

Application of Academic Papers in Formulation Legal Products at the Regional

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Article	Abstract
<p>Keywords: Academic Paper; Law and Regulation; Local Regulations</p> <p>Artikel History Received: Aug 26, 2023; Reviewed: Oct 11, 2023; Accepted: Oct 22, 2023; Published: Oct 27, 2023.</p> <p>DOI: https://dx.doi.org/10.20961/jolsic.v1i12.78309</p>	<p>The formation of legal products in the regions cannot be separated from the preparation of academic papers as the basis for their formation. However, the existence of alternative explanations/information as a substitute for academic papers has caused legal products at the regional level not to fully use academic papers. Based on this, it is necessary to elaborate on the urgency of academic papers in the formation of legal products at the regional level. In addition, further explanation regarding the mechanism for implementing academic papers in the formation of legal products at the regional level is the main research objective. The research method used in research is normative legal research or doctrinal legal research which bases arguments on theories, principles, concepts, and laws and regulations. The selection of the normative method is based on the existence of legal issues regarding the blurring of norms regarding the regulation of academic papers in the formation of legal products at the regional level. An explanation of this can only be obtained by conducting a doctrinal study. The results of the research lead to the conclusion that academic papers are needed as guidelines in drafting legal products at the regional level. Implementation of academic drafting should be carried out in the pre-legislative stage by identifying problems in society and elaborating them theoretically so that solutions can be formulated as outlined in the draft legal products at the regional level. The preparation of academic manuscripts also requires collecting data through interviews, observations, and literature studies to find solutions to problems in society. These results then go through a dissemination process in the form of FGDs with community representatives and parties related to the regional regulations that will be formed.</p>

INTRODUCTION

The formation of law must always be carried out in the development of law in a country. Law is a means needed by the state to achieve state goals. Mochtar Kusumaatmadja, in his view, who is also known as development law theory, stated that the utilization of law as a means to engineer society towards scenarios of government (executive) policies is felt to be needed by developing countries. The need for law far exceeds the needs of established industrialized countries, because developed countries already have good legal mechanisms for changes in society. On the other hand, developing countries are still designing it through the formation of sustainable laws. (Muntaqo & Firman, 2005: 76)

The views conveyed are the interpretation of Roscoe Pound's opinion which states law as a tool of social engineering (law as a tool for social change). Law is a social control mechanism and the main function of the state. The law works through the application of force which is carried out systematically and regularly by agents appointed to perform that function. (Lathif, 2017: 78) Formation of law in Indonesia in order to achieve the goals of the state needs to be carried out not only through the formation of law at the central level, but also at the regional level. The regional government forms laws based on autonomy and decentralization, in order to administer its administration in the regions. The formation of law which is referred to as the formation of statutory regulations must have a philosophical, sociological and juridical basis so that they are in accordance with the legal needs of the community and have conformity with other statutory regulations.

The formation of law in the view of Nonet and Selznick concludes that there is a significant relationship between the government system of a country and the laws it adheres to. (Nonet & Selznick, 2009: 125) In an authoritarian government system, law becomes subordinate to politics where law follows politics. The law is used only to support the politics of the ruler. Conversely, in a democratic government system, law is diametrically separated from politics so that law is not part of politics, but law becomes a political reference for a nation. repressive law, autonomous law, and progressive law which are explained as follows: (Ahmadi, 2016: 43)

1. Repressive law is a law that is oriented towards ensuring that power is protected from disturbance by members of the public as a legal object that is obliged to regulate behavior regularly;
2. Autonomous law is law that is separate from political interests, and the independence of judicial power, so that the authority to interpret the law is protected from power control and the flow of political interests;
3. Responsive law, which is a legal formulation that is aspired to with an open and adaptive character. Responsive law places law as a means of responding to social provisions and public aspirations. Responsive law positions social change as a source of ideas to accommodate the public interest.

