



A Study on: Implementation of Legal Philosophy Values Information Regional Regulations in Indonesia

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ABSTRACT

The purpose of this study is to analyze the application of legal philosophy values in the formation of regional regulations in Indonesia, as well as to examine the suitability between legal philosophy values and regional regulations that have been formed. This study uses a descriptive analytical research type with a normative legal approach method. Research data were obtained from primary, secondary and primary legal materials. Data collection techniques were carried out qualitatively. The results of the study indicate that the application of legal philosophy values in the formation of regional regulations in Indonesia is still not optimal. This is due to several factors, such as a lack of understanding of the values of legal philosophy among regional regulation makers, minimal community participation in the process of forming regional regulations, and weak law enforcement. This study has limitations in its focus on the application of legal philosophy values and a lack of analysis of the impact of regional regulations that do not follow these values.

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INTRODUCTION

The reform movement in Indonesia in 1998 had an agenda to change the order of life that had existed for decades during the New Order era. These changes achieve positive changes and improvements in various aspects of life. One of the goals to be achieved is the granting of broad autonomy (decentralization) to regions where regional governments have great control over managing their regions, including forming regional regulations (Jurdi, 2019). Through the implementation of a decentralized system, it is hoped that regions will be able to regulate and manage their households to improve the standard of living of the community and the welfare of regional communities as well as create a better regional government system (Saragih et al., 2025). To realize regional autonomy to create good governance and development requires the support of all parties, both from the government itself and the community (Moonti, 2019). This was also explained by Awal Nopriyanto Bahasoan (Bahasoan et al., 2025) that improving public services and economic opportunities provided to the community has the potential to reduce poverty in Indonesia can be done by implementing regional autonomy. Furthermore, the implementation of regional autonomy must be based on the principles of democracy, community participation (S et al., 2025), equality, and justice, as well as paying attention to regional potential and diversity (Martira & Nursadi, 2020). Likewise, in terms of granting authority, it must be

complete and complete in its implementation starting from planning, implementation, supervision, and control to evaluation (Hasjimzum, 2014).

It is hoped that the implementation of decentralization will not immediately be able to overcome the community's socio-economic crisis. Etymologically, decentralization consists of the words meaning detachment, and centrum meaning center, so that when interpreted, decentralization means breaking away from the center (Koesoemahatmadja, 1979). This explains that regions are given autonomy to become autonomous regions. Various interpretations and meanings are still wrong regarding decentralization put forward by many parties, both by government administrators at the center and in the regions (legislative and executive), academics, and community figures/leaders (customary, religious, and cultural), which results in the emergence of various polemics in society, including discriminatory and biased regional regulations (Rohidin et al., 2023). This means that this misunderstanding can be caused by various factors, such as a lack of understanding of the concept of decentralization, interest bias, or inaccurate information. Apart from that, the parties involved in making regional regulations do not properly understand the meaning of decentralization and the principles of equality (Putra et al., 2025).

Furthermore, proper understanding can help stakeholders to create fair and inclusive regional regulations. This is why the formation of regional regulations in Indonesia should also be studied by legal philosophy for complete legal development which will question ontological aspects, epistemological aspects, and axiological aspects of legal science where the existence of regional regulations is related to the implementation of regional autonomy in Indonesia (Article 18 Paragraph (6) of the 1945 Constitution of the Republic of Indonesia) (H. Widodo, 2021). An examination of these three aspects will determine the existence and scientific character of legal science which will have implications for the way legal science is developed in people's lives (Sidharta, 1999).

In the Indonesian constitution, regional regulations are legal products stipulated by legislative officials together with executive officials at the regional level (Article 7 paragraph (1) Law Number 13 of 2022 in conjunction with Law Number 15 of 2022. 2019 in conjunction with Law Number 12 of 2011 concerning the Formation of Legislative Regulations (Anggraini et al., 2020). This law in the form of regional regulations is made by considering justice (*gerechtigheit*), legal certainty (*rechtssicherheit*) and expediency (*zweckmassigkeit*). If we talk about justice, usefulness, and certainty provided by law, it will not be far from the name human rights (HAM). Before forming or building a law that is fair in governing society, it must also be studied by legal philosophy so that real justice can be realized for every group in every region in Indonesia. (Bakir, 2017) Furthermore, the birth of regional regulations that are generally regulatory in nature cannot be separated from the design of regional autonomy. The concept of regional autonomy is always associated with the freedom and independence of regions to manage their domestic affairs (Muin, 2014).

