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Legal Aspects of the Mechanism for The Regional Government Cooperation Implementation with Foreign Parties

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Abstract

The purpose of this research is to find out the legal basis for implementing regional government relations and cooperation with foreign parties, and to know the mechanism for implementing relations and cooperation between the local government and foreign parties. It was conducted in Indonesia. Research results show that the legal basis for the implementation of the relationship and cooperation between the Regional Government and foreign parties is based on Law No. 37 of 1999 concerning Foreign Relations, which is one of the legal foundations for the implementation of regional government relations and cooperation with foreign parties. In addition, the mechanism for implementing relations and cooperation between the regional government and foreign parties must refer to the provisions of Law No. 37 of 1999 concerning Foreign Relations as a consequence of Foreign Policy (*Polugri*) which is the Authority of the Center. Likewise, foreign relations follow Foreign Policy, national laws, and regulations.

1. Introduction

Several factors influence a region's development, including legal politics and the pattern of relations between the central government and regional governments of a country (Singh, 2013).

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During the New Order era, in Indonesia where this study was conducted, the relationship between the Central Government and the Regional Governments tended to be centralized, causing the Regional Governments to develop slowly (Dhimas et al., 2022). Only a handful of elites could develop and enjoy benefits at that time. Then, after the *New Order* era, namely the reformation period, the relationship between the Central Government and Regional Governments changed (Rose, 2004).

In line with the implementation of regional autonomy, regional governments are also increasingly interested in establishing relations and cooperation with foreign parties (Faoziyah, U., & Salim, 2016). However, it must be understood that foreign relations and cooperation by local governments are part of foreign relations carried out by the state (Krukowska-Siembida, 2020). It is emphasized in Article 10 of Law Number 23 of 2014 concerning Regional Government, which states that foreign policy is an absolute government affair. However, along with the enactment of the regional autonomy law, foreign policy by the central government is also directed at empowering and promoting regional potential within the framework of the Unitary State of the Republic of Indonesia.

According to JP Sartika (2019), there are differences in decentralization and regional autonomy. In decentralization, there must be a distribution of authority or power from a higher level of government to a lower government, while regional autonomy means the freedom to carry out or carry out something by a political unit or part of a region/territory concerning the political community or the state. With decentralization, some or all of the central authority will be reduced because it is handed over to the regions, while the regions that receive the handover are autonomous; that is, they can determine their ways based on their initiatives freely (Larson, 2002; Enikolopov, R., & Zhuravskaya, 2007). In Indonesia, the rules in Article 1 Letter c of Law no. 32 of 2004 states that "regional autonomy is, of course, the right, authority, and obligation of the region to regulate and manage its household following applicable laws and regulations." This understanding is inseparable from the notion of autonomy, which implies self-government in the context of politics and government. The word "autonomy" comes from "autonomy," which has two meanings.

Indonesian rules towards coordination between the Provincial and Regency or City governments are regulated through Article 2 paragraph (1) of Law no. 32 of 2004: "The Unitary State of the Republic of Indonesia is divided into provincial areas, and provincial areas are divided into regencies and cities, each of which has a regional government." The word "divided up" clearly shows a hierarchy between levels of government. The application is that the provincial government supervises the district or city by evaluating regional regulations (Haruni, 2022).

Rules in Law No. 23 of 2014 concerning Regional Government stipulates that the implementation of regional government is directed at accelerating the realization of community welfare through improving services, empowerment, and community participation, as well as increasing regional competitiveness by taking into account the principles of democracy, equity, justice, and the uniqueness of a region within the Unitary State system—Republic of Indonesia. Regarding Regional Government, Chapter 1 Article 1 paragraph (2) stipulates that: "Regional Government is the implementation of government affairs by regional governments and regional people's representative councils according to the principle of autonomy and co-administration with the principle of broadest autonomy within the system and principles of the Unitary State of the Republic of Indonesia as referred to in the 1945 Constitution of the Republic of Indonesia".

Cooperation with foreign parties carried out by the government must also be in harmony with Law Number 24 of 2000 concerning International Agreements. The two laws become a binding legal basis for the central government and other foreign relations and cooperation actors, including regional governments, in carrying out foreign relations and cooperation. However, Law Number 37 of 1999 concerning Foreign Relations and Law Number 24 of 2000 concerning International Agreements do not detail the implementation of relations and cooperation between local

governments and foreign parties. More detailed arrangements are regulated in implementing regulations such as Minister of Home Affairs Regulation Number 3 of 2008 concerning Guidelines for the Implementation of Regional Government Cooperation with Foreign Parties. The Ministry of Foreign Affairs 2012 also issued General Guidelines for Foreign Relations and Cooperation by Regional Governments. This manuscript describes and explains the various legal foundations for implementing regional government relations and cooperation with foreign parties. In addition, it will also describe and explain the mechanisms or procedures for implementing regional government relations and cooperation with foreign parties. The nature of governmental authority, among others, expresses simple, clear intent and purpose, bound at a certain time and subject to the limitations of written and unwritten laws. At the same time, the contents can be general (abstract).

