

DISCRESSION IMPLEMENTATION IN REGIONAL ECONOMIC POLICIES

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ABSTRACT

*The governance that is directly related to the needs of the community has been entrusted with 70 percent of government affairs but only equipped with a 30 percent budget of the APBN. The imbalance is felt by the area in the face of governance that underwent a change very rapidly, especially the area of regional economics, it becomes a burden for the local government. The actual government has been equipped with a discretionary principle in anticipation of an unexpected condition in encouraging the rise of the regional economy, but the implementation of the discretionary also has a challenge known as **GoKresi** (Ego and Creation) that are difficult to avoid.*

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I. INTRODUCTION

Community welfare is the goal of the government presence, concrete steps that can be taken through a region development that is carried out sustainably. On another view, public welfare is often identified with economic activism driven by the business world. The business world in the sphere of the region with a shift in the management of government administration that is now decentralized, the central driving force of the business is the responsibility of the regional government through its government affairs. Decentralization mandates 70 percent of governmental functions carried out by regional governments, but from the perspective of the regional government budget that is provided with 30 percent of the budget of 766.2 trillion Rupiah from the 2018 total state budget of 2,220.7 trillion, regional governments need to involve the private sector in implementing regional development.

The implementation of Regional Autonomy which is supported by fiscal decentralization as illustrated in Law number 23 of 2014 concerning regional government positioning the regional government very strategically. The autonomy and fiscal decentralization that are obtained is very necessary to be managed dynamically as Kooiman stated that: "*these interactions give human action their irreversible and unpredictable character as they are made in understanding the Diversity, Complexity, and Dynamics of these situations.*"⁵ This view illustrates the implementation process that is established through a process of interaction between the government and the community to realize a common goal, which is based on the conditions and development of a regional government area.

⁵ Jan Kooiman, 2003, *Governing as Governance*, sage: London. Page: 7

Regional autonomy, gives regional governments authority to manage and regulate all government affairs. Regions that have been equipped with governmental authority are very helpful in the decision-making process / formulation of regional policies in order to realize the objectives of the government, namely creating community comfort and managing people's aspirations in the form of a policy. In line with these objectives, regions as business world economic entities are also the responsibility of the regions in spurring economic competitiveness to strengthen the national macroeconomic order

The policy framework for regional autonomy and regional fiscal decentralization can be described in the APBD as one of the drivers of the regional economy, the posture of regencies / cities and provinces throughout Indonesia in 2016 illustrates that revenues are still smaller than regional government spending with deficits reaching 12.115 Billions rupiah for regencies / cities and 48,515 billions rupiah.⁶ The empirical conditions of the deficit indicate that the regions still have not been able to encourage the development of other sources of income, so that government spending has only largely not been able to encourage regional economic improvement.

The actual conditions now Indonesia is still in the 36 position of world competitiveness rankings with a total score of 4.68 according to the World Economic Forum (WEF) report which is still below Singapore which is ranked 3 and Malaysia which is ranked 23, Indonesia's position has actually improved 5 rankings because the government has encouraged improvements in macroeconomic infrastructure through the government's economic policy package. The economic policy has still not been able to drive the change in national economic

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<http://keuda.kemendagri.go.id/datin/index/1/2016>

growth which is still an average of 5% since 2014. The low competitiveness also impacts the low investment realization of world investment in Indonesia with an average percentage of 1.97% between 2012-2016.⁷

II. Discretion Strategic Position in the Regional Government Implementation

Regional government bureaucracy as a regulator, facilitator and implementer of public services so far has often been complained of in carrying out their duties and functions to the community and those who need services, because the services obtained are still not effective, efficient, responsive and innovative. The poor implementation of government tasks that occur greatly does not support the regional and national economic climate. It also cannot realize good competitiveness to develop regional capabilities in creating and offering a climate / environment that is productive for the business world and innovation and becoming a treager for the growth of small and medium economies in a region.

The logical consequence of the decentralization and regional autonomy policy is that regions get the authority to organize and regulate (*regeling*) or manage (*bestuur*) their own household affairs based on regional initiatives and innovations to accommodate and facilitate community participation. The authority of government officials in accordance with the rules consists of 3 types, namely: Attribution, Delegation and Mandate. Achieving the objectives of decentralization and regional autonomy policies will provide the meaning or essence of the presence of regional

government before the people, this depends on the use of the type of authority that is owned because the government is the only formal institution that gains political legitimacy and social acceptability from community to serve, build and empower communities in a country.

