

Legal Certainty On The Applicability Of The Minister Of Home Affairs Regulation No. 86/2017 in The Preparation Of Local Government Work Plans

Anak Agung Ngurah Bgs Pradhana Ningrat^{1*}, I Wayan Rideng², I Ketut Kasta Arya Wijaya³

¹⁻³Universitas Warmadewa Denpasar, Indonesia

turaahbagus@gmail.com^{1*}, wayanrideng1965@gmail.com², kastaaryawijaya@gmail.com³

Alamat: Jl. Terompong No.24, Sumerta Kelod, Kec. Denpasar Tim., Denpasar City, Bali 80239

Korespondensi Penulis: turaahbagus@gmail.com*

Abstract. *This study examines Legal certainty is a crucial element in effective governance, especially in the context of laws and regulations. This research examines the enforceability of the Minister of Home Affairs Regulation No. 86/2017, which regulates the preparation of the Local Government Work Plan (RKPD). This research finds that legal certainty in the RKPD is strongly influenced by the implementation and supervision of the regulation. In addition, challenges in harmonization between central and local regulations are an important factor in ensuring effective enforcement. The results show that the ambiguity in Article 78 results in uncertainty in the integration of pokir into the RKPD, thus reducing the effectiveness of DPRD participation and potentially creating conflict between the executive and legislature. To improve legal certainty, it is suggested that further revision and explanation of the provision is needed, as well as training for local officials on more effective implementation of the regulation. The findings are expected to serve as recommendations for policymakers in drafting clearer and firmer regulations. This research recommends clarification and revision of Article 78 to create a clearer framework and support synergy between local governments and DPRD. The findings are expected to contribute to the improvement of more inclusive and responsive regional planning policies.*

Keywords: *Governance, Regional Government Work Plan, DPRD Main Ideas*

Abstrak. Penelitian ini mengkaji Kepastian hukum dalam penyelenggaraan pemerintahan yang efektif, terutama dalam konteks peraturan perundang-undangan. Penelitian ini mengkaji keberlakuan Peraturan Menteri Dalam Negeri Nomor 86 Tahun 2017, yang mengatur tentang penyusunan Rencana Kerja Pemerintah Daerah (RKPD). penelitian ini menemukan bahwa kepastian hukum dalam RKPD sangat dipengaruhi oleh implementasi dan pengawasan terhadap peraturan tersebut. Selain itu, tantangan dalam harmonisasi antara peraturan pusat dan daerah menjadi faktor penting dalam memastikan keberlakuan yang efektif. Hasil penelitian menunjukkan bahwa ambiguitas dalam Pasal 78 mengakibatkan ketidakpastian dalam pengintegrasian pokir ke dalam RKPD, sehingga mengurangi efektivitas partisipasi DPRD dan berpotensi menciptakan konflik antara eksekutif dan legislatif. Untuk meningkatkan kepastian hukum, disarankan perlunya revisi dan penjelasan lebih lanjut mengenai ketentuan tersebut, serta pelatihan bagi aparat daerah tentang implementasi peraturan yang lebih efektif. Temuan ini diharapkan dapat menjadi rekomendasi bagi pembuat kebijakan dalam menyusun regulasi yang lebih jelas dan tegas. Penelitian ini merekomendasikan perlunya klarifikasi dan revisi terhadap Pasal 78 untuk menciptakan kerangka kerja yang lebih jelas dan mendukung sinergi antara pemerintah daerah dan DPRD. Temuan ini diharapkan dapat memberikan kontribusi pada perbaikan kebijakan perencanaan daerah yang lebih inklusif dan responsif.

Kata kunci: Penyelenggaraan Pemerintahan, Rencana Kerja Pemerintah Daerah, Pokok-Pokok Pikiran DPRD

1. BACKGROUND

The Government of Indonesia has issued the Minister of Home Affairs Regulation (Permendagri No. 86/2017) on Procedures for Planning, Controlling and Evaluating Regional Development, Procedures for Evaluating Draft Regional Regulations on Regional Long-Term Development Plans and Regional Medium-Term Development Plans, and Procedures for Amending Regional Long-Term Development Plans, Regional Medium-Term Development Plans, and Regional Government Work Plans.

Thus, absorbing and following up on the aspirations of the people they represent are activities that must be carried out and fought for by every member of the DPRD. The regional development plans referred to include: (1) Regional Long-Term Development Plan; (b) Regional Medium-Term Development Plan; (c) Work Plan. Planning is a process to determine appropriate future actions through selected affairs by taking into account available resources, while regional development is an effort carried out by all components in the region to realize a just and prosperous society.