The formation of responsive law then becomes an ideal legal order in the formation of law in Indonesia because it is able to adapt to the needs of society. Efforts to realize responsive legal character are then implemented through the idea of academic papers in the formation of laws and

regulations. Academic papers according to Yuliandri are an effort to realize the presence of legislation that is of good quality and has sustainable characteristics. (Yuliandri, 2011: 93) Academic papers in the formation of laws and regulations describe the reasons, facts or background of problems or affairs so that matters which encourages the formulation of a problem or matter so that it is very important and urgent to be regulated in a statutory regulation. Aspects that need attention are ideological, political, cultural, social, economic, defense and security aspects. The benefit is being able to know for certain about why it is necessary to make a law and whether the law is really needed by the community. (Basyir, 2020: 86)

Academic papers based on Act Number 12 of 2011 concerning Formation of Legislation as lastly amended by Act Number 13 of 2022 concerning the Second Amendment to Act Number 12 of 2011 concerning Formation of Legislation (hereinafter abbreviated as Formulation of Law Act) is a prerequisite in submitting a draft law or regional regulation to be submitted to the discussion stage. Sri Puguh Budi Utami (Legal and Human Rights Research and Development Agency, 2021) said that it was hoped that the preparation of the academic text would prevent disharmony in the formation of laws and/or regional regulations against other laws and regulations. In addition, academic papers should also be able to show good legislation where the presence of laws and regulations is solely aimed at realizing common prosperity, not for the benefit of each individual or certain group.

The requirement to include academic papers as previously stated for legal products at the regional level is only intended for the formation of regional regulations. Meanwhile, legal products can still be found at the regional level, including regional head regulations, Regional People's Representative Council (DPRD) regulations, regional head decisions and so on. The legal product does not have an obligation regarding academic papers, but only in the form of an explanation or description of its formation. Academic manuscripts have such a systematic set out in Appendix I of the Formulation of Law Act, this is not the case with explanations or statements that do not have a systematic. Thus the explanation or statement does not yet have legal certainty in order to guarantee the realization of responsive law. On the other hand, academic papers have substance that is able to explain the urgency of forming regulations in accordance with the sociological conditions of society and the philosophy of the state, as well as ensuring that the formation of regulations does not conflict with other regulations, both vertically and horizontally. Therefore, it is necessary to study the efforts to implement academic papers in the formation of legal products at other regional levels in order to produce responsive laws in Indonesian laws and regulations.

RESEARCH METHODS

This research was compiled using normative legal research methods to find the urgency value of the necessity of academic papers in the formation of regional regulations and efforts that can be made to compile academic papers guided by a scientific study of a science. Normative legal research is used on legal issues caused by void norms, the ambiguity of norms, conflict of norms, as well as incomplete regulation of legal norms. Normative legal research is a research method developed from pure legal schools and positivism. Soerjono Soekanto emphasized that normative legal research is research that tends to describe the law in its form as a prescriptive science based

on the legal norms themselves. The themes used as topics in normative legal research are research on legal principles, legal systematics, legal synchronization, comparative law, and legal history. (Depri Liber Sonata, 2014: 25) So it becomes clear that research by compiling a new implementation idea based on a textual study of legal principles is part of the type of normative legal research.

This research as a normative legal research compiles arguments and research results based on legal materials, in the form of laws and regulations as well as books and related scientific articles. The laws and regulations used in this research are the Act of the Republic of Indonesia Number 12 of 2011 concerning the Formation of Legislation as last amended by the Act of the Republic of Indonesia Number 13 of 2022 concerning the Second Amendment to the Act of the Republic of Indonesia Number 12 of 2011 concerning Formation of Legislation (referred to as the Formulation of Law Act). Meanwhile, books and scientific articles related to legislative drafting especially formulation of local regulation, as secondary legal material that helped in the preparation of research results.

ANALYSIS AND DISCUSSION

The Urgency of Writing Academic Documents in Forming Legal Products at the Regional Level

Academic papers are an idea of improving the formation of law in Indonesia which began to be regulated in Article 5 paragraph (1) of Presidential Regulation Number 68 of 2005 concerning Procedures for Preparing Draft Laws, Draft Government Regulations in lieu of Laws, Draft Government Regulations, and Draft Regulations President. Academic papers are used as a means of compiling a bill but not yet as a necessity. This is different from the Formulation of Law Act which requires the preparation of academic papers in drafting regional laws and regulations, as stipulated in Articles 43 and 56. These provisions are based on an awareness of the urgency of the existence of academic papers in the formation of good laws and regulations.

