



Participatory local regulations based on local wisdom: study of local regulation formation policy of Kutai Kartanegara regency

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ABSTRACT

This study aims to determine the local government policy of Kutai Kartanegara Regency in arranging participatory local regulations to accommodate the local wisdom of Kutai Kartanegara society in the era of regional autonomy. It also analyzes the implementation of local wisdom regulation to ensure the existence of society. The methodology used is empirical juridical, where researchers use data collection techniques through interviews with the Legal Section of the Regional Government of Kutai Kartanegara Province. The method of data analysis is qualitative and deductive inference, that is, drawing conclusions from a general form to a specific form. The formation of participatory local regulations based on local wisdom becomes urgent when the implementation of regional autonomy is faced with global demands where people must follow technological developments. This can change the cultural values that have been developed in local communities, and the government is obliged to provide legal protection in the form of the formation of local regulations that contain local wisdom values and guarantee their sustainability.

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1. INTRODUCTION

The development of regional autonomy in post-reform Indonesia is characterized by the strengthening of the recognition of local wisdom in the regions. With regional autonomy, regions have the authority to manage their own regions and local wisdom. Local wisdom in a region is a way to maintain and preserve the customs or culture that exist in the region. To develop the local wisdom and culture that exists in the local community, it is necessary to have rules such as management, protection, utilization, development, and others to realize the regional identity of Kutai Kartanegara.

In this case, the local government has an obligation to guarantee and preserve the customs within the customary territory of the Sultanate of Kutai Kartanegara Ing Martadipura, or the local wisdom that lives in Kutai Kartanegara. H. Quartich Wales stated that the concept of local wisdom with local genius is the same principle, where the ability of local culture to face the influence of foreign cultures when both cultures are related (Wales, 1948).

Article 1 Paragraph 30 of Law No. 32/2009 stipulates that local wisdom is the noble values implemented in the community's rules to protect and manage the environment sustainably (Rizal et al., 2022). One of the principles established in the law is also associated with environmental management. When referring to a wider perspective, the definition of local wisdom includes several aspects, such as values, norms, laws, knowledge formed by religious teachings, beliefs, traditional values, and experiences that have been inherited from generation to generation (Prabandani, 2011).

Regarding the premise of regional autonomy and customary law, one form of recognition that is generated is a legal product that accommodates elements of local wisdom. Regional Regulation (PERDA) is one form of government recognition of a law in society, including rules related to norms or rules that exist in the community and the values maintained by the community (Irwansyah et al., 2021; Ngaisah & Sani, 2022). These values are not limited to the social life system but also to the values in the environmental management aspect of the community. The main characteristic of regional autonomy is the existence of executive Regional Representative Institutions that functions as local political institutions (Jalil, 2021).

Previous research has been conducted on the formation of participatory local regulations to accommodate local wisdom. Boimau (2017) evaluated the implementation of local wisdom in formulating regional regulations in Kupang regency. The study highlighted the negative impacts of not accommodating local wisdom in regulations and emphasized the importance of incorporating it. Yuspin et al. (2019) suggested that regional regulations by local governments should incorporate community values, emphasizing local wisdom. The involvement of civil society is also highlighted, with an emphasis on open communication and understanding of diversity in society (Ahyar & Kristiyanto, 2020). This can lead to improved peace and prosperity for the people.