Among several regions that have opened cooperation with foreign parties is the establishment of cooperation between the State of Indonesia and several states abroad (Luo & Park, 2004). All forms of cooperation are carried out through a Memorandum of Understanding (MoU). MoU is a form of an international agreement, as referred to in Law No. 24 of 2000 concerning International Agreements. Based on the background description of the problem above, there appears to be a shift and strengthening of local government in the context of foreign relations.

2. Materials and Methods

This study discusses the issue of cooperation between Regional Governments and other countries from the perspective of state administrative law. The discussion is carried out using a conceptual approach and laws and regulations. This study relies on secondary data, especially in official documents from executive and legislative institutions. Information obtained from interviews is also displayed to emphasize certain points from the discussion conducted by researchers.

3. Results and Discussions

Legal Basis for the Implementation of Regional Government Relations and Cooperation with Foreign Parties

Law Number 37 of 1999 concerning Foreign Relations, Law Number 24 of 2000 concerning International Agreements, Law Number 23 of 2014 concerning Regional Government and Regulation of the Minister of Home Affairs, Number 3 of 2008 concerning Guidelines for Regional Government Cooperation with Foreign Parties, has corresponding provisions in the implementation of foreign relations and cooperation between the central government and regional governments. Furthermore, the General Guidelines for Foreign Relations and Cooperation by Regional Governments issued by the Ministry of Foreign Affairs in 2012 also became a handbook and reference for implementing relations and cooperation between local governments and foreign parties.

Law Number 37 of 1999 concerning Foreign Relations is one of the legal foundations for implementing regional government relations and cooperation with foreign parties. The provisions which form the legal basis can be seen in Article 1, paragraphs (1) and (4); Article 5, paragraphs (1) and (2); Article 7, paragraphs (1) and (2); and Article 28, paragraph (1) and (2).

Number 23 of 2014 has meaning relationship concerning Regional Government is the implementation of government affairs by the regional government and the Regional People's Representative Council (DPRD) according to the principle of autonomy and co-administration with the principle of broadest autonomy within the system and principles of the Unitary State of the Republic Indonesia as referred to in the 1945 Constitution of the Republic of Indonesia.

The regional government is the head of the region as an element of the Regional Government administrator who leads the implementation of government affairs, which are the authority of the autonomous region. The Regional People's Legislative Council (DPRD) is a regional people's representative institution domiciled as an element of Regional Government administration.

This law also regulates and divides government affairs, namely absolute government affairs and concurrent government affairs. What is meant by absolute government affairs are government affairs that are fully under the central government's authority. Absolute government affairs based on the provisions of Article 10 paragraph (1) Law Number 23 of 2014 concerning Regional Government are foreign policy, defense, security, justice, national monetary and fiscal, and religion. In carrying out this absolute government, the central government can run it alone or delegate its authority to vertical agencies in the regions or governors as central government representatives based on the deconcentrating principle. Meanwhile, concurrent government affairs are government affairs that are divided between the central government and provincial and district/city regions.

As previously explained, Law Number 23 of 2014 (formerly Law Number 32 of 2004) does not explicitly regulate the authority of local government in Law Number 23 of 2014 concerning Regional Government (previously Law Number 32 of 2004) does not specifically regulate the authority local government in carrying out relations and cooperation with foreign parties. Previously, this authority was regulated in Article 88, paragraph (1) of Law Number 22 of 1999 concerning Regional Autonomy. Article 88, paragraph (1) states that: Regions can enter into mutually beneficial cooperation with overseas institutions/agencies, which are regulated by joint decisions unless it concerns the government's authority, as referred to in Article 7 (namely foreign policy).

Mechanism of Implementation of Regional Government Relations and Cooperation with Foreign Parties

Since the enactment of regional autonomy, each region has the authority and authority to cooperate with regions in Indonesia or other countries. Awareness of diversity in the potential of each region, expectations, and constraints between regions is the main basis for developing regional autonomy in an area which then encourages inter-regional cooperation. There is a need to develop regional autonomy that encourages inter-regional cooperation at least stems from the fact that Indonesia is a country characterized by diversity, both demographically and geographically. This fact underlies the development of diversity in the potential and characteristics possessed by each region. With different managerial levels, each region has a different level of progress and development. So that with this difference in the level of progress provides an opportunity for cooperation between regions in Indonesia, including cooperation between regions and other regions abroad.