According to the author, the main purpose of establishing a proper government is to create a good governance system that acts to run the government and is guided by the General Principles of Good Governance (AAUPB), able to create order, justice, independence and the welfare of its people through the authority held by the body government agency. The principle is used as a reference for the use of authority for Government Officials in issuing decisions and / or actions in the administration of government as stated in Law No. 30 of 2014 concerning Government Administration, which includes (1). Legal certainty; (2). expediency; (3). impartiality; (4). accuracy; (5). Do not abuse authority; (6). openness; (7). Public interest; and (8). good service.

In implementing development programs, both in the planning, execution, and monitoring stages, Government Officials must always refer to legislation and AUPB. However, under certain conditions, we often encounter several development programs carried out by the Government hampered by implementation. In this condition, Law No. 30 of 2014 concerning Government Administration provides a way out for Government Officials to still be able to issue decisions and / or actions in order to support the smooth implementation of Government programs as long as they provide public benefit and in accordance with the AUPB, namely issuing discretion. In accordance with Article 1 number 9 of Law No. 30 of 2014 concerning Government Administration that discretion is *a decision and / or action determined and / or carried out by Government Officials to overcome the*

⁷ <https://finance.detik.com/berita-ekonomi-bisnis/d-3622929/ini-paket-kebijakan-ekonomi-jokowi-jilid-ke-16>

concrete problems faced in the administration of government in legislation that provides choices, not regulate, incomplete or unclear, and / or government stagnation

On the other hand, the authority of discretion means that some of the powers held by the legislators form the government / state administration as the executive body. So the supremacy of the legislature is replaced by the supremacy of the executive body (Siti Soetami, 2000: 46), because the government resolves the problem without having to wait for changes in the Law from the legislative field (Diana Halim Koentjoro, 2004: 42). This is because in principle government agencies / officials may not refuse to provide services to the community on the grounds that the law does not exist or the law exists but is not clear, insofar as this is still his authority.

Various thoughts about the widespread discretionary authority of the government in serving the above society can be stated that discretion is a legal act carried out by the administration as a regional head in an urgent, critical situation, overcoming a legal vacuum and overcoming government stagnation in a situation or there is a *Force Meajure* situation in where a regional head must dare to make a decision. Therefore to overcome a situation, a regional head is authorized to use the discretionary principle contained in Article 1 number 9, Article 6 paragraph (2) letter e, Article 22 paragraph (1) Article 22 paragraph (2) and Article 25 paragraph (1) and (2), Law Number 30 Year 2014 concerning Government Administration. The main purpose of granting discretionary authority to regional heads is to accelerate government services in the regions, implementing development and improving people's welfare which are categorized as urgent and substantive issues of the lives of many people.

A policy can be said to be discretion if it fulfills several conditions between: (1) the existence of strong legality, (2) fulfilling the principle of jurisdiction / not breaking the law, (3) the existence of authority owned by the policy maker / (4) the existence of reasons or strong reasons, (5) strong reasons that are purely in the public interest, (6) the absence of rules / norms or false legislation, (7) emergency / urgent / urgent issues, (8) not violating human rights humans, (9) decisions can be morally accountable, (10) decision makers / policy makers do not receive benefits, (11) aim to solve problems.

The discretionary position of authority will strongly support Nawa Cita's national policy program, which is to increase people's productivity and competitiveness in the international market so that the Indonesian nation can advance and rise with other Asian nations and be able to realize economic independence by driving strategic sectors of the domestic economy. Of course the Nawa Cita program in other points can be applied in accordance with the intent and purpose simultaneously according to the needs of the region concerned. The authority for discretion in accordance with Article 89 is intended to create orderly administration of government administration, create legal certainty, prevent abuse of authority and provide the utmost certainty of service to citizens.

Based on the Government Administration Act, government officials granted Discretion are from the President, Minister, Governor, Regent, Mayor to Village Head or State Administrator. The widht coverage giving discretionary authority in principle to ensure the service of the government does not experience legal vacuum at all levels, in this connection the achievement of economic development goals contained in the Nawa Cita National

government can be felt by all circles including the Business World.