Located in the province of East Kalimantan, Kutai Kartanegara is a regency that has an area of 27,263.10 km² and a water area of approximately 4,097 km². According to the Directorate General of Population and Civil Registration of the Ministry of Home Affairs, the total population of Kutai Kartanegara reached 741,950 people in 2021. One of the characteristics of Kutai Kartanegara is the population distribution pattern, which tends to follow the existing transportation system (Haug, 2014). In the past, the majority of the transportation system in Kutai Kartanegara was river transportation. Due to this situation, the pattern of population distribution in Kutai Kartanegara Regency tends to follow the flow of the Mahakam River as an arterial route for local transportation. In terms of demography, the population in Kutai Kartanegara is divided into two groups, which are the native population and the immigrant population. The natives include the Kutai tribe, Benuaq Dayak tribe, Tunjung Dayak tribe, Bahau Dayak tribe, Modang Dayak tribe, Kenyah Dayak tribe, Punan Dayak tribe, Kayan Dayak tribe, and several other Dayak tribes. Meanwhile, the immigrant population is categorized into the Ambon tribe, Banjar tribe, Javanese tribe, Bugis tribe, Sasak tribe, Mandar tribe, Madurese tribe, Buton tribe, and several other tribes from all over Indonesia. Due to the complexity of the characteristics and customs of Kutai Kartanegara, the government issued a policy resolution to protect local customs through local regulations on Kutai Kartanegara local wisdom, such as Regional Regulation No. 4/2021 on Movement to Recite the Quran (*Gerakan Etam Mengaji*), Regional Regulation No. 2/2016 on the Customs Preservation of Kutai Kartanegara Ing Martadipura Sultanate, and Regional Regulation No. 18/2016 on the Management of Swamp and Peat in Kutai Kartanegara.

Therefore, this study aims to examine the local government policy of Kutai Kartanegara in establishing participatory local regulations to accommodate the local wisdom of society. The existence of unique local wisdom regulations established by the Kutai Kartanegara Government indicates that legal protection of local cultural values is one of the efforts to promote community participation in fulfilling the formation of participatory local regulations.

2. RESEARCH METHOD

The research methodology is sociological legal research (empirical juridical). Sociological legal research involves identifying how the effectiveness of law applies in society (Anuar, 2022). Primary data is collected through interviews, questionnaires, or observations. Secondary data is obtained from various sources, such as books, laws and regulations, online articles, and newspapers. The

research location is the legal section of the Kutai Kartanegara Regency Government Office. The sample selection is based on the diverse customs and regions of Kutai Kartanegara in East Kalimantan. The collected data will be analyzed using content analysis and the deductive method to draw conclusions ranging from general to specific findings.

3. RESULTS AND DISCUSSIONS

Indonesia, as a state of law, has legal regulations that function as a means and guide for law implementation. In the hierarchy of laws and regulations stipulated in Law No. 11/2012, Perda, or local regulations, are placed last in the order of Indonesian laws and regulations. The formation of local regulations cannot be separated from the substance elements that contain the characteristics and particularities of a region, referred to as local wisdom. The party that enacts the regulation is referred to as the *wetgever*, which is known as the legislative and executive institutions (Mulyawan, 2015).

The enactment of local regulations refers to the law-making process. Accommodating local wisdom in a local regulation is necessary as a form of legal protection for indigenous peoples, local communities that share a hereditary culture that cannot be contested by other parties and whose existence is recognized (Serfiyani et al., 2022). Wisdom refers to the ability to solve problems related to maintaining environmental balance in a social context (Kusuma, 2018). The term "local" refers to a specific region. Thus, when referring to "local wisdom," it refers to locally derived knowledge and practices that are often inherited from generation to generation with respect and consideration for the uniqueness and distinctiveness of the area. Local wisdom refers to the wisdom or knowledge obtained from the unique experiences and cultural heritage of a particular ethnic group (Darmadi, 2018; Rahmawati, 2022). This means that local wisdom is the result of a particular community's experience and is distinct from that of other communities. These values are attached to the community and have existed for a long time in their culture.

Local wisdom also includes the ability of local communities to respond to foreign cultural influences. In addition, local wisdom can be defined as indigenous knowledge or the typical wisdom of a community group that grows from the values of high cultural traditions, aiming to organize people's lives in order to achieve progress in terms of family relations, peace, and the improvement of community welfare (Maria, 2018). Fundamentally, local wisdom aims to maintain and preserve nature and ecosystems. Therefore, it is essential to learn and maintain local wisdom that develops in the community because this wisdom is formed through interactions between humans and their environment (Rumini, 2022).

The formation and involvement of local communities reflect participatory regulations, allowing local regulations to function as the ideals of law (*recht* idea), which is the function of law as legal protection (*rechtsbecherming*). Public protection using legal means is aimed at protecting certain interests, by making the interests that must be protected into a legal right (Harjono, 2008). Recognition of human rights possessed by legal subjects based on legal provisions from arbitrariness or as a collection of rules or regulations that will be able to protect one matter from another (Hadjon, 1987).