The implementation of inter-regional cooperation and cooperation with other regions abroad, which a region will carry out, will then develop through the fulfillment of certain mutually agreed-upon conditions. In this context, it can be seen that: first, each region at all development levels already understands that they will benefit from developing a network of cooperation to choose to increase progress in their respective regions. Second, this cooperation takes place voluntarily and is necessary based on the understanding that interdependence or mutual influence exists between one region and another.

Thus, to develop an understanding and willingness to cooperate in the framework of learning to build this capacity continuously, national government leadership is needed to motivate local governments to build cooperation with other regions, especially through policy instruments and regulations that are both national and international scale. Regional government cooperation with foreign countries occurs in addition to the influence of regional autonomy and is inseparable from globalization. Globalization is becoming a trend in which there is an increase in the linkages and

dependencies between nations and between people throughout the world through the fields of trade, investment, culture, information, etc., and other forms of interaction so that the boundaries of a country become biased.

1. Information and technology develop rapidly or very rapidly
2. Markets and economic production in different countries become interdependent due to the growth of regional international trade between countries.
3. Increasing cultural interaction or mass media culture or through the interplay between different cultures.
4. Increasing issues of common concern, such as environment, monetary, regional inflation, interstate politics, etc.

In the agenda for implementing cooperation or foreign relations, each region cooperating with other regions abroad must have a goal. The following are some of the cooperation objectives between local and foreign governments. Fill deficiencies in the economic sector by cooperating or improving the regional economy by cooperating in various fields, with the aim of:

1. Improving the standard of living, welfare, and prosperity areas in inter-regional cooperation.
2. Expanding relations and strengthen friendships with other regions.
3. Increasing the country's foreign exchange earnings.

The previous description illustrates that the inter-regional cooperation that was carried out was based on differences or gaps such as (1) Differences in natural resources. The potential of natural resources owned by each region is different in terms of type and amount. Some areas have abundant natural resources, but some areas have few natural resources. Thus, to meet the needs, especially food, cooperation is needed to meet these needs.

(2) Differences in climate and soil fertility. Differences in climate and soil fertility will cause different types of plants. For example, Bandung district, which has a tropical climate, high rainfall, and fertile land, will produce rice, coffee, tea, rubber, etc. Meanwhile, countries like Europe, which have a temperate climate, are unsuitable for these plants, so they have to get them from tropical countries. (3) The difference between science and technology. The ability and mastery of science and technology and skills are different. Developed countries such as the United States, Japan, Western Europe, and Germany can master science and technology compared to developing countries such as Africa and Asia. These differences will cause the region to quickly absorb technological advances from developed countries.

(4) Legal and ideological differences. Legal and ideological differences between one country and another cause differences in the laws and regulations in each country. Likewise, ideological differences in practice can have negative consequences, which trigger conflicts between countries and even become international conflicts. Cooperation is needed to relieve the conflict or tension so that it does not exacerbate the existing conflict. For example, a country like Hong Kong, which broke away from the PRC with a communist ideology, needs cooperation in the political field with countries with a liberal ideology like the United States. It needs to be done to resolve the problems at the negotiating table.

Cooperation such as Sister City is Cooperation between City Governments in Indonesia and City Governments or equivalent abroad, and Sister Province Cooperation is Cooperation between Provincial Governments in Indonesia and Provincial Governments or equivalent abroad. The following are the conditions for a region to carry out foreign cooperation with other countries, as follows:

1) Between the two countries from the two Provinces or Cities that will cooperate must have diplomatic relations;
2) Not disturbing political stability and internal security;
3) Not burdening state finances;

4) Based on the principle of equal rights, not forcing each other's will, and not leading to interference in the internal affairs of each country;
5) Mutually beneficial for both parties;
6) In line with and an integral part of the national development program, The process of establishing cooperation is facilitated by the central government;
7) Cooperation must be balanced or equal in terms of position/administrative status of each;
8) The implementation of the cooperation is carried out after the agreement between the two governments in the form of an MoU (Memorandum of Understanding) is signed by both parties.

The implementation of regional government is adjusted to the mandate of the 1945 Constitution of the Republic of Indonesia, namely regional government, which regulates and manages government affairs on its own according to the principle of autonomy and co-administration, is directed at accelerating the realization of social welfare through improvement, service, empowerment, and participation society, as well as increasing regional competitiveness by taking into account the principles of democracy, equity, justice, privileges and specificity of a region within the system of the Unitary State of the Republic of Indonesia.

In the context of increasing the efficiency and effectiveness of the implementation of regional autonomy, regional administration needs to pay attention to the relationship between government structures and regional governments, regional potential, and diversity. The aspect of authority relations considers the specificity and diversity of regions within the Unitary State of the Republic of Indonesia system.