The presence of regional autonomy is important, one of which is because it has the authority to regulate and manage its region to provide the best service for the people in its region and every community need. (Marston et al., 2020) This means that the government in the region knows what the needs of the region and the people in each region are. Judging from the geographical conditions of Indonesia, it is divided into several provinces (Labobar, 2020) and consists of Regency and City areas, giving rise to statutory regulations, namely regional regulations (Hakim, 2020). Furthermore, in 2016 the Indonesian Ministry of Home Affairs announced that 3,143 Regional Regulations had been canceled (Humas Kemendagri, 2016) and Policy Analyst for the Regional Autonomy Implementation Monitoring Committee (KPPO), Eduardo Edwin, said that his party still found 347 regional regulations that were classified as problematic due to lack of public participation (Zulfikar, 2021).

However, the current phenomenon is that the granting of regional autonomy also experiences several obstacles and problems, such as an overlap between the implementation of government affairs in the health sector and health insurance, both in terms of authority and finances (Martira & Nursadi, 2020). The field of religion is not free from problems, this can be seen from the research results (Suparto et al., 2022) which state that Zakat is an absolute government matter in the religious sector which is the

authority of the Central Government. Regional governments do not have the authority to regulate zakat through Regional Regulations (Perda). Regional regulations regarding zakat cause confusion for the Regional Government because they conflict with the law because legally it is appropriate for the Central Government through the Minister of Home Affairs not to issue the 2018 Provincial Zakat Regulation Registration Number. However, the Central Government must be consistent in carrying out executive reviews, because for the Nusa Province West Southeast (NTB) it turns out that the Central Government issued a Register Number for Regional Regulation no. 9 of 2015 concerning Zakat, Infaq and Sadaqah and Bengkulu Regency also obtained a Register Number from the Governor as Representative of the Central Government regarding Regional Regulation (Perda) no. 3 of 2018 concerning Zakat, Infaq and Sadaqah

Another problem that arises is that there are still differences between regional development goals and national development (E. D. Widodo, n.d.). Where the development of the practice of regional autonomy has given rise to problems regarding the establishment and implementation of this Regional Regulation, to the point that the (Central) Government is overwhelmed with supervision until it is canceled (Abadi et al., 2018). So it can be concluded that there are many factors that influence the implementation of regional autonomy, so that continuous and coordinated efforts are needed from various parties to overcome existing obstacles and realize effective and efficient regional autonomy.

Furthermore, to understand the needs of regional communities, legal philosophical thinking is needed. For this reason, philosophy is seen as the mother of knowledge or the mother of all sciences (Hasriadi, 2020). In essence, philosophizing means always trying to think in order to achieve goodness and truth, thinking in philosophy is not just thinking but thinking radically to its roots, therefore even though philosophizing contains thinking activities, not every thinking activity means philosophy or philosophizing (Rakhmat, 2015). The important thing that has been conveyed by philosophers is that the issues discussed in philosophy are the issue of the true nature of humans, the way we think, the nature of reality, and our ability to know that reality, and a collection of related issues that are related to each other (Gibson, 2021). Apart from that, Oemar Amin Hoesin also said that it is important to have science and philosophy because science provides knowledge, and philosophy has a unique substance and provides wisdom (Hoesin, 1975) so that the formation of law and the performance of the state, including regional government, cannot be separated from the concept of natural law, namely how human interaction and the will of each individual within the government (Finnis, 2011; Grotius, 2012; John Locke, 2003).