III. Discretion Challenges and Opportunities in Supporting Regional Economy Development

Regional autonomy has encouraged the democratization of governance to the regions. The realization of regional autonomy has also resulted in more credible and accountable regional leadership. However, in public services, currently many government organizers take a passive and less responsive nature to fulfill public interests related to their positions. They often become afraid and hesitant in taking discretion, this condition if left unchecked can reduce creativity, the spirit of innovation, and the courage to take breakthroughs in the public interest.⁸

In turn, then, the use of discretion in the administration of local governments will find a number of positive and negative implications for the public service process. The connection with this is innovation that comes from the discretion of regional leaders, or later trapped in the abuse of power which leads to the creation of legal cases. Innovation in regional government in the realm of public service is part of the existence of well-run discretion in the area. As part of the government administration duties and services to the community, the policy-making authority is inherent in government positions (inherent aan het bestuur) run by government officials, and in fact has caused many officials to become suspects and even convicts. On the other hand, an opinion is held that government policy cannot be legally questioned. Arifin P. Soeria Atmadja (2008: p. 198) said that: "a policy is not possible to be submitted to a court especially subject to criminal law

because the basis of a policy law that will be the legal basis for its prosecution is not there."

It is realized that in carrying out this discretion, government officials are faced with the influence of concrete situations and conditions and require action. However, the assessment that is believed by each individual is very different depending on the experience, knowledge, intelligence and morality of each. This condition requires the existence of professionalism of a leader to carry out the form of discretion, of course line ha also involves views on existing moral values and also applicable legal standards. Norms moral related to these actions are based on their conscience, while legal norms because of the authority are carried out on the basis of law (*rechtmatigheid*), so that in assessing a concrete situation conditions are needed for each government apparatus (Sadjijono, 2008: 68)

The terms of a discretionary policy must be confronted, when the results of a confrontation indicate the denials and manipulations of discretionary limits as required, it should be suspected that it is not discretion carried out by the public official, but it is categorized as a concept "GoKretion". GoKretion is a new term / concept (the origin of which is a combination of the words "ego" and "creation", meaning creations based on ego / lust / greed / anger, so that they can be termed crazy, crazy because they are far from leadership principles ideal), which is basically an attempt to manipulate discretion itself, which essentially still wants to take refuge behind the law, make public interest as a shield, but in fact more is based on the ambitions of ego actor policy makers and their cronies. To be able to perpetuate its *ego*, the policy-making actor is still trying to provide benefits to the public, but if examined more deeply and carefully, the benefits received by the policy makers and

⁸(<http://aparaturnegara.bappenas.go.id>, diakses 12 April 2018).

their cronies are far greater than those received by the public.

GoKretion is a new disease of public officials (*sick government*) or one of the bureaucratic pathologies that has begun to develop more and more in the regions due to the implementation of broader autonomy, then at the same time the law enforcers are intensely carried out to eradicate corruption. Because law enforcers eradicate corruption (yet to touch the realm of collusion and nepotism), the public officials in the regions try to protect themselves by doing this GoKresi, making it difficult to get entangled in corruption, given that the public is still benefited, as evidence that the policy is innovative. has been effective and efficient, especially if the policy was campaigned and finally won a national award, psychologically, law enforcers would be at risk of carrying out researchs and investigations.⁹

This GoKretion tends to be more developed in the regions, given the more intense three of our law enforcement agencies (KPK, Attorney General's Office and Police) are eradicating corruption. GoKretion is the safest option or alternative for a public official to drain the budget and regional budget (APBD) coffers in order to return the campaign funds they spend when fighting for / occupying their position, which we should expect that in essence they want continue to make policies that are " GoKretion ", because the material benefits are very large.

National government in its implementation continues to seek the regional business development to continue to develop, the concrete steps taken by the president as a form of discretion are to issue 16 economic policy packages. The policy package presented by the government has

⁹<http://rendijaelani.blogspot.co.id/2016/03/diskresi-pemerintah-daerah-dalam.html>. Diakses 12 April 2018

abolished 11 national-level regulations on state ministries / institutions which have hampered the acceleration of economic growth. Normatively, the presence of a policy package at the technical level of the Discretion implementation in the regions greatly helps State Implementation to avoid conflicts of interest and misuse of authority which can result in legal consequences for regional government officials.