Academic manuscripts according to Article 1 number 11 of the Formulation of Law Act are the results of research or legal studies and other research results on a particular problem that can be accounted for scientifically regarding the regulation of the problem in a Draft Law, Draft Provincial Regulation, or Draft Regulation Regency/City area as a solution to the problems and legal needs of the community. So that it can be seen that the academic text contains a problem and efforts to solve it based on scientific research which are then translated into norms in laws and regulations. There are 3 (three) types of laws and regulations that require academic papers, namely laws, provincial regional regulations, and district/city regional regulations.

The meaning of academic papers more comprehensively is conveyed by I Gede Pantja Astawa, that academic papers are scientific studies that describe the reasons, facts or background of problems or affairs so that the things that encourage the formulation of a problem or matter so that it is very important and urgent to be regulated in a legislation. The preparation of further academic papers also pays attention to ideological, political, cultural, social, economic, defense and security aspects in order to realize good legislation in the form of laws and/or regional regulations. (Astawa & Na'a, 2008: 67)

La Ode Bariun states that academic papers are the results of scientifically justifiable research activities. The academic text material consists of the background of the problem, the purpose of preparation, the goals to be achieved, the statutory method, the scope and content, the range, the object, and the direction for regulating the substance of the draft legislation (Bariun & Hijriani, 2020: 22) Basyir further conveyed that academic papers will describe reasons, facts or background of problems or affairs so that the things that encourage the formulation of a problem or matter so that it is very important and urgent are regulated in a statutory regulation. Aspects that need attention are ideological, political, cultural, social, economic, defense and security aspects. The benefit is being able to know for sure why it is necessary to make laws and regulations and whether these laws and regulations are really needed by the community. (Basyir, 2020: 87)

According to I Gede Pantja Astawa, the urgency of academic papers in drafting local laws and regulations is due to the problematic laws and regulations that have always been considered unresponsive, not egalitarian, not futuristic and generally not of good quality. Academic papers make it possible for each Bill and Raperda to have a scientific touch which can produce higher quality laws and regulations and can be categorized as good legislation. (Astawa & Na'a, 2008: 109)

Jazim Hamidi also conveyed 4 (four) considerations for the importance of Academic Papers in the formation of Laws and Regional Regulations, namely: (Hamidi & Mutik, 2011: 120)

1. Academic papers as media for harmonization and synchronization of meeting the concept of state law (state law) and living law in society;
2. Academic papers as real media for community participation to realize the acceptance and enforceability of law;
3. Academic Papers as recommendations resulting from systematic and comprehensive scientific thinking on the substance of the Bill and Raperda; as well as
4. Academic Papers as a policy document for public control of the implementation of laws and regional regulations.

Another urgency related to the function of academic papers in drafting laws and/or regional regulations was conveyed by Sri Puguh Budi Utami. Academic papers are documents that need to be prepared properly in order to prevent disharmony in the formation of laws and/or regional regulations against other laws and regulations. Apart from that, academic papers should also be able to show good legislation where the presence of laws and regulations is solely aimed at realizing common prosperity, not for the benefit of each individual or certain group. (Balitbang Hukum dan HAM, 2021)

The urgency of academic papers in the formation of a regulation can also be seen from the participation of the community. Academic papers are a real medium for community participation in the process of forming or drafting legislation and even the initiative for the preparation or formation of academic papers can come from the community. (Putra Kurnia, 2007: 27) Academic papers will explain the reasons, facts- the facts or background of the problem or matter so that the things that encourage the formulation of an issue or matter so that it is very important and urgent are regulated in a statutory regulation. Aspects that need attention are ideological, political, cultural, social, economic, defense and security aspects. The benefit is being able to know for sure why it is necessary to make a law and whether the law is really needed by the community. (Basyir, 2020: 121)

Arthur Rambli then conveyed another urgency from academic papers in the formation of laws. Academic papers have a very important function, both as input material, as well as comparison material, and can even become a reference pattern in planning the formation of laws. Academic papers are the result of legal research or other research (studies), but still highlight the legal aspects which will lead to the formulation of norms in laws. (Rambli, 2016: 24)

The position of academic papers is not only important for the process of drafting or forming a law, but in testing constitutionality as stated by Eko Supriyanto that academic papers are needed as one of the pieces of evidence in a judicial review trial. Academic manuscripts can be used as one of the means of written or written evidence for the litigants, both the applicant and the respondent, to interpret the provisions of the law. Academic papers for constitutional judges can be used as material for consideration in examining and deciding any cases reviewing laws. (Kristiyanto, 2020) This view can still be expanded that judicial review is not only carried out at the Constitutional Court but also at the Supreme Court on legal products in the form of regulations legislation under the law if it is contrary to the law. So that the interpretation through academic papers can also be carried out by the Supreme Court justices if there is a case of judicial review.