Based on the results of previous research, the formation of Regional Regulations is formed based on regional characteristics so that changes are needed to Law Number 23 of 2014 (Sedubun, 2020) especially in regional regulations. The regional regulations that are made have a discriminatory nature, causing conflict with the community. In this law, there has been a comprehensive change in the administration of regional government because the previous provisions, namely Law Number 32 of 2004 and Law Number 12 of 2008 were deemed not to be in accordance with the constitutional conditions and demands of regional government administration (Wau et al., 2023). The formation of regional regulations does not involve community participation (Parlindungan, 2018) so that the resulting regional regulations are not responsive (Bunga, 2020). Most implementations of regional government laws only prioritize financial orientation by creating various regional regulations (perda) that emphasize economic interests rather than public service interests. Apart from that, no previous research has been found that discusses the relationship between regional regulations and the implementation of legal philosophy values.

METHOD

This research is descriptive-analytical research that describes, factually and accurately the process of forming regulations. The researcher uses a normative juridical approach and is supported by an empirical juridical approach, where the author studies legal aspects, laws and regulations, and relevant theories. So normative legal research focuses on positive law inventory, legal principles, and doctrine, legal discovery in cases in concreto, legal systematics, synchronization level, legal comparison, and legal history (Aristeus, 2018; Muhammad, 2004; Nasution, 2008). This means that this research will focus on applicable laws and regulations (Ariefulloh et al., 2023). The type of data is secondary data in the form of primary legal materials and secondary legal materials and tertiary legal materials. The data collection technique is done by collecting documentation. Next, data analysis was carried out qualitatively where after all the data is collected, the data is processed and arranged systematically according to its characteristics

RESULT AND DISCUSSION

Implementation of Legal Philosophy Values in the Formation of Regional Regulations in Indonesia

Philosophers seek to solve the problem of the idea of creating a perfect law that must stand firm forever, and prove to mankind that the law has been completed, and its power is no longer in question (Pound, 1967). This explains that an attempt to solve a problem must use the legal system that applies at a certain time and place, using abstractions from higher legal materials.

In essence, philosophy studies certain problems in a certain way, which includes the deepest and most important problems that have been discovered by philosophers. Among them are discussions about the true nature of humans, the way we think, the nature of reality, as well as our ability to know that reality, and a series of issues related to each other (Gibson, 2021). Disharmony (Prasetyo, 2013) People's and state law emerged as a result of national legal development policies which transplanted 'foreign' laws in various ways to communities which had their laws.(Kusumaatmadja, n.d.) so this can trigger various conflicts, such as conflicts between customary law and state law. Law Number 5 of 1960 (Basic Agrarian Law) recognizes the rights of customary law communities in controlling land and natural resources, but there are still other regulations that negate this principle, the Forestry Law (UU No. 41 of 1999) for example which recognizes the existence of customary forests, but the law places customary forests as part of state forests (Andiko, 2011).

Legal philosophy not only thinks about how the order should apply but also thinks about all the problems faced even though they are quite complicated(Huijbers, 1982). Furthermore, legal philosophy has the task of explaining the philosophical basis of legal values to realize the ideals of justice and order in society which are related to the existence of existing laws.(Hermoyo, 2010)Society wants positive law that creates a safe and peaceful society that is built in accordance with legal ideals (rechtidee) in a state of law (rechtsstaat), not a state of power (machtsstaat). Law functions as the protection of human interests, law enforcement must pay attention to 4 elements, namely legal certainty (rechtssicherheit), legal benefits (zweckmassigkeit), legal justice (gerechtigkeid), legal guarantees (doelmatigkeit) (Darji Darmodiharjo; Shidarta, 2006).

Furthermore, legal philosophy provides a rational explanation of law as an effort to fulfill universal legal developments to ensure continuity in the future. So the important role of legal philosophy can be seen from the activities of reasoning and studying the principles and foundations of ethics and social supervision, which are related to the goals of society, issues of human rights, and the nature of nature.(Duguit, 1919) This can also be related to the principles contained in law number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislative

Regulations, namely the principles of forming good statutory regulations including 1) clarity of purpose, 2) appropriate institutions or forming officials, 3) suitability between type, hierarchy and material content, 4) can be implemented, 5) effectiveness and usefulness, 5) clarity of formulation, and 6) openness. Apart from that, the statutory regulations in this case are regional regulations that reflect the principles of a) protection, b) humanity, c) nationality, d) kinship, e) archipelago, f) diversity, g) justice, h) equality of position in law and government i) legal order and certainty, j) balance, harmony and harmony.

