

**ANALYSIS OF REGIONAL AUTHORITY IN THE FORMATION  
OF LOCAL REGULATIONS BASED ON PANCASILA IDEOLOGY**

***ANALISIS KEWENANGAN DAERAH DALAM PEMBENTUKAN  
PERATURAN DAERAH YANG BERLANDASKAN IDEOLOGI  
PANCASILA***

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**ABSTRACT**

This research analyses the local authority in the formation of local regulations (Perda) based on the ideology of Pancasila. As a country with a decentralised system, Indonesia gives authority to local governments to form local regulations according to the needs of each region. However, in its implementation, this authority must remain in line with the principles contained in Pancasila as the basis of the state. This research uses normative legal research method with statute approach and conceptual approach. The data source used is secondary data consisting of laws and regulations, court decisions, and relevant legal literature. The results show that in the formation of local regulations, local governments must pay attention to the principles of the formation of good laws and regulations as stipulated in Law Number 12 of 2011 concerning the Formation of Laws and Regulations. In addition, there is a supervisory mechanism from the central government and the Supreme Court to ensure that the Perda formed does not conflict with higher regulations and the values of Pancasila. This research recommends strengthening the synergy between local and central government in drafting local regulations, as well as increasing public participation to ensure that any

local regulations formed truly reflect the values of Pancasila and the interests of the community at large.

**Keywords : Regional Authority; Regional Regulation; Pancasila.**

### **ABSTRAK**

*Penelitian ini menganalisis kewenangan daerah dalam pembentukan Peraturan Daerah (Perda) yang berlandaskan ideologi Pancasila. Sebagai negara dengan sistem desentralisasi, Indonesia memberikan kewenangan kepada pemerintah daerah untuk membentuk Perda sesuai dengan kebutuhan masing-masing daerah. Namun, dalam pelaksanaannya, kewenangan ini harus tetap sejalan dengan prinsip-prinsip yang terkandung dalam Pancasila sebagai dasar negara. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan perundang-undangan (statute approach) dan pendekatan konseptual (conceptual approach). Sumber data yang digunakan adalah data sekunder yang terdiri dari peraturan perundang-undangan, putusan pengadilan, serta literatur hukum yang relevan. Hasil penelitian menunjukkan bahwa dalam pembentukan Perda, pemerintah daerah harus memperhatikan asas-asas pembentukan peraturan perundang-undangan yang baik sebagaimana diatur dalam Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan. Selain itu, terdapat mekanisme pengawasan dari pemerintah pusat dan Mahkamah Agung untuk memastikan bahwa Perda yang dibentuk tidak bertentangan dengan peraturan yang lebih tinggi maupun nilai-nilai Pancasila. Penelitian ini merekomendasikan penguatan sinergi antara pemerintah daerah dan pusat dalam penyusunan Perda, serta peningkatan partisipasi masyarakat guna memastikan bahwa setiap Perda yang dibentuk benar-benar mencerminkan nilai-nilai Pancasila dan kepentingan masyarakat secara luas.*

**Kata Kunci : Kewenangan Daerah; Peraturan Daerah; Pancasila.**

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## **I. INTRODUCTION**

Regional authority in the formation of Regional Regulations (Perda) is an important aspect in the implementation of regional autonomy as regulated in the 1945 Constitution of the Republic of Indonesia.<sup>1</sup> As part of the Indonesian government system, this authority is given to regional governments with the aim of regulating and managing regional household affairs in accordance with local social, economic, and cultural needs and conditions. Within the

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<sup>1</sup> Supriyadi Supriyadi and Andi Intan Purnamasari, "Gagasan Penggunaan Metode Omnibus Law dalam Pembentukan Peraturan Daerah," *Jurnal Ilmiah Kebijakan Hukum* 15, no. 2 (July 26, 2021): 257, <https://doi.org/10.30641/kebijakan.2021.V15.257-270>.

framework of regional autonomy, each region has the right to formulate regulations that can provide solutions to problems faced by local communities, while still paying attention to the principle of state unity and not conflicting with national interests.<sup>2</sup>

This authority is further regulated in Law Number 23 of 2014 concerning Regional Government, which provides a legal basis for regions to draft and establish Regional Regulations.<sup>3</sup> Article 18 paragraph (6) of the 1945 Constitution emphasizes that regional governments have the right to establish regional regulations and other regulations to implement regional autonomy and assistance tasks.<sup>4</sup> This reflects the principle of decentralization, where regions are given the freedom to formulate policies according to their specific needs, as long as they do not conflict with higher regulations. Thus, the role of Perda as a legal instrument that regulates the lives of local communities is very important in supporting regional development and welfare.

However, even though regional governments are given the authority to create regional regulations, control from the central government is still needed to ensure that each regional regulation produced does not conflict with the constitution or higher laws and regulations. The central government, through its supervision and control mechanisms, has a role in overseeing whether regional regulations created by the regions are in accordance with the basic values contained in Pancasila and do not violate the basic rights of citizens. This is important so that diversity and regional autonomy do not lead to imbalances or potential abuse of power at the regional level.