The implementation of regional autonomy explicitly requires that the era of the centralized local government system move towards decentralization. The government must be able to lead various policies in the form of a framework for implementing regional autonomy policies at the point of accelerating community welfare through improving public services and optimizing community participation in the process of regional autonomy in development. Development planning in a country or society that can be attempted ranging from the economy, natural resources, human resources, and infrastructure since the output of regional development planning is the local government must encourage the achievement of a development plan based on regional planning. The preparation of the plan will always face obstacles, such as the unwillingness and inability of the planners to grasp the philosophy and autonomy of the region (Kholik, 2020).

Kutai Kartanegara is a regency that is still dominated by cultures that are closely related to local wisdom. The government of Kutai Kartanegara Regency has drafted a local regulation on local wisdom that contains the specificity of the region in terms of religious diversity and local conditions. From the interview results, there is a local regulation that regulates the protection of

indigenous peoples, which is Regional Regulation No. 13/2013 on the implementation of recognition and protection of indigenous peoples. However, there is a problem for the government of Kutai Kartanegara Regency in drafting local regulations on local wisdom. The region's diversity of cultures due to its broad territory poses a problem for the government in developing a draft regulation on local wisdom. Currently, the local government is also conducting discussions on the protection of customary law communities, which were initiated by the House of Representatives. The constraints of the pluralistic regional cultural system make it necessary for the government to make a resolution to the non-attachment to a single cultural diversity.

The Kutai Kartanegara region is a multicultural area, and resistance from the community can occur if only one culture is recognized and legalized. The local government itself has coordinated with the village government, and the resolution is that a decree stipulating that there is a culture in a village can be submitted as a requirement for the submission of a regional regulation. Several proposals for regional regulations, especially those regulating the Dayak people, were made. However, since in Kutai Kartanegara there are not only Dayak people, the formulation has not been resolved until now and has been coordinated, although it has not been discussed. Some of the local wisdom regulations are listed in the table below:

Table 1. Identification of Examples on Local Wisdom Regulations

No.	Types of Regulations	Number/ Year	Subject
1	Regional Regulation	4/2021	Movement to Recite the Quran (<i>Gerakan Etam Mengaji</i>)
2	Regional Regulation	2/2016	Preservation of Customs of the Sultanate of Kutai Kartanegara Ing Martadipura
3	Regional Regulation	18/2016	Management of Swamp and Peat in Kutai Kartanegara
4	Regional Regulation	13/2006	Community and Customary Institutions
5	Regent Regulation	21/2016	Village and Urban Customary Institutions

The table above lists several local wisdom regulations that exist to this day based on community and regional activities in Kutai Kartanegara. Normatively, the formulation of draft regulations is carried out in the Regional House of Representatives within three months. However, the initiated draft regulation on customary law communities has been under discussion since 2022 and has yet to be approved. Several draft regulations on regional-based local wisdom have also been submitted, such as the neighborhood association (RT RW) of Kutai Kartanegara, and have yet to be approved. The district government assumes that the protection of customs and local wisdom has not encountered significant conflicts without codification. The flow of life or local wisdom will go according to the way it is, although some people want regulations to regulate it. Community participation is accommodated by the district government's policy to provide the widest possible aspirations (Jatmikowati et al., 2019) from the community, as long as the objectives and substance are appropriate and relevant to the community's needs.

The implementation of regional protection is also carried out by the Kutai Kartanegara Regency Government by promoting the management of natural resources that are not tied to non-renewable natural resources, such as coal mining. The government's policy to encourage its citizens to create and manage natural resources in the village is an advantage of a region that can generate the economy of its people (Mustalahti et al., 2020). Therefore, the government has made regulations on village-owned enterprises (*Bumdes*) and has made several villages pilot villages for the implementation of village-owned enterprises and there are village regulations (*Perdes*) and references to Regent Regulations for each regulation made. The village government must also report to the district government so that the village regulation does not exceed the regulations above it. The flow of local community participation principles can be seen in the fishbone diagram below:

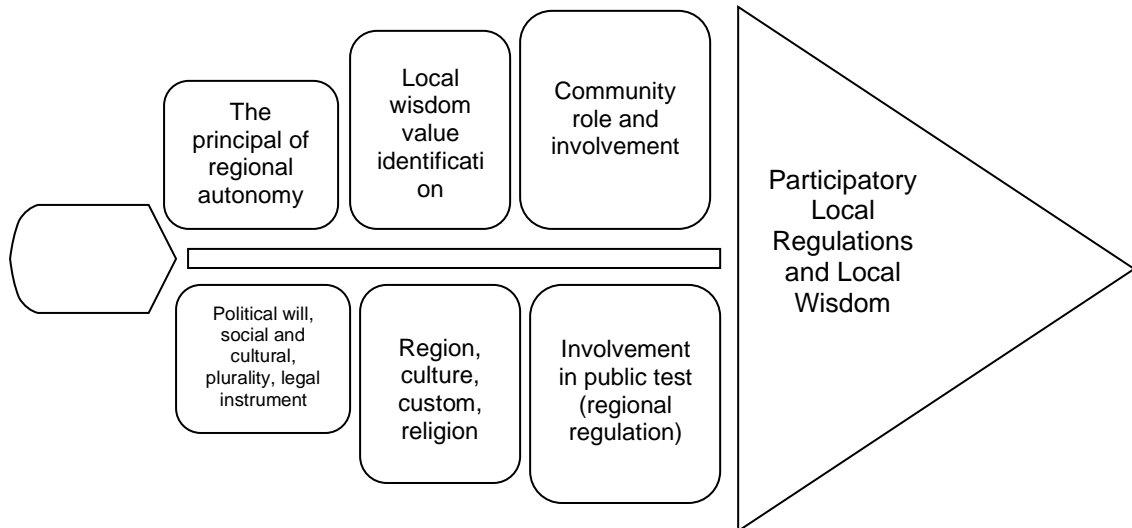


Figure 1. Participatory Principles in the Formation of Local Regulations Based on Local Wisdom

Based on the figure of fishbone above, one of the basic principles in the implementation of regional autonomy is to consider aspects of democracy, justice, equity, and the potential of regional diversity. This principle of regional autonomy reflects the political will of the government to provide space for respect and recognition of local social and cultural plurality that reflects local wisdom, including legal plurality in the national legal system. Therefore, one of the implications of the government's political will to recognize regional diversity in the implementation of regional autonomy is the obligation to respond to and accommodate local legal principles into the national legal order, which is used as a legal instrument to support the implementation of regional autonomy (Firmansyah & Evendia, 2022). With this foundation, it is clear that the law requires the rules of law and the active role of the community in the formation of laws and regulations by identifying existing local wisdom without waiting for community encouragement to form a local wisdom regulation.

Thus, the government is required to be pro-active in the existence of local communities. This is in accordance with the principle of following the development of local governance, which is based on the principle of decentralization. The implementation of local government is explicitly stated in accordance with the mandate of the 1945 Constitution of the Republic of Indonesia, regional governments that regulate and manage their own government affairs according to the principles of regional autonomy and assistance tasks (Hamja, 2021).

4. CONCLUSION

The study emphasizes the significance of legal protection through local regulations that contain local wisdom values, ensuring the preservation and sustainability of the cultural practices and knowledge passed down through generations. It is noted that the implementation of regional autonomy requires the recognition and accommodation of local wisdom in regional regulations. The government's proactive approach towards the existence of local communities, in line with the principles of decentralization, has led to the inclusion of various policies related to community participation in different aspects. The Regional Government of Kutai Kartanegara Regency has implemented participatory local regulations based on local wisdom that comply with the rules for the formation of laws and regulations in Indonesia. The accommodation of various policies related to meeting the needs of community participation in terms of religious activities, customs, natural resource management, or territoriality is evident. However, not all of these policies can be formed into a legal umbrella due to the territorial conditions and cultural diversity that cannot be individually contained in a regional regulation. The resolution provided by the government is the recognition of customary law communities in the submission of regional regulation drafts, decrees of customary

institutions, or village regulations on village-owned enterprises based on local wisdom and regional potential.

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