The urgency of academic papers described previously was aimed at laws and regulations that require academic papers to exist, namely laws, provincial regional regulations, and district/city regional regulations. Meanwhile, Ahmad Yasin and Dati Amaliyah (Yasin & Amaliyah, 2022: 21) conveyed the urgency of academic papers in forming regional regulations that state that academic papers in a regional regulation have a role as a solution to legal problems and needs in society. Apart from that, the academic papers in the drafting of regional regulations make it possible to provide facilities for the public to convey their aspirations, accompanied by input from academics with their respective fields of expertise related to the draft regional regulations that are formed.

The urgency of academic papers in the formation of regional regulations is not only shown in the stage of drafting regulations as a solution to problems and legal needs in society. The urgency of academic papers also needs to be progressive by considering the implementation aspects of the regulations once they are enacted. Academic papers in their studies must describe the conformity of the norms compiled with the legal culture of the community.

Abdul Basyir (Basyir, 2020: 65) said that the formation of regional regulations that do not go through in-depth academic studies of the legal culture of society in general is difficult to be accepted by the majority of the community or the people. The implications of this cause that many people will often violate the established legal rules, so that many people are punished for violating the legal norms stipulated in these regulations. This condition is of course not ideal and is very different from what is the basis of the purpose of the law, namely justice, benefit and certainty.

Regional regulations as local-scale regulations certainly have specific legal cultures that are different from other regions, so of course they have their own characteristics that are different from laws that have national characteristics. These characteristics are also fundamental things that must underlie the preparation of academic papers, such as the privileges of implementing Islamic law in Aceh which underlies the birth of Qanuns as regional regulations that are binding and do not apply in other regions. Another example is the formation of local regulations in Bali based on the right of origin which is based on the local wisdom of Balinese customs and culture. So that

academic papers must be able to describe the legal culture of the community which has special characteristics as the subject of regional regulations. Senastri and Suryani (Senastri & Suryani, 2018: 131) said that academic papers in the formation of regional regulations are an attempt to approach as a whole from a plan to form a draft regional regulation. The approach is carried out through a research method as a first step to find out the reality of the interests of various parties, both the community and the government.

The urgency of academic papers in the formation of regional regulations is not only able to be explained theoretically, but also can be explained juridically. Academic papers as a scientific study based on research that can be scientifically accounted for regarding solving problems in society are a requirement in submitting draft regional regulations. This is clearly stated in Article 56 paragraph (2) of the Formulation of Law Act, and *mutatis mutandis* also applies in the preparation of district/city regional regulations which must be accompanied by academic papers.

The requirement to include academic papers in drafting regional regulations is an exception to local regulations governing the Regional Revenue and Expenditure Budget (APBD), revocation of regional regulations or changes to limited regional regulations. Thus the preparation of academic papers becomes part of the process of forming regional regulations which cannot be ignored. The draft regional regulation cannot be continued in the discussion stage without being accompanied by an academic paper. If the discussion continues even until it is ratified as a regional regulation, then the regional regulation that has been formed will be formally flawed because it does not comply with the process of forming statutory regulations.

Based on this description, it can be concluded that the urgency of academic papers in the formation of regional regulations, both at the provincial and city-district levels is because:

1. Academic Papers are a requirement for submitting draft regional regulations;
2. Academic papers are the result of scientific research that describes the legal problems and needs of society according to their legal culture;
3. Academic papers describe the philosophical, sociological, and juridical foundations in the formation of regional regulations that can prevent regulatory disharmony;
4. Academic papers as a means of public participation in the preparation of regional regulations;

And

Academic papers can be used as evidence in a judicial review trial at the Supreme Court.