Regional authority in the formation of Regional Regulations must also be balanced with basic principles in the formation of good laws and regulations, such as the principles of openness, community participation, and justice. Every Regional Regulation that is made must not only be based on higher regulations, but must also reflect the needs and aspirations of the local community. Therefore, community involvement in the process of forming Regional Regulations is very important, so that the resulting regulations truly reflect the interests of the people and are in line with the state ideology, namely Pancasila.

This research is basically motivated by the importance of Regional Regulations (Perda) as a legal instrument that can regulate and resolve

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<sup>2</sup> Damianus Krismantoro, "Pengakuan Hak Masyarakat Adat Atas Tanah Ulayat: Analisis Hubungan Antara Hukum Nasional Dan Hukum Adat," *AKSELERASI: Jurnal Ilmiah Nasional* 4, no. 2 (July 11, 2022): 21–32, <https://doi.org/10.54783/jin.v4i2.553>.

<sup>3</sup> Sidik Maryanto, Erwin Putubasai, and Fajar Sasora, "Implementasi Fungsi Legislasi DPRD Dalam Penyelenggaraan Pemerintahan Daerah Berdasarkan Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah Di Kabupaten Lampung Selatan," *Jurnal Ilmu Sosial Dan Ilmu Politik* 05, no. 01 (2022).

<sup>4</sup> Muhammad Roqib, "Harmonisasi Peraturan Daerah Kabupaten/Kota Pasca Putusan Mahkamah Konstitusi Nomor 137/PUU-XIII/2015," *Jurnal Justiciabelen* 3, no. 1 (February 10, 2021), <https://doi.org/10.30587/justiciabelen.v3i1.2283>.

problems at the regional level, ranging from social, economic, to cultural aspects. As part of the national legal system, Perda not only functions to meet the needs of local communities, but must also be in line with the larger goals of the state, namely realizing social justice for all Indonesian people.<sup>5</sup> In this framework, the ideology of Pancasila as the basis of the state must be the main foundation in every regulation issued, including in the formation of Perda. Pancasila is not only a source of law, but also provides direction and guidelines in local arrangements, so as not to conflict with the basic principles of the Indonesian state.

However, even though regions are given autonomy to regulate their own regional household affairs, the formation of Regional Regulations often faces challenges in integrating regional interests with national interests.<sup>6</sup> On the one hand, regional autonomy provides broad authority for local governments to create regulations that are relevant to local social, cultural, and economic conditions. On the other hand, this authority must not ignore national interests and must be within a higher legal framework. This creates a challenge for local governments in creating Perda that is in line with the principles of Pancasila, without ignoring the control of the central government which has the authority to ensure that each Perda does not conflict with national law and the constitution.

Regional authority in the formation of regional regulations must also take into account the philosophical, legal and sociological values that exist in society.<sup>7</sup> Philosophically, every Regional Regulation issued must reflect the noble values contained in Pancasila, such as social justice, unity, and shared prosperity.<sup>8</sup> In the legal context, the formation of Regional Regulations must be carried out by referring to applicable legal norms, namely in accordance with the provisions of the 1945 Constitution, Law Number 23 of 2014 concerning Regional Government, and Law Number 12 of 2011 concerning the Formation of Legislation. Regional Regulations must also be in accordance with the principles of the formation of good legislation, such as the principles of openness, justice, and community participation.

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<sup>5</sup> Geofani Milthree Saragih, Mexasai Indra, and Dessy Artina, *Putusan Mahkamah Konstitusi Dalam Praktik Pengujian Undang-Undang Terhadap UUD'45* (Jakarta: Raja Grafindo Persada, 2023).

<sup>6</sup> Fathol Bari, "Urgensi Partisipasi Masyarakat Dalam Pembentukan Produk Hukum Daerah," *Politika Progresif: Jurnal Hukum, Politik dan Humaniora* 1, no. 2 (2024).

<sup>7</sup> Andi Ahmad Fachrul Asapa, Sufirman Rahman, and Agussalim A Gadjong, "Pelaksanaan Fungsi Legislasi Dewan Perwakilan Rakyat Daerah Dalam Pembentukan Peraturan Daerah," *Journal of Lex Philosophy (JLP)* 4, no. 2 (2023).

<sup>8</sup> Geofani Milthree Saragih, "Pancasila Sebagai Landasan Filosofis Pembentukan Peraturan Perundang-Undangan Di Indonesia," *Jurnal Pancasila dan Kewarganegaraan* 2, no. 1 (2022).

Sociologically, the formation of Regional Regulations must also take into account social, cultural diversity and the needs of the local community.<sup>9</sup> Indonesia as a country with a very wide diversity of ethnicities, cultures, and customs, requires regulations that are sensitive to local characteristics. The regulations made must accommodate and reflect local values that exist in society, without contradicting the basic principles of the state contained in Pancasila.<sup>10</sup> Therefore, active community participation in the process of forming Regional Regulations is very important to ensure that the resulting Regional Regulations truly reflect the needs and aspirations of the people in the area.