In general, philosophical values are things that must be referred to in making government policies in formulating all statutory regulations, including in the formation of regional regulations (Hermoyo, 2010) It is important to implement the values of legal philosophy because legal philosophy seeks to find answers to problems to provide a logical explanation of the law. Realizing a sense of justice that following abstract and concrete legal rules, legal philosophy will carry out an analysis that can be said to be in-depth on all legal problems that often exist in society or conduct a study of the development of legal science itself theoretically, and its scope is expanding widely. And comprehensive.

The implementation of legal philosophy in the formation of regional regulations has various variations depending on the philosophy of life of each nation/society (Wealtanchauung). In reality, a country without ideology cannot possibly achieve its national goals because a country without ideology is a failure, the country will run aground in the middle of its journey. The Philosophy of National Life (Wealtanchauung), which is commonly used as a state philosophy or ideology, functions as a basic norm (ground norm) (Kelsen, 2007).

The values of legal philosophy can be implemented in the formation of regional regulations in Indonesia by forming participatory regional regulations (S, 2021). This is in line with the research results (Roza & S, 2019) which state that public participation in the formation of good and responsive legislation in Indonesia is a citizen's right and obligation guaranteed in the constitution. This is reinforced by the presence of Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislative Regulations, Law Number 23 of 2014 concerning Regional Government, and Minister of Home Affairs Regulation Number 80 of 2015 concerning the Formation of Regional Legal Products, in which the process of forming Regional Regulations is explained in detail starting from the submission of Regional Regulations, the preparation of draft Regional Regulations, discussions, up to the adoption of Draft Regional Regulations into Regional Regulations and also explains the role of the community in the formation of participatory Regional Regulations. This explains that the formation of participatory regional regulations involving the community is expected to produce regional regulations that are quality and beneficial to the community.

All laws made in Indonesia must be guided by state ideology as a fundamental norm, namely Pancasila (Prasetyo, 2013) and the 1945 Constitution of the Republic of Indonesia (UUD NRI). (Prasetyo, 2013). Pancasila as the source of all sources of law means that all sources of law and regulations, including the 1945 Constitution of the Republic of Indonesia and other legal products, must be based on Pancasila and must not deviate from its values. In line with the Elucidation of Article 18 of the 1945 Constitution, it is understood as Regional Government which consists of "large areas" and "small areas" and these areas can also be administrative areas or special autonomous areas (Sedubun, 2020).

Regional Regulations Based on the 1945 Constitution of the Republic of Indonesia

The formation of Regional Regulations is the process of making regional regulations in the form of Regional Regulations which starts with planning, discussion, preparation techniques, formulation, discussion, ratification, promulgation, and dissemination. In preparing the discussion and ratification of Draft Regional Regulations into Regional Regulations, you must be guided by the Legislative Regulations (Brugink, 1996).

Based on the theory regarding the principles of forming statutory regulations and provisions regulated in Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the formation of statutory regulations and Law Number 23 of 2014 concerning Regional Government as previously explained, we can see together that in the process of forming statutory regulations, in this case including Regional Regulations, the application of the principles of forming statutory regulations is very important, because the principles/principles of forming legislative regulations are the basic foundation for the birth of a norm Sharif (Sharif 1987). Explains that to make laws and regional regulations there are 3 (three) bases or foundations as follows

1. Philosophical Foundation, legislation produced has a philosophical basis (filosofische grondslag) if its formulation or norms are justified (rechtvaardiging) and is studied philosophically
2. Sociological Foundation, a piece of legislation is said to have a sociological basis (sociologische grondslag) if its provisions are following general beliefs or legal awareness of society.
3. Juridical basis, juridical basis (rechtgrond) also called legal basis is the basis contained in legal provisions of a higher level.

As Bagir Manan argued, good regional regulations should reflect philosophical aspects relating to the principle that regional regulations will guarantee justice, sociological relating to the hope that the regional regulations that are formed are the wishes of regional communities, and juridical relating to the hope that regional regulations fulfill and guarantee legal certainty as with the formation of Constitution (Manan, 1991).