Mechanism for Preparation of Academic Papers in Forming Regional Regulations

The urgency of academic papers in the formation of regional regulations makes every regional regulation maker must understand the mechanism in preparing academic papers. The concept of academic papers in formulating government policies through legal products can be explained from Ann Seidman's view of research in drafting laws. Based on the opinion of Ann Seidman that one of the stages in drafting laws is research, because in this research the substance of the problems that form the background and reasons for forming statutory regulations will be explored and studied, including an overview of the regulated content. (Seidman et al., 2001: 127) The research report contains suggestions and possibilities for solving social problems that are trying to be solved, in other words the research report aims to equip lawmakers to formulate details in draft

laws and implement possible statutory theories and methodologies. encourage credible and responsible government.

According to Harry Alexander, the material for an academic text that is capable of supporting the formation of good regulations contains the idea of regulating a material field of law which have been reviewed in a holistic-futuristic manner and from various aspects of science, are equipped with references that contain; urgency, conception, legal foundation and basis, principles used as well as thoughts about the norms that have been set forth in the form articles by proposing several alternatives presented in the form of detailed descriptions systematic and can be accounted for in the science of law and in accordance with politics the laws outlined. (Sofwan et al., 2022: 34)

Almost similar to Hasan Warga Kusumah also stated that academic papers have content material in the form of ideas for regulating a legal material that has been reviewed from various legal aspects, complemented by a frame of reference that contains the urgency of the concept, the foundations and principles used as well as ideas about norms are alternatively presented in the form of systematic descriptions. (Sirajuddin, 2015: 41)

Academic papers as a scientific study must base their preparation on the scientific method and research principles. The research process is carried out using scientific research principles with methods and techniques in accordance with scientific research principles so that the results are guaranteed validity, philosophically, sociologically, and juridically and can be accounted for. Academic papers are prepared through direct research to the community in order to find problems in society and develop solutions through legal products. So that the formation of academic papers is carried out before the draft regional regulations are drafted. Academic papers will serve as a guide in the preparation of existing norms in draft regional regulations. Likewise, academic papers will be able to explain the legal ratio of determining norms in regional regulations. Academic papers in their preparation according to the National Law Development Agency should contain the following elements:

- a. Results of positive law inventory;
- b. Results of an inventory of legal issues encountered;
- c. Ideas regarding legal material to be included in the draft laws and regulations;
- d. Basic conception, legal reasons and principles to be used;
- e. Thoughts about the norms that have been poured into the form of articles;
- f. The initial idea is that draft laws and regulations are drafted systematically, chapter by chapter, article by article, to facilitate and speed up the drafting of the said draft laws and regulations. background, goals to be realized, problem identification, objectives and uses, and research methods.

It is hoped that the preparation of academic papers will provide a comprehensive picture of the legal problems and needs of the community. There are at least 2 (two) policy analysis methods that are referred to in compiling academic papers, namely the ROCCIPI and RIA (Regulatory Impact Analysis) methods.

1. ROCCIPI

The ROCCIPI analysis method is the conception used in this study to find formulations for the preparation of good academic papers, to be further determined as test indicators for academic papers included in the submission of draft laws or regional regulations. ROCCIPI is a measure of social problems that analyzes 7 (seven) components, namely Rules, Opportunity,

Capacity, Communication, Interest, Process, and Ideology. as things that must be contained in an academic manuscript, which is abbreviated as ROCCIPI. These seven things are analyzed in detail in academic papers, then formulated as norms contained in draft laws or regional regulations. (Muslimah, 2018)

ROCCIPI as an analytical method is also referred to as a theory that describes the identification of the causes of problems in the enactment of a law related to seven factors or categories. This identification activity is needed to get input about explanatory propositions that can be tested from the seven factors. (Giri, 2016: 97) Thus, the suitability between academic papers and draft laws or regional regulations can be reviewed by the existence of these seven indicators as a test method.

Seidmann believes that the key to the success of law enforcement in society is determined by how the analysis of social problems in society will be governed by law. (Seidman & Seidman, 2011: 127) Various social problems that occur in society should be analyzed through research whose results are called a research report by Robert and Ann Seidman. The research report on the formation of law in Indonesia is known as an academic text.