The results of community aspiration gathering activities by the DPRD are realized in the form of the DPRD's main ideas (Pokir) which become an integral part of the preparation of the initial draft of the Work Plan (RKPD) which is determined annually. Development planning meetings (Musrenbang) are basically *bottom-up* development planning mechanisms. The implementation of Musrenbang in urban villages by receiving community proposals related to infrastructure development programs, economic improvement programs and social, customary and cultural programs. The role of the community in the implementation of this Musrenbang can be seen from information from a person who is always involved in several musrenbang activities starting from the village to sub-district level, the information submitted is as follows:

In its development, the implementation of Musrenbang is no longer effective in the process of absorbing community aspirations, it seems to be only a formality because it is demanded by law, as one of the requirements for the preparation of the RKPD by each district or city. Article 78 of the Minister of Home Affairs Regulation No. 86/2017 explains that the DPRD's main ideas are part of the input in preparing the work plan, but does not require that all proposals must be fully accommodated by the local government. In this case, the term Pokok-pokok pikiran (Pokir) DPRD is one of the items in the preparation of the RKPD.

Recess is a break in the DPRD session used by council members to communicate with their constituents. This recess was only held in the 2004 DPRD period onwards. Recess is the obligation of a DPRD member to absorb the aspirations of the people in his/her constituency, as well as to listen to problems that exist in the community related to regulations, services and

infrastructure facilities. Socialization is also carried out to the community on development planning products and the current year's APBD.

The preparation of DPRD's main ideas is a routine activity carried out every year by DPRD members with the assistance of the DPRD Secretariat. The process of inputting the main ideas of the DPRD begins with the implementation of recess activities DPRD in order to absorb the aspirations of the community or constituents of each council member.

From the results of recess, DPRD members then forward to the executive in the form of ideas to be followed up as material for the preparation of the Work Plan (RKPD). The RKPD is an annual master document that contains all community aspirations, including how to realize the vision of the Regency / City in the form of policies and programs each year. After the RKPD can be agreed through the Musrenbang at the Regency / City Government level, it will be further elaborated into the General Budget Policy Plan (RKUA) and Temporary Budget Ceiling Priorities (PPAS) documents.

2. THEORETICAL STUDY

Concept of Community Aspiration

Based on the provisions of Article 161 of Law Number 23 Year 2014 which states :

"Members of the district / city DPRD are obliged to uphold and practice Pancasila, implement the 1945 Constitution of the Republic of Indonesia and obey the provisions of laws and regulations, maintain and maintain national harmony and the integrity of the Unitary State of the Republic of Indonesia, put the interests of the state ahead of personal, group, or group interests, fight for the improvement of people's welfare, obey the principles of democracy in the implementation of district / city Regional Government, obey the rules and code of ethics, maintain ethics and norms in working relationships with other institutions in the administration of the Regency / City Regional Government, absorb and collect the aspirations of constituents through periodic work visits, accommodate and follow up on aspirations and public complaints, provide moral and political accountability to constituents in their electoral districts."

Regional House of Representatives Concept

The Regional People's Representative Council or abbreviated as DPRD is a representative body of the community that is domiciled at the city / district to provincial level,

the institution is filled by councils elected through elections held once every five years in Indonesia.

Planning Concept

Regional development planning is a process to determine future policies, through a sequence of choices, involving various elements of stakeholders, in order to utilize and allocate existing resources within a certain period of time in the region.

Key Concepts - Key Thoughts

As an institution that has a representation function, each member of DPRD is required to absorb, accommodate, collect, and follow up on the aspirations and complaints of the community

Authority

According to Soekanto, the difference between power and authority is that any ability to influence other parties can be called power, while authority is the power that exists in a person or group of people who have the support or recognition of the community. Meanwhile, *Lubis, F*, argues that the definition of authority by distinguishing tasks (*functie*) is a unit of government affairs that is charged to certain organs to be carried out, and authority is the implementation of the intended affairs technique.

Legal Certainty

Norms function as interpretive schemes, hence Kelsen interprets norms as something that ought to be and should be.

Legal Applicability

Enforceability in English is called "*validity*," while it is called "*geltung*" in Dutch. A statutory regulation can be said to be valid or its validity is determined by various points of view and factors.

3. RESEARCH METHODS

This research uses normative legal research. *The* types of approaches used in this research are the *statute approach* and *the analytical and conceptual approach*. The sources of legal materials used in this research include primary legal materials, secondary legal materials and tertiary legal materials. *The* legal material collection technique used in this research is a literature review (*document study*) using the *snowball* method (*snow ball*). The collection of legal materials in this study also uses a *card system*, namely by recording and then understanding the contents of each information obtained from legal materials, primary and secondary legal materials.