In this context, this study aims to analyze how regional authority in the formation of Regional Regulations can operate optimally while still being based on the Pancasila ideology. This study will also identify various challenges and obstacles faced in the process of forming and implementing Regional Regulations, and provide recommendations on how improvements in the governance of Regional Regulation making can be made. Evaluation of the implementation of Pancasila-based Regional Regulations will also be discussed in this study to determine the extent to which the resulting Regional Regulations can meet the desired social, economic, and legal objectives. Thus, this study is expected to provide a significant contribution to the development of the Indonesian legal system and improve the quality of regulations produced by regional governments, which can ultimately support the achievement of social justice and community welfare.

## **II. METHOD**

The research method used in this study is a normative legal research method with a statutory approach, which aims to analyze regional authority in the formation of Regional Regulations (Perda) based on the Pancasila ideology. This approach focuses on the study of applicable legal norms, such as the 1945 Constitution, Law Number 23 of 2014 concerning Regional Government, and Law Number 12 of 2011 concerning the Formation of Legislation. The data used are secondary data obtained through literature studies on statutory regulations and other supporting literature, with an interpretive analysis method to understand the relationship between regional authority, Pancasila, and the formation of Perda.<sup>11</sup> This study aims to provide an understanding regarding the implementation of regional authority in the

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<sup>9</sup> Marza Nadya Rahayu et al., "Analisis Pembentukan Peraturan Desa Dan Kedudukannya Dalam Sistem Hukum Indonesia," *Jurnal Media Akademik (JMA)* 2, no. 11 (2024).

<sup>10</sup> Gokma Toni Parlindungan S et al., "Tinjauan Yuridis Integrasi Nilai-Nilai Hukum Konstitusi Dan Adat Minangkabau Dalam Penyusunan Peraturan Daerah Di Sumatera Barat," *Journal Of Global Legal Review* 1, no. 1 (2023).

<sup>11</sup> Muhaimim, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020).

formation of Pancasila-based Regional Regulations and provide recommendations for improving the existing legal system.

### **III. ANALYSIS AND DISCUSSION**

#### **a. Philosophical, Legal, and Sociological Basis of Regional Regulations Based on Pancasila Ideology**

Regional regulations (Perda) as one of the legal instruments in the government system in Indonesia must be based on the values of Pancasila as the state ideology.<sup>12</sup> Pancasila is not only the basis for the formation of national law, but must also be a guideline in every regulation made at the regional level. In this context, philosophical, legal, and sociological foundations are important aspects that must be considered so that regional regulations do not conflict with the basic principles of the state and remain relevant to the needs of the local community.

Philosophically, Pancasila as the foundation of the state is the spirit of every legal regulation in Indonesia, including regional regulations (Perda).<sup>13</sup> Pancasila is not just a symbol of ideology, but also a guideline in every aspect of national life, including in the formation of laws at the regional level. The five principles of Pancasila must be reflected in every regional policy, both in the aspects of divinity, humanity, unity, democracy, and social justice. Therefore, every Regional Regulation that is drafted must pay attention to the values of justice, humanity, and common interests in community life so as not to conflict with the basic principles of the state.

This philosophical basis is in line with the provisions in the opening of the 1945 Constitution of the Republic of Indonesia (UUD 1945), especially the fourth paragraph, which emphasizes that the state aims to protect all Indonesian people, improve the life of the nation, and realize social justice for all Indonesian people. As part of the national legal system, Regional Regulations must remain within the corridor of national legal ideals based on Pancasila, so that they must not contain discriminatory elements or conflict with the principles of a state of law. This is also reinforced in Article 1 paragraph (3) of the 1945 Constitution, which emphasizes that Indonesia is a state of law, so that every regulation made, both at the central and regional levels, must refer to the principles of a democratic and just state of law.

In addition, legally, the philosophical basis of Pancasila in the formation of Regional Regulations is also clarified in Law Number 13 of 2022 concerning the Formation of Legislation (UU P3). Article 2 of the P3 Law emphasizes that

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<sup>12</sup> Ahmad Muhamad Mustain Nasoha et al., "Pengaruh Pancasila Terhadap Pengaturan Hukum Adat dalam Konstitusi Indonesia Perspektif Historis dan Yuridis," *Hukum Inovatif: Jurnal Ilmu Hukum Sosial dan Humaniora* 1, no. 4 (October 30, 2024): 309–21, <https://doi.org/10.62383/humif.v1i4.934>.

<sup>13</sup> Arfa'i Arfa'i, Bahder Johan Nasution, and Febrian Febrian, "Aktualisasi Pancasila sebagai Sumber Hukum dalam Pembentukan Undang-Undang," *Undang: Jurnal Hukum* 3, no. 2 (December 1, 2020): 377–407, <https://doi.org/10.22437/ujh.3.2.377-407>.