The research report was then compiled based on 7 (seven) indicators called ROCCIPI. The seven indicators can be divided into objective and subjective factors based on the causal factors. Subjective indicators are shown by Interest and Ideology which are closely related to the thoughts and intuitions of the legislators themselves.

Furthermore, objective indicators are indicators of analysis of a social problem in society and are outlined in academic papers, namely regulations, opportunities, capabilities, communication, and processes. Objective indicators are certainly not related to the thoughts of lawmakers, which can help lawmakers to outline hypotheses for solving social problems and put them into norms.

2. RIA (*Regulatory Impact Analysis*)

RIA is a process that systematically identifies and assesses the desired impact of a proposed law using consistent analytical methods such as benefit-cost analysis. RIA is a comparative process based on predetermined regulatory objectives and identifying all possible influencing policies in achieving policy objectives. All available alternatives must be assessed using the same method in order to inform decision makers about effective and efficient choices so that they can systematically choose the most effective and efficient options. (Suska, 2016: 40)

Regulatory Impact Analysis (RIA) according to Bappenas is a process of systematic analysis and communication of policies, both new policies and existing policies. The important points of this definition are: (Suska, 2016: 41)

- a. the RIA method includes analysis and communication activities;
- b. the objects of the RIA method are policies, whether in the form of regulations or non-regulations;
- c. RIA methods can be applied to new policies as well as to existing policies.

RIA as a policy analysis process is carried out in 7 (seven) stages, namely: (Suska, 2016: 43)

- a. Identification and analysis of policy-related problems;
- b. Goal setting;
- c. Development of various policy options/alternatives to achieve goals;

- d. Assessment of alternative policy options, both in terms of legality and costs (cost) and benefits (benefits);
- e. Selection of the best policy;
- f. Preparation of implementation strategy; And
- g. Community participation in all processes.

RIA can not only be interpreted as a process, but also as a tool to produce better policies, governance and development. Apart from being a process and tool, the RIA method can also be positioned as a logic of thinking. The RIA method can be used by policy makers to think logically, starting from identifying problems, identifying options to solve problems, and selecting a policy based on an analysis of all options. The RIA method encourages policy makers to think openly by receiving input from various components related to the policies to be taken. (Nalle & Kristina, 2020: 109)

The two methods were then adapted in the preparation of academic papers according to scientific research principles. Research in the preparation of academic manuscripts according to Ruswan et al. (Sofwan et al., 2022: 26) was compiled using a type of research that combines normative juridical and empirical sociological legal research in order to obtain complete legal material. This type of normative juridical research uses a statutory approach (statute approach) examines laws and regulations related to the legal basis, basic institutional authority and content material, and uses a conceptual approach (conceptual approach) examines the opinions of legal experts related to the object under study. Subsequent empirical sociological research examines the problems that exist in society according to the needs and material content of laws and regulations. This data was obtained through interviews, observations, and focus group discussions (FGD) with stakeholders related to the interests regulated by the established statutory regulations, along with legal experts and other non-legal fields related to the material of the statutory regulations. - invitation. The research process that has been completed is continued with the preparation of academic papers, public consultations that include stakeholders, experts from universities, and parties related to the substance of the material from the drafted regional regulations.

The final research results according to academic papers are prepared based on the systematic preparation of academic papers listed in Appendix I of the P3 Law. Academic papers are divided into 6 (six) similar chapters with the rules for compiling research results according to academic rules as follows:

- 1) Chapter I Introduction, contains background, goals to be realized, identification of problems, objectives and uses, as well as research methods;
- 2) Chapter II Theoretical Studies and Empirical Practices, which outlines theoretical material descriptions, principles, practices, developments in thought, as well as the social, political and economic implications of state finances from arrangements in draft laws or provincial regional regulations or regional regulations district/city;
- 3) Chapter III Evaluation and Analysis of Related Laws and Regulations, is the result of a study of all relevant laws and regulations which contain existing legal conditions, the linkages of new laws and regional regulations with other laws and regulations. Apart from that, there is also a form of vertical and horizontal harmonization of the regulations to be drafted, as well as the binding power of existing laws and regulations;

- 4) Chapter IV Philosophical, Sociological, and Juridical Basis, setting out the urgency for the formation of laws or regional regulations based on the conditions of society without forgetting the philosophical foundations and higher statutory regulations as the basis for their formation;
- 5) Chapter V Reach, Regulatory Direction, and Scope Material Content in the form of an overview of matters that will be regulated in a draft law or regional regulation as a solution to problems in society in the form of general provisions, regulated materials, sanctions provisions, and provisions transition; as well as
- 6) Chapter VI Closing as conclusions and final suggestions from research on problems in society.