According to Legislative Theory, the preparation of Legislative Regulations includes two main issues, namely: a) Formal/procedural elements, namely those related to the formation of Legislative Regulations that take place in a particular country. b). The material/substantial element is related to the problem of processing the contents of a law (T. T. dan I. G. Widodo, 2010).

The mechanism for preparing the formation of regional regulations is currently regulated in the provisions of Law 13 of 2022 concerning the Second Amendment to Number 12 of 2011 concerning the Formation of Legislative Regulations, Law Number 23 of 2014 concerning Regional Government, as amended in Law Number 9 of 2015, then previously Presidential Regulation Number 87 of 2014 concerning the implementation of Law Number 12 of 2011 and Minister of Home Affairs Regulation Number 80 of 2015 as amended in Minister of Home Affairs Regulation Number 120 of 2018 concerning the Establishment of Regional Legal Products. The process of forming regional regulations is substantially the same as the process of forming legislation in general which includes, Planning, Drafting, Discussion, Ratification, and Promulgation. Article 1 number 1 of Law Number 15 of 2019 Regional authority given on the principle of decentralization, namely in the form of the formation of regional regulations, still leaves problems. Conceptually, the stages and mechanisms in forming regional regulations have been regulated in detail in statutory regulations, but in practice, there are still several problematic regional regulations that result in these regional regulations being revoked and canceled by the Ministry of Home Affairs, this is what makes the formation of regional regulations

considered inefficient (Sihombing & Utara, 2016). Before the Constitutional Court's decision regarding the Cancellation of Regional Regulations after the Constitutional Court Decision Number 56/PUU-XIV/2016 and Number 137/PUU-XIII/2015, it handed over the authority to review and cancel regional regulations to the Supreme Court.

Furthermore, compatibility between legal philosophy values and regional regulations that have been formed in Indonesia can be implemented by aligning legal philosophy values with regional regulations in Indonesia, which is accompanied by an ongoing process that requires commitment and cooperation from various parties. Deep understanding of Legal Philosophy Values and understanding existing legal theories such as positivism legal theory (Islamiyati, 2018) naturalism and legal realization. Furthermore, ensuring that the objectives and content of regional regulations are in line with the values of legal philosophy. So that it has an impact on effective and fair law enforcement without any discrimination to realize justice, prosperity, and benefit for all people (Manan, 1991). This provides an important picture of the relationship between legal philosophical values and regional regulations in Indonesia. It is hoped that regional regulations will be created that are more in line with fundamental values and have a positive impact on people's lives.

CONCLUSION

Based on the research conducted, it can be concluded that the implementation of legal philosophy values in the formation of regional regulations in Indonesia must be aligned with fundamental legal principles, namely justice, legal certainty, and expediency. The application of these legal philosophy values can be realized through the establishment of participatory regional regulations that actively involve the community, ensuring that both the objectives and substantive content of the regulations reflect these values. In addition, the implementation of legal philosophy values should be supported by established legal theories, including legal positivism, natural law theory, and the theory of legal realization.

However, this study finds that many regional regulations have not yet adhered to the values of legal philosophy, as evidenced by the existence of discriminatory regulations and regulations that are unresponsive to societal needs. The incompatibility between legal philosophy values and regional regulations in Indonesia is influenced by several factors, including the limited understanding of legal philosophy among regional regulation drafters, minimal public participation in the regulatory formation process, and weak law enforcement.

The findings of this research offer practical contributions for government stakeholders by emphasizing the need to improve the quality of regional regulations through enhanced public participation in the regulatory formation process and strengthened law enforcement against regulations that contradict legal philosophy values, with the ultimate goal of achieving good governance.

Furthermore, future research is encouraged to conduct empirical studies to test the conclusions of this research in more concrete contexts, such as analyzing specific regional regulations across different regions in Indonesia and conducting surveys involving regulation drafters, community members, and law enforcement officials. Such studies may also provide a deeper analysis of the factors that hinder the effective implementation of legal philosophy values in the formation of regional regulations.

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