"Pancasila is the source of all sources of state law."<sup>14</sup> This means that every law, including Perda, must refer to the values of Pancasila as the highest legal basis in the Indonesian legal system. Thus, in the process of forming Perda, the regulators in the regions must ensure that every norm regulated does not conflict with the values of Pancasila.

The implication of this provision is that every Regional Regulation made must reflect the fundamental values in Pancasila.<sup>15</sup> For example, in the aspect of the one and only God, the Regional Regulation must not contain rules that contradict the principles of religious tolerance and freedom of worship guaranteed by the constitution. In the aspect of just and civilized humanity, the Regional Regulation must not discriminate against certain groups based on ethnicity, religion, race, or class. In the aspect of the unity of Indonesia, the Regional Regulation must strengthen diversity and strengthen social integration in society. In the aspect of democracy led by the wisdom of deliberation or representation, the formation of the Regional Regulation must involve community participation in order to be in line with the principles of inclusive democracy. Meanwhile, in the aspect of social justice for all Indonesian people, the Regional Regulation must be oriented towards the welfare of society without creating striking social disparities.

In addition, in practice, many regional regulations were annulled by the Supreme Court because they were deemed to be in conflict with Pancasila values and national law.<sup>16</sup> For example, several Regional Regulations that are discriminatory against certain groups or that hinder the regional economy are often revoked because they are considered to be contrary to the principles of social justice and unity. This shows that in the preparation of Regional Regulations, in addition to paying attention to local needs, it must also be guided by the universal values that have been established by Pancasila as the state ideology.

Thus, every regional regulation must fulfill the philosophical aspect based on Pancasila, the legal aspect in accordance with the constitution and higher laws and regulations, and the sociological aspect that takes into account the conditions and needs of the community. By considering these three aspects, it is hoped that every Regional Regulation that is formed can become a legal instrument that is not only effective in regional regulation, but also remains within the corridor of national law based on Pancasila as the source of all sources of state law.

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<sup>14</sup> Saragih, "Pancasila Sebagai Landasan Filosofis Pembentukan Peraturan Perundang-Undangan Di Indonesia."

<sup>15</sup> Nabila Mauldy Erwanto et al., "Implementasi Asas Keadilan Dalam Penyusunan Peraturan Perundang-Undangan," *Jurnal Hukum, Politik Dan Ilmu Sosial* 3, no. 3 (June 14, 2024): 46–54, <https://doi.org/10.55606/jhps.v3i3.3883>.

<sup>16</sup> Tatang Suprayoga and Suwito Suwito, "Kewenangan Pengujian Peraturan Daerah Dalam Perspektif Undang-Undang," *Jurnal Karya Ilmiah Multidisiplin (JURKIM)* 4, no. 1 (January 31, 2024): 1–9, <https://doi.org/10.31849/jurkim.v4i1.15739>.

From a legal basis, the formation of regional regulations (Perda) is regulated in various binding laws and regulations and refers to the principle of the rule of law. Article 18 paragraph (6) of the 1945 Constitution states that "Regional governments have the right to determine regional regulations and other regulations to implement regional autonomy and assistance tasks." This provision confirms that regional governments have the authority to form regulations that are in accordance with the needs of their regions. This is a manifestation of the principle of decentralization adopted in the Indonesian government system, where the central government gives some of its authority to regions so that they can regulate and manage their own household.

Furthermore, regional authority in forming Regional Regulations is clarified in Law Number 23 of 2014 concerning Regional Government. This law states that regions have the right to form their own regulations as long as they do not conflict with higher regulations. This law provides space for regional governments to respond to local needs with specific policies, but remain within the limits of national law. This principle is also related to the principle of responsible autonomy, where every regulation made must be in accordance with the interests of the community and must not conflict with the constitution or higher regulations.

In addition, the formation of Regional Regulations is also regulated in Law Number 12 of 2011 concerning the Formation of Legislation (UU P3) which was later updated by Law Number 13 of 2022.<sup>17</sup> This law emphasizes that every regional regulation must follow the principles of good legal regulation formation, such as the principles of clarity of purpose, openness, effectiveness, and justice. Article 5 of the P3 Law states that in the formation of legal regulations, including Perda, must be based on legal principles that reflect the values of Pancasila and the 1945 Constitution. This ensures that Perda made in each region remains in line with the national legal system and does not conflict with higher legal norms.

However, even though regions are given the authority to draft regional regulations, control from the central government is still needed so that the regulations made do not conflict with national interests or the basic rights of citizens. The central government has the authority to revoke regional regulations that conflict with higher regulations. This mechanism is emphasized in Law Number 23 of 2014 which states that the central government can evaluate and revoke regional regulations that conflict with the public interest and higher regulations. This aims to ensure that regional autonomy is not misused and remains within the framework of the Unitary State of the Republic of Indonesia (NKRI).