Implementation of Academic Papers for the Formation of Legal Products at the Regional Level

The preparation of academic papers based on the Formulation of Law Act on legal products at the regional level is only required for the formation of regional regulations. Meanwhile, there are various other forms of regional legal products as stated in Regulations of Minister of Internal Affairs Number 80 of 2015 as amended by Minister of Internal Affairs Number 120 of 2018 concerning the Formation of Regional Legal Products, namely:

1. Regional legal products in the form of regulations consisting of regional head regulations and DPRD regulations;
2. Regional legal products take the form of stipulations in the form of regional head decisions, DPRD decisions, DPRD leadership decisions, and DPRD honorary body decisions.

Regulatory and stipulation legal products have differences in terms of the characteristics of the regulated norms. Legal products in the form of regulations have norms that are general, abstract, and continuous. Regulations are addressed to the general public without exception, so they have a very wide range of legal subjects covering citizens and residents. Meanwhile, legal products in the form of determinations have the opposite character of norms, namely individual, concrete, and final. This means that the legal subject in the stipulation has been intended for individuals and legal entities, as well as in the form of concrete legal actions. So that the legal consequences of regulatory legal products are wider when compared to stipulations that give legal consequences to the legal subjects in the stipulation.

Regional legal products in the form of regulations are not only regional regulations but also regional head regulations and DPRD regulations. Regional regulations require academic papers as a condition for their preparation, while regional head regulations and DPRD regulations only include explanations or information. The difference in terms of the drafting can be understood through a study of the contents of the three regional legal products in the form of these regulations.

Content material refers to the substance contained in the legislation or more briefly as the object of regulation of the legislation. Content material in English is called subject matter, namely the substance or subject being discussed or written. Content material in Article 1 number 13 of the Formulation of Law Act is defined as material contained in laws and regulations in accordance with the type, function, and hierarchy of laws and regulations.

Regional regulations, regional head regulations, and DPRD regulations, although they have the same character as a regulation, when viewed from the content material they will have

differences. Regional regulations have content material in the context of implementing regional autonomy and co-administration tasks as well as accommodating special regional conditions and/or further elaboration of higher laws and regulations. Content material in regional regulations is not only in the form of legal actions alone, but can also contain criminal provisions as stipulated in Article 15 paragraph (1) of the Formulation of Law Act.

Regional head regulations and DPRD regulations cannot include criminal sanctions in their contents based on the limitations mentioned in Article 15 paragraph (1) of the Formulation of Law Act. Regional head regulations have content material in the form of further implementation of regional regulations or on the authority of statutory regulations, so that regional head regulations can be classified as delegation regulations or implementing regulations. The content material in a delegation regulation is nothing more than what is delegated by a higher regulation and its formation depends on the delegation of a higher regulation.

Unlike regional head regulations, DPRD regulations are not delegation regulations delegated from regional regulations. DPRD regulations based on Article 44 paragraph (2) of the Permendagri Regional Legal Products are divided into 3 types, namely DPRD regulations regarding procedures, DPRD regulations regarding code of ethics, and DPRD regulations regarding procedures for honorary bodies. The content material of each type of DPRD regulation also has differences which are described below:

1. Material content of the DPRD regulations regarding Standing Orders, guided by the provisions of the laws and regulations governing the DPRD. DPRD regulations regarding discipline at least contain provisions regarding:
 - a. oath/promise pronouncement;
 - b. determination of leadership;
 - c. dismissal and replacement of leadership;
 - d. type and organization of meeting;
 - e. implementation of the functions, duties and authorities of the institution, as well as the rights and obligations of members;
 - f. the formation, composition, and duties and authorities of the fittings;
 - g. interim replacement of members;
 - h. decision making;
 - i. implementing consultations between the provincial DPRD and the provincial regional government;
 - j. receiving complaints and channeling community aspirations;
 - k. protocol settings; And
 - l. implementation of the tasks of the group of experts/experts.
2. The contents of DPRD regulations regarding the Code of Ethics contain at least:
 - a. definition of code of ethics;
 - b. the purpose of the code of ethics;
 - c. arrangements regarding:
 - 1) the attitude and behavior of DPRD members;
 - 2) DPRD members' work procedures;