The method or technique of analyzing legal materials used in this research is descriptive analysis technique and interpretation analysis technique. Descriptive techniques describe clearly and what it is of a legal event or legal condition that occurs. The analysis is carried out qualitatively, namely on data that cannot be calculated. The data obtained is then discussed, examined and grouped to be processed into information data.

4. RESULTS AND DISCUSSION

The Legal Basis for the Preparation of Dprd's Main Points of Thought

1. Legal Foundation

a) Legal Basis for the Preparation of the Council's Main Points of Thought

- Law No. 23/2014 on Regional Government.
- Minister of Home Affairs Regulation No. 86/2017 on Procedures for Regional Development Planning, Control and Evaluation.
- Law Number 25 Year 2004 on the National Development Planning System.

The following are some of the legal bases that form the basis for the preparation of the DPRD's Main Points of Thought (Pokir):

- Law Number 23 Year 2014 on Regional Government
- Law Number 25 Year 2004 on National Development Planning System
- Law Number 17 Year 2003 on State Finance
- Law Number 25 of 2009 concerning Public Services
- Permendagri Number 86 of 2017 concerning Procedures for Regional Development Planning, Control and Evaluation
- Permendagri No. 13/2006 on Regional Financial Management Guidelines

- Government Regulation Number 12 of 2019 concerning Regional Financial Management

In the context of the main ideas (pokir) of the DPRD, the concept of legal basis according to Hans Kelsen can be described as follows:

- Grundnorm as the Main Foundation
- Hierarchy of Legal Norms
- Legitimacy and Legitimacy of Pokir DPRD
- Function of Grundnorm in Drafting Pokir

2. Preparation of the Council's main ideas

a. History of Principal Thoughts

Development experience has shown that often development, which is said to be for the benefit of the people, does not live up to expectations. In this case, what is often encountered in the field in implementing a participatory development process is that the actual meaning of the concept of participation has not been understood by development planners and implementers.

One of the stages in the process of preparing Local Government work plan documents is the review of the main points of the DPRD's mind, this is mentioned in several articles, namely Article 78 paragraph (1), Article 78 paragraph (2), Article 78 paragraph (3) and Article 178 paragraph (1), paragraph (2), paragraph (3), paragraph (4), paragraph (5), paragraph (6), paragraph (7).

The stages in the preparation of the main ideas of the DPRD are:

- Absorption of Community Aspirations
- Preparation of Pokir at the Commission Level
- Discussion at the DPRD Leadership Level
- Handover of Pokir to Local Government
- Integration into RKPD

The purpose of compiling the main ideas of the DPRD is:

- Providing materials, directions as well as input to the preparation of the initial RKPD draft document.
- Facilitate and streamline the preparation of RKPD, KUA, PPAS, and APBD documents.
- Direct and focus efforts to achieve the regional vision through APBD planning and budgeting.

- Directing the preparation of development policies and programs in accordance with the RPJPD and RPJMD.
- Realizing the aspirations of the people in the region in the implementation of development through the representation function of DPRD.
- Support the realization of a better level of community welfare

b. Recess Implementation

Recess is a two-way communication between the legislature and constituents through regular working visits, which is the obligation of DPRD members to meet with their constituents regularly during each recess period.

3. DPRD as a People's Representative Institution

Government Regulation No. 12/2018 on Guidelines for the Preparation of DPRD Standing Orders.

The Regional People's Representative Council (DPRD) is a people's representative body in the Region consisting of members of political parties participating in the general election (pemilu) who are elected based on the results of the general election. Some of the important points in PP No. 12/2018 related to the rules of procedure of the DPRD are as follows:

a. Position and Function of the Regional House of Representatives

• Budget Function

- Discuss KUA and PPAS prepared by the Governor, Regent, Mayor, based on the Regional Government Development Plan (RKPD).
- Discussing the draft regional regulation on the provincial / regency / city APBD
- Discussing the Draft Regional Regulation on changes to the Provincial / Regency / City APBD
- Discussing the draft local regulation on the accountability for the implementation of the APBD.

• Legislation Function

In its legislative function, the commission can propose draft local regulations together with the local government, both on the draft local regulations proposed by the Council's initiative, as well as the initiative proposal of the local government.