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<sup>17</sup> Musleh et al., "Urgensi Asas Ketuhanan Dalam Undang-Undang Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan," *Sosio Yustisia Jurnal Hukum dan Perubahan Sosial* 3, no. 2 (November 30, 2023): 176–98, <https://doi.org/10.15642/sosyus.v3i2.362>.



In addition to supervision from the central government, the judicial review mechanism by the Supreme Court (MA) also plays a role in controlling the legality of Regional Regulations. The Supreme Court has the authority to test Regional Regulations against higher laws and regulations as stipulated in Law Number 5 of 2004 concerning the Supreme Court. In several cases, the Supreme Court has annulled Regional Regulations that were deemed to be in conflict with the 1945 Constitution and higher regulations. For example, Regional Regulations that hinder investment, conflict with the principle of non-discrimination, or conflict with human rights are often annulled because they are deemed inconsistent with the values of Pancasila and the principles of the rule of law.<sup>18</sup>

The Supreme Court's decision to annul the Regional Regulation shows that there are still many regional regulations that are considered to be contrary to the values of Pancasila, both in terms of discrimination, abuse of authority, and inconsistency with national law. Some Regional Regulations that have been annulled by the Supreme Court include Regional Regulations that limit religious freedom, Regional Regulations that hinder business freedom, and Regional Regulations that contain discriminatory elements against certain groups. The annulment of the Regional Regulation by the Supreme Court emphasizes that every regional regulation must remain within the corridor of national law and must not conflict with the constitutional rights of citizens.

With this monitoring mechanism, it is expected that the formation of Regional Regulations will continue to run within the legal corridor in accordance with the principles of the rule of law and the values of Pancasila. Regional governments must understand that regional autonomy does not mean unlimited freedom, but remains within the framework of national law that prioritizes the interests of the wider community. Therefore, in every drafting of Regional Regulations, an in-depth legal study must be carried out, involving community participation, and considering social and economic impacts so that the regulations made can be effective and do not conflict with the constitution and national law.

From a sociological perspective, the formation of Regional Regulations (Perda) must consider the social and cultural conditions of the local community. Indonesia is a country that has a diversity of tribes, religions, cultures, and customs that differ in each region. This diversity demands that every regional policy, including Perda, be drafted by considering the characteristics of the local community so that it can be accepted and implemented effectively. In this context, law is not only seen as a set of rigid

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<sup>18</sup> Deviana Yuanitasari and Susilowati Suparto, "Peran Negara Dalam Sistem Ekonomi Kerakyatan Berdasarkan Pancasila Untuk Mewujudkan Kesejahteraan Sosial," *Acta Diurnal Jurnal Ilmu Hukum Kenotariatan dan ke-PPAT-an* 4, no. 1 (December 31, 2020), <https://doi.org/10.23920/acta.v4i1.327>.

normative rules, but also as a social tool that can reflect and accommodate the values that live in society. Therefore, the Perda that is made must reflect the needs and aspirations of the community in the region, without contradicting the basic principles contained in Pancasila.

One real example of a sociological approach in the formation of Perda is the regulation that regulates local wisdom in environmental protection. Several regions in Indonesia have adopted Perda that recognize and protect customary practices in natural resource management, such as Perda on customary forest protection, community-based coastal area management, and regulations on traditional agricultural systems. Policies like this show that regional law not only functions as a tool of social control, but also as a means to maintain a balance between development needs and environmental preservation. This is in line with the principle of social justice as stated in the fifth principle of Pancasila, where every individual has the same right to enjoy the benefits of natural resources sustainably.

Furthermore, the principle of openness and public participation in the formation of regional regulations is an important element in realizing a just democracy.<sup>19</sup> Public participation in the regional legislative process is not only a constitutional right of citizens, but also a mechanism to ensure that the regulations made truly reflect the needs and expectations of the community. Article 96 of Law Number 12 of 2011 concerning the Formation of Legislation (UU P3) emphasizes that the community has the right to provide input verbally and/or in writing in the process of forming legislation. In addition, community participation can also be carried out through public consultation forums, academic discussions, and scientific studies involving stakeholders from various sectors.

However, in practice, not all regions implement community participation optimally in the preparation of Regional Regulations. Many regulations are made without in-depth social studies, which cause conflict in society or even resistance to their implementation. For example, several Regional Regulations that regulate restrictions on certain economic activities, such as prohibitions on small businesses in certain areas, are often not based on mature social analysis, so they have the potential to harm certain community groups. In cases like this, Regional Regulations actually become instruments that create social inequality, not as a tool to achieve social justice. Therefore, it is very important for regional governments to ensure that every regulation made not only meets the formal legal aspects, but also reflects the real needs of the community in their area.