- 3) the relationship between regional government administrators;
 - 4) the relationship between DPRD members;
 - 5) the relationship between DPRD members and other parties;
 - 6) submission of opinions, responses, answers, and disclaimer;
 - 7) the obligations of DPRD members;
 - 8) prohibition for DPRD members;
 - 9) things that DPRD members should not do;
 - 10) sanctions and mechanisms for imposing sanctions; and
 - 11) rehabilitation.
3. Content material regarding the Procedures for the Honorary Board which is aimed at complaints about DPRD members who do not carry out one or more obligations and/or violate provisions on prohibitions and sanctions in accordance with statutory provisions. The content material in the DPRD regulation contains at least:
- a. general requirements;
 - b. materials and procedures for complaints;
 - c. scheduling of meetings and hearings;
 - d. verification, including trial verification, evidence; verification of the leadership and/or honorary body members, evidence, and defense;
 - e. decision;
 - f. implementation of decisions; And
 - g. closing.

Provisions regarding the contents of DPRD regulations indicate that these regulations are delegation regulations that are delegated and are based on laws governing DPRD institutions. So that there is no new content material regulated in the regulation other than what has been delegated and harmonized with higher regulations. Regional regulations have different contents from regional head regulations and DPRD regulations as delegation regulations as previously described. Regional regulations require the existence of academic papers because they are formed to carry out autonomy rights and assistance tasks and accommodate regional specialties. Academic papers in regional regulations are needed to ensure that the regional regulations that are formed have an urgency with the problems and legal needs of the community, not merely political tools from the institutions that form them. Apart from that, academic papers also provide legal certainty for public participation in drafting regional regulations and guarantee that the substances contained in regional regulations are based on philosophical, sociological and juridical foundations.

While regional head regulations and DPRD regulations are derivatives of regional regulations or laws governing DPRD which in their formation already have academic papers. Therefore, the formation of regional head regulations and DPRD regulations is sufficient in the form of explanations or explanations. Preparation of academic papers for both types of regulations will be a waste of legislation because it repeats the work processes that have been carried out before. This explanation or statement does not have the systematics of an academic text, but has substance that is able to describe the urgency of forming regulations based on the legal problems and needs of society. The explanation or statement is also able to describe the philosophical, sociological, and

juridical foundations in the formation of regulations which are briefly shown in the preambles section. In addition, an explanation or statement should also contain related regulations to ensure horizontal and vertical harmonization. Thus the explanation or description is a shorter description than an academic text, but does not lose its meaning from the basis for forming regulations like an academic text.

The formation of regional legal products in the form of stipulations in the Permendagri Regional Legal Products does not require the existence of an academic text and an explanation or statement in its preparation, because a stipulation has concrete and individual characteristics. The form of the stipulation is also brief because of the specific legal subject and object, and the validity period is completed once. A stipulation has a specific legal subject and object, the formation of which is based on a legal product in the form of an arrangement that already has academic papers or explanations/information on its formation. So there is no need to compile it separately, but simply refer to academic papers or explanations/explanations of regulations that legitimize the decision.

CONCLUSION

Based on the description in the discussion section, it can be concluded that academic papers in the formation of regional regulations have an urgency as a guide or guide in preparing a draft regional regulation. Academic papers describe the problems and needs of law in society, then formulate solutions to problems in society theoretically, sociologically and juridically to ensure the effectiveness of their application after being stipulated. The mechanism for drafting regional regulations academic papers should be carried out before drafting regional regulations. Academic papers as research results begin their studies by identifying problems in society and describing them theoretically. Furthermore, data collection was carried out through interviews, observation, and literature studies in order to find solutions to problems in society. These results then go through a dissemination process in the form of FGDs with community representatives and parties related to the regional regulations that will be formed. The preparation of academic papers and draft regional regulations is the finalization of the mechanism for preparing academic papers in the formation of regional regulations.

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