The Economic Policy Package in encouraging the development of the Business World has a strategic position, among others, a Policy package focused on reducing KUR loan interest rates for fixed income families who are able to encourage the development of home-productive businesses while encouraging the birth of new entrepreneurs in driving the local economy to potential. Furthermore, the existence of the Policy package 6 which focuses on the ease of licensing in the Special Economic Zone, can be a driver of interest in investment in the region so as to open up employment opportunities and grow new types of businesses in the region. in the Policy package 9 the existence of policies to increase the economic connectivity of villages and cities greatly helped local governments to take steps to equitable distribution of food logistics so as to develop the rural economy. In the Policy package 10 which focuses on the protection / protection of MSMEs, this is issued to cut the chain of economic concentration in certain groups.

From the 16 Policy packages, there are at least 4 policy packages that are focused on developing the regional business. The opportunity should be a basis for local governments in implementing Discretionary authority to avoid abuse of power, the national policy framework needs to be applied technically in accordance with empirical conditions of regional government, for that the courage of a leader in making decisions concerning public

interests especially encourages development regional business.

IV. Closing

Discretion is another authority that is owned by the State Operator, which is only used in certain conditions based on personal subjunctive assessment but is based on the conditions that have just been guided. In the context of policy, many governments have encouraged regional government in the development of the business world, especially through 16 economic policy packages that greatly help the regions to avoid misuse of regional government authority, particularly related to venture capital assistance and also related to bureaucratic management arrangements. However, local governments still do not have enough courage to take advantage of the opportunities they have had through the authority of discretion and protection through national policies, given the culture of bureaucracy that is still not conducive to the business world and economic innovation.

Reference

1. Agus Purwanto, Erwan dan Wahyudi Kumorotomo, dkk. 2005. *Birokrasi Publik dalam Sistem Politik Semi-Parlementer*. Yogyakarta: Penerbit Gava Media
2. Dwiyanto, Agus (Ed), 2005, *Mewujudkan Good Governance melalui Pelayanan Publik*, Yogyakarta: Gadjah Mada University Press.
3. Dwiyanto, Agus dan Bevaola Kusumasari. 2001. *Policy Brief: Diskresi Dalam Pemberian Pelayanan Publik*. Yogyakarta: Center for Population and Policy Studies, UGM.
4. Dwiyanto, Agus, dkk. 2006 (Cet.II). *Reformasi Birokrasi Publik di Indonesia*. Yogyakarta: Gadjah Mada University Press.
5. Dwiyanto, Agus, dkk. 2005. *Mewujudkan Good Governance Melalui Pelayanan Publik*. Yogyakarta: Gadjah Mada University Press.
6. Hardiyansyah, 2011. *Kualitas Pelayanan Publik: Konsep, Dimensi, Indikator dan Implementasinya*, Yogyakarta: Gava Media.
7. <http://keuda.kemendagri.go.id/datin/index/1/2016>. Diakses 12 april 2018
8. <https://finance.detik.com/berita-ekonomi-bisnis/d-3622929/ini-paket-kebijakan-ekonomi-jokowi-jilid-ke-16>. Diakses 12 april 2018
9. (<http://aparaturnegara.bappenas.go.id>, Diakses 12 april 2018
10. <http://rendijaelani.blogspot.co.id/2016/03/diskresi-pemerintah-daerah-dalam.html>. Diakses 12 April 2018
11. Jan Kooiman, 2003, *Governing as Governance, sage* : London.
12. Sadjijono, 2008. *Memahami Beberapa Bab Pokok Hukum Administrasi*, Yogyakarta: LaksBang Pressindo.
13. Wibawa, Samodra. 2004. *Reformasi Administrasi*,

*Bunga Rampai Pemikiran
Adminstrasi
Negara/Publik. Yogyakarta:
Gava Media.*

14. Widodo, Joko. 2001. *Good Governance : Telaah dari Dimensi Akuntabilitas dan Kontrol Birokrasi Pada Era Desentralisasi dan Otonomi Daerah*. Surabaya: Insan Cendekia.
15. Yilmaz, Serdar., Yakup Beris and Rodrigo Serrano Berthet, Linking Local Government Discretion and Accountability in Decentralisation, *Development Policy Review*, 2010, 28 (3): 259-293