In addition to community involvement, sociological studies in the formation of Regional Regulations must also consider the potential social

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<sup>19</sup> Mohamad Roky Huzaeni and Wildan Rofikil Anwar, "Pelaksanaan Asas Keterbukaan Dalam Pembentukan Peraturan Daerah," *Jurnal Dialektika Hukum* 3, no. 2 (December 1, 2021): 213–30, <https://doi.org/10.36859/jdh.v3i2.754>.

impacts of the regulations to be implemented. In this case, an analysis is needed on how certain policies can affect social interaction patterns, community welfare, and social stability in the area. Article 2 of Law Number 12 of 2011 states that the formation of laws and regulations, including Regional Regulations, must be based on the principles of clarity of purpose, openness, and justice. This principle emphasizes that every regulation made must have a clear purpose, can be understood by the community, and does not cause injustice or discrimination against certain groups. Therefore, sociological analysis in the design of Regional Regulations must be an integral part of the regional legislative process.

In addition to the regulatory aspect, supervision and evaluation of the implementation of Regional Regulations are also no less important in the sociological context. Regional governments need to conduct regular monitoring to assess the effectiveness of Regional Regulations that have been implemented in the community. This evaluation can be carried out through social survey mechanisms, public discussion forums, and academic studies involving experts in the fields of law and social affairs. If it is found that a Regional Regulation has a significant negative impact on the community, then it is necessary to revise or revoke the regulation in accordance with applicable provisions. This is in accordance with the provisions of Article 250 of Law Number 23 of 2014 concerning Regional Government, which gives the central government the authority to revoke Regional Regulations that are considered to be contrary to the public interest or higher regulations.

Thus, the sociological approach in the formation of Regional Regulations is not just an additional aspect, but is a key element in ensuring that regional regulations can run effectively and be accepted by the community. Regional governments must always pay attention to the social and cultural conditions of the local community in every formulation of legal policies, as well as open up wide participation space for the public. In this way, the resulting Regional Regulations not only have strong legal legitimacy, but also have high social legitimacy, so that they can function optimally in creating order, justice, and welfare in society.

Thus, the ideal regional regulation is one that is able to balance the philosophical, legal, and sociological aspects proportionally. The regulation must remain within the corridor of Pancasila ideology, in accordance with higher legal regulations, and consider the social needs of the local community. With a strong foundation, the regulation can be an effective legal instrument in realizing good regional governance and ensuring the welfare of the community in the region in accordance with the spirit of Pancasila.

**b. Authority of Regional Government in the Formation of Regional Regulations: Between Autonomy and Central Government Control**

The authority of regional governments in the formation of Regional Regulations (Perda) is part of the implementation of regional autonomy granted by the constitution.<sup>20</sup> Article 18 paragraph (6) of the 1945 Constitution of the Republic of Indonesia (UUD 1945) expressly states that "Regional governments have the right to establish regional regulations and other regulations to implement regional autonomy and assistance tasks." This provision is the basis for regions to regulate and manage the interests of their own communities in accordance with local characteristics and needs. Regional autonomy aims to provide broader authority to regions in running the government, including in designing and ratifying regulations that are in accordance with the conditions of their region.

The granting of authority to regions in forming Regional Regulations is also further regulated in Law Number 23 of 2014 concerning Regional Government. In this regulation, regions are given the right to organize decentralized government affairs, while still paying attention to the principles of the Unitary State of the Republic of Indonesia (NKRI). Regional Regulations are legal instruments used by regional governments in exercising their authority, both in terms of public services, regional financial management, spatial planning, and protection of local social and cultural values. However, in its implementation, this authority must still be based on national legal norms so as not to conflict with the constitution and higher laws and regulations.

Although regions have the authority to form regional regulations, the central government still has a control mechanism over regulations made by the regions. This aims to ensure that the regional regulations that are drawn up do not conflict with national interests, are not discriminatory, and do not hinder development and investment. Supervision of regional regulations can be carried out through several mechanisms, one of which is preventive and repressive supervision. Preventive supervision is carried out through harmonization of regional regulations with national regulations before the regional regulation is enacted, while repressive supervision is carried out through the mechanism of cancellation or revocation of regional regulations that are considered to be in conflict with higher regulations.<sup>21</sup>

Law Number 12 of 2011 concerning the Formation of Legislation also provides guidelines for regions in drafting Regional Regulations to be in line with national legal principles. Article 2 of this Law stipulates that every regulation must be based on the principles of good regulation formation, such

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<sup>20</sup> Arie Elcaputera, "URGENSI HARMONISASI RANCANGAN PERATURAN DAERAH: Sebuah Analisis Tantangan dan Strategi Pembentukan Peraturan Perundang-undangan Indonesia Dalam Rangka Penguatan Otonomi Daerah," *Jurnal Ilmu Hukum* 11, no. 1 (August 28, 2022): 121, <https://doi.org/10.30652/jih.v11i1.8236>.

<sup>21</sup> Saifudin Saifudin et al., "Rekonstruksi Desain Pengujian Peraturan Daerah Pasca Putusan Mahkamah Konstitusi," *Jurnal Lex Renaissance* 8, no. 1 (June 1, 2023): 58-75, <https://doi.org/10.20885/JLR.vol8.iss1.art4>.

as clarity of purpose, usefulness, openness, and justice. Thus, although regional governments have the authority to form Regional Regulations, there are still limitations that must be considered so that the regulations made do not cause conflict with national law.

