 and Permendagri Number 80 of 2015 concerning the formation of regional legal products. The first factor is an external factor arising from the order and mandate of the law.
- b. There is an assumption that with the inclusion of an academic paper it will make it easier to study Ranlocal regulations, because the assessment and alignment of the background and purpose of the preparation, the objectives to be realized, and the scope and direction of the regulation have been stated in the Academic Paper.
- c. Facilitate the harmonization process within the scope of the Regional Government as well as the discussion in the special committee of the Regional Representatives Council (DPRD).

Academic manuscripts influence the depth of material published in regional regulations, besides that Imam Sofwan, as the head of the law and court bureau revealed that in addition to describing the depth of material Local regulation of

¹² Ibid

¹³ Ibid

academic papers is useful for analyzing who is authorized in the formation of regulations, which can be analyzed. that the regulation falls within the domain of local government or DPRD.¹⁴

In line with that, an academic who has a concentration in the field of Constitutional Law, namely Ni'matul Huda, revealed that academic papers are very important, this is because the details of the formulation cannot be stated in the article. Articles only contain legal norms in a concise and concise language. Explanations and word-for-word meanings in articles can be traced in academic texts and discussion results (*Memorie van toelichting*). The understanding word for word or how else can be explained through academic texts. It also needs to provide its theoretical, sociological, and juridical rests.¹⁵ However, he did not recommend the imposition of an academic text on all types of regulations such as local regulations. Although also for him, it is a good thing to make use of the academic language in the preparation of local regulations.

Besides, there are several factors that the exclusion of academic texts in the formation of regional regulations, namely the cost of preparing Academic Texts that have not been budgeted for in the APBD and the failure of the auction in the procurement of consulting services for composing academic texts.¹⁶

D. CONCLUSION

Academic papers have a strategic position in the formation of regional regulations and have an influence on the depth of material contained in regional regulations, academic papers also help local regulation drafters to find their academic logic and are useful for analyzing who has the authority to form regulations in the regions. The Kudus Regional Government and the Kudus Regency DPRD involve various sources, in this case, academics, who have the capacity, ability, and mastery of problems in preparing local regulations, both related to material and legal drafting, indicating that there is access to public participation in policymaking in Kudus district. Two factors underlie the utilization of academic manuscripts in the Kudus Regency, namely internal and

¹⁴ Wawancara dengan Imam Sofwan, Kepala Bagian Hukum dan Persidangan pada tanggal 29 Juni 2020

¹⁵ <https://www.hukumonline.com/berita/baca/1t4d79e4c779bb0/rancangan-peraturan-harus-punya-naskah-akademik>/diakses pada Rabu, 26 Agustus 2020

¹⁶ Wawancara dengan bapak Wahyu, Ketua biro hukum pemerintah daerah Kudus pada 15 Juli 2015

external factors. Internal factors, namely the awareness of the drafters of Local regulations to include academic texts. External factors, arising from the order of Law No.12 of 2011 concerning the Establishment of Legislation, as amended by Law Number 15 of 2019 and Permendagri Number 80 of the Year 2015 concerning the formation of regional legal products.

E. REFERENCES

[https://www.hukumonline.com/berita/baca/1t4d79e4c779bb0/rancangan-peraturan-](https://www.hukumonline.com/berita/baca/1t4d79e4c779bb0/rancangan-peraturan-harus-punya-naskah-akademik/)

[harus-punya-naskah-akademik/](https://www.hukumonline.com/berita/baca/1t4d79e4c779bb0/rancangan-peraturan-harus-punya-naskah-akademik/)diakses pada Rabu, 26 Agustus 2020

Lihat UU No 15 Tahun 2019 tentang Perubahan atas Undang-Undang Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan

Lihat UU No. 15 Tahun 2019 Tentang Perubahan Atas UU No. 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan (Pasal 6 Ayat (1).

Marwan. 2017. *Hakikat Naskah Akademik dalam Pembentukan Peraturan Daerah yang Responsif*". Disertasi Program Pascasarjana Universitas Hasanuddin Makassar

Raegen Mic Arthur Rambli. 2016. "*Kedudukan dan Fungsi Naskah Akademik dalam Pembentukan Peraturan Daerah Kabupaten/ Kota Menurut UU No 12 Tahun 2011*", Lex Crimen Vol. V. 4/ Apr-Jun, hal 23

Raegen Mic Arthur Rambli. 2016. "*Kedudukan dan Fungsi Naskah Akademik dalam Pembentukan Peraturan Daerah Kabupaten/ Kota Menurut UU No 12 Tahun 2011*", Lex Crimen Vol. V. 4/ Apr-Jun, hal 24

Soetandyo Wignjosoebroto. 1974. *Penelitian Hukum sebuah Tipologi dalam Masyarakat*

Wawancara dengan bapak Wahyu. Ketua biro hukum pemerintah daerah Kudus pada 15 Juli 2015

Wawancara dengan bapak Wahyu. Ketua biro hukum pemerintah daerah Kudus pada 15 Juli 2015

Wawancara dengan bapak Wahyu. Ketua biro hukum pemerintah daerah Kudus pada 15 Juli 2015

Wawancara dengan bapak Wahyu. Ketua biro hukum pemerintah daerah Kudus pada 15 Juli 2015

Wawancara dengan Imam Sofwan. Kepala Bagian Hukum dan Persidangan pada tanggal 29 Juni 2020

Wawancara dengan Imam Sofwan. Kepala Bagian Hukum dan Persidangan pada tanggal 29 Juni 2020