- **Monitoring Function**

The supervisory function is realized in the form of supervision of: First, the implementation of regional regulations and regional head regulations. Second, the implementation of other laws and regulations related to the administration of government regions. Third, the implementation of follow-up on the results of government financial reports by the Supreme Audit Agency.

b. Rights and Obligations of the Regional House of Representatives

DPRD members have the right of interpellation, the right of inquiry, and the right to express an opinion. They also have the obligation to maintain the honor, dignity, and image of the DPRD institution.

c. DPRD Organs

This Government Regulation regulates the formation of DPRD organs such as the Consultative Body (Bamus), Commission, Budget Body (Banggar), Regional Legislation Body (Balegda), Honorary Board, and other organs as needed.

d. Decision-making Procedure

Decisions in the DPRD are made through deliberation to reach consensus. If consensus cannot be reached, then decisions are made through voting.

e. Council Meetings

It regulates the types of meetings that can be conducted by the DPRD, such as plenary meetings, commission meetings, joint commission meetings, Consultative Body meetings, and meetings of other organs. Each type of meeting has its own rules regarding the procedures for its implementation.

f. Formation of Local Regulations

DPRDs have the authority to propose and discuss draft regional regulations (Raperda) together with the regional head. This process is regulated in detail in the rules of procedure of the DPRD in accordance with the guidelines stipulated by this PP.

g. Immunity Rights of DPRD Members

DPRD members have the right to immunity, which means that they cannot be prosecuted in court for statements, views, or opinions conveyed in DPRD meetings or its organs related to the functions, duties, and authority of DPRD.

h. Supervision of Regional Policy

The DPRD plays a role in overseeing the implementation of regional policies carried out by the regional head. This includes monitoring the implementation of the APBD and regional development programs.

i. Code of Conduct and Sanctions

This PP also regulates the code of ethics for DPRD members and the mechanism for enforcing the code of ethics through the Honorary Board. Violations of the code of ethics may be subject to sanctions in accordance with applicable regulations.

Regulations on the Applicability of the Minister of Home Affairs Regulation No. 86/2017 in the Discussion of Principles of Thought of Dprd

1. Applicability Aspect

Here are some important aspects of legal enforceability:

- Philosophical Aspects
- Sociological Aspects:
- Juridical Aspects
- Psychological Aspects:
- Political Aspects:
- Moral Aspect

2. Minister of Home Affairs Regulation No. 86/2017

The Government of Indonesia has issued the Minister of Home Affairs Regulation (Permendagri No. 86/2017) on Procedures for Planning, Controlling and Evaluating Regional Development, Procedures for Evaluating Draft Regional Regulations on Regional Long-Term Development Plans and Regional Medium-Term Development Plans, and Procedures for Amending Regional Long-Term Development Plans, Regional Medium-Term Development Plans, and Regional Government Work Plans.

3. Planning stages of the Council's main ideas

The planning of DPRD's Key Points of Thought (Pokir) involves several steps starting from the absorption of community aspirations to integration in regional development planning documents. The following are those steps:

- Absorption of Community Aspirations
- Preparation of the Council's Main Points of Thought
- Input to Local Government Information System (SIPD)
- Pokir Submission to Local Government
- Discussion with Local Government
- Preparation and Determination of RKPD
- Monitoring and Evaluation

4. Discussion of the Council's Main Points of Thought

a. Development Planning Conference

Musrenbang is a public space that is useful for accommodating community aspirations and complaints related to future development, starting from recognizing problems, needs, external challenges, existing potential and solving problems faced by the community.

The following are the stages and explanations related to the implementation of Musrenbang that integrates Pokir DPRD:

- Village Musrenbang:
- Sub-district Musrenbang:
- Regional Apparatus Forum:
- District/City Musrenbang:
- Provincial and National Musrenbang:

b. Integration of DPRD Pokir in Musrenbang

This process is a form of synchronization between *bottom-up* planning from the community through the Musrenbang and *top-down* planning from the local government. The results of the Musrenbang, which already take into account the Pokir DPRD, will become part of the RKPD.

5. CONCLUSIONS AND SUGGESTIONS

Conclusion

The legal basis for the preparation of the DPRD's Main Points of Thought (Pokir) is based on Article 78, Minister of Home Affairs Regulation No. 86/2017, various regulations that regulate the DPRD's function in accommodating and conveying the aspirations of the community into regional development planning.

On its validity, the Minister of Home Affairs Regulation (Permendagri) No. 86/2017 on the discussion of the DPRD's Principles of Thought (Pokir) states that the Permendagri regulates the stages, procedures for the preparation, control, and evaluation of development planning, including the integration of the DPRD's Pokir as one of the input materials in the preparation of the Regional Government Work Plan (RKPD).

Advice

To the DPRD institution in the preparation of the Principles of Thought (Pokir) of the DPRD, in order to truly accommodate by formulating / conducting recess activities to carefully prioritize proposals through musrenbang as material for the DPRD's main thoughts.

To the Head of the Region in order to regulate the discussion of the main ideas of the DPRD based on the Regulation of the Minister of Home Affairs Number 86 of 2017, as there is no obligation / necessity or flexibility, but prioritizes the existing proposals from the DPRD through the main ideas of the DPRD.

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