In practice, many Regional Regulations are annulled by the central government or the Supreme Court (MA) through the judicial review mechanism. Article 251 of Law Number 23 of 2014 gives the Minister of Home Affairs the authority to annul Regional Regulations that are contrary to the public interest and higher laws and regulations. In addition, Article 235 of the same law also emphasizes that the central government can take corrective action against regional policies that are considered inconsistent with national law. A concrete example of this mechanism is the annulment of several Regional Regulations that are considered to hinder investment or discriminatory against certain groups in society.

One of the cases that has attracted attention is the cancellation of several Regional Regulations that regulate restrictions on economic activities, such as the Regional Regulation prohibiting minimarkets or Regional Regulations that are too restrictive of investment in certain sectors. The central government considers that such regulations can have a negative impact on economic growth and the business climate in the regions. In addition, several Regional Regulations that contain discriminatory elements against certain community groups have also been canceled through Supreme Court decisions, because they are considered to be contrary to the principles of justice in the 1945 Constitution.

However, on the other hand, there are also concerns that overly tight control from the central government could hamper regional independence in managing their own affairs.<sup>22</sup> One of the challenges in the relationship between regional autonomy and central government control is finding the right balance between regional authority and central oversight. If the central government is too dominant in canceling Perda, this can reduce the initiative of the regions in formulating policies that are in accordance with local needs. Therefore, the mechanism for monitoring Perda must be carried out proportionally, by considering the aspects of legality, justice, and effectiveness of the policy in society.

To improve the quality of Regional Regulations, it is necessary to increase capacity in the legislative process at the regional level. Regional governments must strengthen planning in the preparation of Regional Regulations by conducting academic studies, regulatory impact analysis, and wider public consultation. Article 96 of Law Number 12 of 2011 requires community participation in the process of forming laws and regulations, so that each

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<sup>22</sup> Abdulhalil Hi. Ibrahim et al., "Peran Dewan Perwakilan Daerah (DPD) Dalam Pembentukan Daerah Otonomi Baru (DOB) Di Wilayah Provinsi Maluku Utara," *Nakhoda: Jurnal Ilmu Pemerintahan* 19, no. 1 (2020).

Regional Regulation made can reflect the real needs of the local community. With wider participation, it is hoped that the resulting Regional Regulations will be of higher quality and have stronger legitimacy in the community.<sup>23</sup>

In addition, synergy between the central and regional governments in the regulatory harmonization process also needs to be strengthened. The central government should not only act as a supervisor who cancels problematic Perda, but also act as a facilitator who provides assistance in the process of drafting regulations in the regions. With this approach, the regions can still carry out their autonomy well, without ignoring the wider national interests.

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### **c. Implementation and Evaluation of Pancasila-Based Regional Regulations: Case Studies and Recommendations**

The implementation and evaluation of Pancasila-based Regional Regulations (Perda) requires an in-depth approach, because Perda is not only aimed at fulfilling legal needs, but also at creating social welfare and justice for the community.<sup>24</sup> Pancasila as the state ideology is the basis for every regulation in Indonesia, including Perda. Therefore, every implementation of Perda must be guided by the values of Pancasila, starting from the first principle that emphasizes the One Almighty God, to the fifth principle that focuses on social justice for all Indonesian people. Therefore, evaluation of the implementation of Perda based on Pancasila must be carried out continuously to ensure that the regulations implemented are able to realize the goals contained in the Pancasila ideology.<sup>25</sup>

In the context of implementing Pancasila-based Regional Regulations, the first step that needs to be taken is to ensure that every regional policy produced continues to prioritize the principle of social justice. Regional regulations that prioritize social justice can be seen in policies that ensure equitable development, poverty alleviation, and protection for vulnerable community groups. One example of the implementation of Pancasila-based

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<sup>23</sup> Yulianus Payzon Aituru et al., "Partisipasi Masyarakat Dalam Pembentukan Peraturan Daerah Kabupaten Mimika," *Journal of Law Review* 2, no. 1 (February 23, 2023): 70–91, <https://doi.org/10.55098/jolr.2.1.70-91>.

<sup>24</sup> Aristo Evandy A.Barlian and Annisa D. Permata Herista, "Pembangunan Sistem Hukum Indonesia Berdasarkan Nilai-Nilai Pancasila Sebagai Ideologi Politik Bangsa," *Jurnal Lemhannas RI* 9, no. 1 (March 31, 2021): 88–98, <https://doi.org/10.55960/jlri.v9i1.379>.

<sup>25</sup> Mohammad Hasib, "Pembentukan Hukum yang Bermoral Dalam Dimensi Memaknai Kembali Ideologi Pancasila," *DIVERSI: Jurnal Hukum* 2, no. 2 (May 5, 2018): 484, <https://doi.org/10.32503/diversi.v2i2.152>.