In the context and national interests of the Republic of Indonesia, the central government has the view that: Foreign relations by the Regional Government are part of foreign relations by the state, so they must comply with the Law on Foreign Relations, a consequence of Foreign Policy (Polugri) as Authority Center (See Article 10 of Law No. 32 of 2004). Likewise, foreign relations follow Foreign Policy, national laws and regulations, and international laws and customs (Article 5 of the Foreign Relations Law).

The authority to organize foreign relations and implement the foreign policy of the Government of the Republic of Indonesia is in the hands of the President, who is delegated to the Minister of Foreign Affairs following Article 6 of the Law on Foreign Relations. International law only recognizes agreements between countries without looking at how the internal system of countries binds itself to agreements (federalism, autonomy, and centralization). The local government acts as an element of the state (initiating institution) that binds the state to international agreements. The regional government acts on behalf of the state, not on behalf of the regional government.

On the other hand, cooperation between a region and abroad provides great opportunities for both countries; this is stated in Law Number 32 of 2004 concerning Regional Government and Regulation of the Minister of Home Affairs Number 1 of 1992 concerning the Implementation of Relations and Cooperation with Foreign Parties. The two statutory regulations essentially mandate, among other things, that the implementation of cooperative relations with foreign parties by the regional government to support the implementation of governmental tasks and the implementation of national and regional development programs in the framework of realizing people's welfare through increasing the efficiency and effectiveness of regional autonomy.

Regional cooperation with other countries or regional government foreign cooperation with other countries has been carried out in various fields. The following are procedures for carrying out foreign cooperation with other countries, namely as follows:

1. Assessment
2. Preparation and Signing of LOI (Letter of Intent)
3. DPRD approval

4. Preparation of MoU (Memorandum of Understanding) approval draft
5. Completion/ signing of MoU text
6. Implementation of Cooperation
7. Evaluation of the implementation of cooperation.

In order to successfully carry out such cooperation, general principles are needed, as contained in the principle of "good governance." Several principles among the existing principles of good governance can be used as guidelines in conducting cooperation, namely as follows (Addink, 2019).

(1) Transparency; governments that have agreed to cooperate must be transparent in providing various data and information needed in the framework of such cooperation without being closed off. (2) Accountability; Governments that have agreed to cooperate must be willing to account for, present, report, and disclose all activities and activities related to cooperation activities, including to the DPRD as the representative of the people or users of public services.

(3) Participatory; Within the scope of cooperation, the principle of participation must be used in consultation, dialogue, and negotiation in determining the goals to be achieved, how to achieve them, and measuring their performance, including how to share compensation and risks. (4) Efficiency; In carrying out this cooperation, the value of efficiency must be considered, namely, how to reduce costs to obtain a certain result or how to use the same costs but can achieve higher results.

(5) Effectiveness; In carrying out this collaboration, the value of effectiveness must be considered, namely, always measuring success by comparing the targets or goals set in collaboration with the results obtained. (6) Consensus; In carrying out this cooperation, common ground must be sought so that each party involved in the cooperation can agree on a decision. Alternatively, in other words, unilateral decisions cannot be accepted in this cooperation. (7) Mutual benefit and advancement. In cooperation between Regional Governments, the principles of mutual benefit and mutual respect must be upheld. This principle must be the basis for every decision and cooperation mechanism.

4. Conclusion

The conclusions of this study are as follows. (1) Basethe law on the implementation of the relationship and cooperation between the Regional Government and foreign parties is Law no. 37 of 1999 concerning Foreign Relations, which is one of the legal foundations for the implementation of regional government relations and cooperation with foreign parties, in addition to Law No. 24 of 2000 concerning International Agreements, Law no. 23 of 2014 concerning Regional Government and Permendagri No. 3 of 2008 concerning Guidelines for Regional Government Cooperation with Foreign Parties, are regulations that are interrelated in the implementation of foreign relations and cooperation between the Central Government and Regional Governments.

(2) The mechanism for implementing relations and cooperation between the regional government and foreign parties must refer to the provisions of Law No. 37 of 1999 concerning Foreign Relations as a consequence of Foreign Policy (Polugri) which is the Authority of the Center (See Article 10 of Law No. 32 of 2004). Likewise, foreign relations are carried out under the foreign policy, national laws and regulations, and international laws and customs (Article 5UU no. 37 of 1999). It is based on the fact that the authority to organize foreign relations and implement the foreign policy of the Government of the Republic of Indonesia is in the hands of the President, who is delegated to the Minister of Foreign Affairs following Article 6 UU no. 37 of 1999).

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