Regional Regulations that can be seen in several regions is a policy that prioritizes local economic development and community empowerment through the provision of employment and skills training for the poor and marginalized. In this case, the fifth principle of Pancasila, namely "Social justice for all Indonesian people," must be reflected in policies that reduce social disparities and provide fair opportunities for all levels of society.

However, in practice, not all regional regulations created in the regions reflect the values of Pancasila optimally. Several existing regulations often prioritize certain political or economic interests, without considering their impact on social welfare. Therefore, the implementation of regional regulations must be evaluated periodically to see the extent to which the policy has been implemented in accordance with the desired objectives. This evaluation can be done by looking at the real impact of regional regulations on society, such as increasing social welfare, reducing poverty, or increasing access to basic services such as education and health. If there is inequality or discrimination in the implementation of regional regulations, it is necessary to revise or cancel the regulation.

The evaluation process must also consider the aspect of public participation. In the context of Pancasila which prioritizes the principle of democracy, evaluation of Regional Regulations must actively involve the community. Article 96 of Law Number 12 of 2011 concerning the Formation of Legislation emphasizes that public participation in the formation and evaluation of legislation is a right that must be guaranteed. Through this participation, the community can provide input and criticism of existing Regional Regulations, so that the policies taken can better represent the interests and real needs of the community. On the other hand, public involvement in the evaluation will also increase the transparency and accountability of local governments in implementing Regional Regulations.

In addition, evaluation of the implementation of Pancasila-based Regional Regulations also requires supervision from competent institutions, such as the Ombudsman and non-governmental organizations (NGOs). This supervision is important to detect abuse of authority, corruption, or violations of the principles of justice contained in Pancasila. For example, in cases where the Regional Regulation regulates the granting of business permits or natural resource management rights, a strict supervision mechanism is needed to prevent exploitation that is detrimental to the community and damages the environment. This external supervision is also useful for ensuring that the Regional Regulations made by the regional government remain in accordance with higher laws and regulations and do not violate existing norms.

One concrete example of the implementation and evaluation of Pancasila-based Regional Regulations can be found in Regional Regulations that regulate local economic empowerment and cultural preservation. Several regions have successfully implemented Regional Regulations that support the

creative economy based on local wisdom, which not only provide economic benefits but also strengthen the cultural identity of the region. However, in several cases, such Regional Regulations experience obstacles in their implementation, such as minimal budget, lack of coordination between agencies, and the inability to reach all levels of society. Therefore, it is important to evaluate the effectiveness of the Regional Regulation, by considering the institutional aspects and existing resources. If the evaluation shows weaknesses in implementation, then adjustments or improvements need to be made to the existing mechanisms.

In addition, in the evaluation of Pancasila-based Regional Regulations, it is also important to see to what extent the regulations are able to answer global challenges and developments. One of the biggest challenges today is how regions can overcome poverty and social inequality which are still high, even though there are various Regional Regulations that regulate poverty alleviation. A comprehensive evaluation must be carried out by considering external factors such as globalization, technological change, and social change that affect people's lives. This evaluation is expected to provide a clearer picture of the effectiveness of Regional Regulations in answering existing social problems and how much the Regional Regulations contribute to building a prosperous and just society.

As a final step, to improve the quality of implementation and evaluation of Pancasila-based Regional Regulations, constructive recommendations are needed. Regional governments need to increase their capacity in designing more inclusive, transparent, and data-based Regional Regulations. This capacity building includes providing training for policy makers in the regions, utilizing information technology in the process of formulating and evaluating Regional Regulations, and increasing community participation in every stage of regulation formation. On the other hand, strengthening coordination between regional governments and the central government in implementing Regional Regulation evaluations is very important to ensure that every policy taken can run synergistically and does not conflict with national policies. Thus, Pancasila-based Regional Regulations can be an effective instrument in achieving the goal of socially just development for all Indonesian people.

#### **IV. CONCLUSION**

Basically, every Regional Regulation drafted by the regional government must reflect the principles contained in Pancasila. The formation of Regional Regulations must pay attention to the values of social justice, humanity, and democracy, and provide broad benefits to the community, in accordance with the goals of the state as stated in the Preamble to the 1945 Constitution. The authority of the regions in formulating Regional Regulations, although given autonomy to regulate regional household affairs, must still be in line with the values of Pancasila so as not to conflict with national interests and the basic



rights of citizens. However, in its implementation, there are often challenges in ensuring that the resulting Regional Regulations are in accordance with the values of Pancasila and national goals. For this reason, an evaluation of the implementation of Regional Regulations is very necessary to assess the extent to which the Regional Regulations have a positive impact on the community. This evaluation must involve active community participation and supervision from competent institutions, such as the Supreme Court or non-governmental organizations, to ensure transparency and accountability. Overall, to ensure that Pancasila-based Regional Regulations can be implemented properly, steps are needed to increase the capacity of regional government officials, utilize technology in policy formulation, and synergy between the central and regional governments. Thus, regional authority in the formation of Regional Regulations can be more effective and able to create policies that are socially just, in line with the values of Pancasila and national development goals.

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