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Implementation of the Papua Special Autonomy Policy Based on Smart Regulations

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Abstract: The aim of this research is to determine the implementation of the Papua Special Autonomy Policy based on Smart Regulation. Regulations that are concreted in the form of Regional Regulations aim to regulate people's lives, so that they can provide legal certainty (rechtmatigheid), legal justice (gerectigheid), and legal benefits (zwechmatigheid). This research method is normative and empirical, with statutory regulations as the main source of basic data and looking at facts that occur in the field. The research results show that Regional Regulations are a form of statutory regulation and are an inseparable part of the legal framework of statutory regulations in Indonesia. In order to optimize the implementation of Special Autonomy for Papua, namely to avoid conflicting norms both vertically and horizontally, therefore the community as part of the legal system needs to continue to be provided with socialization and be involved in drafting regional regulations, including regional regulations. so that it can produce documents containing affirmative policy models in the fields of education, health, people's economy and basic infrastructure which can be used as a contribution to thinking in the preparation of regional legislation and regional regulations programs.

Keywords: Implementation, Special Autonomy for Papua, Smart Regulation.

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1. Introduction

Decentralization, as a concept of transfer of authority, is believed by various countries to be an instrument that can be used in the framework of realizing democratic and efficient government. It is hoped that the implementation of this concept can play a role in managing central-regional relations by providing as much space as possible for community participation. The choice of the concept of decentralization is because decentralization is a form of transfer of authority which consists of various choices of methods or models that can be used in designing patterns of central and regional relations, especially in large areas of the country and with large and heterogeneous populations.

In Article 18 paragraph (6) of the 1945 Constitution of the Republic of Indonesia, it is stated that Indonesia, as a country that promotes the concept of decentralization, uses this concept in managing central and regional relations, which is carried out through the principles of autonomy and assistance duties. Regions are given a transfer of authority within the framework of regulating and managing their own domestic affairs. Through this transfer of authority, it is hoped that regions can innovate with existing resources in the framework of creating and simultaneously improving people's living standards in a better direction.

The role of the Regional Government together with the Regional People's Representative Council (DPRD) is to establish regional regulations and other regulations to carry out autonomy and assistance tasks. The rights and authority to regulate the region are realized. On the other hand, the excitement that

accompanies the government affairs is reflected in the government affairs that becomes the region's authority, whether it be mandatory or optional affairs. Regions are given the authority to regulate and manage all government affairs outside of central government affairs on the basis of this authority. Community welfare is created with the authority to take regional policies to provide services, increase participation, initiative and community empowerment.

Being able to guarantee harmonious relations between regions means being able to build cooperation and improve mutual prosperity. Regional powers must be able to maintain the territorial integrity of the country to ensure the continuity of the Unitary State of the Republic of Indonesia and the harmony of relations between regions and government. Indonesia has a national goal.

The success or failure of the implementation of regional authority within the framework of regional autonomy largely depends on the regulations created as an implementation of regulatory authority based on the principle of autonomy or assistance duties. The content of legal products in the field of assistance tasks is determined according to the type of assistance tasks that are the household affairs of the assistance task. Legal products for implementing autonomy include all autonomous household matters.

Papua Province as a region with special policies through Law Number 21 of 2001 concerning Special Autonomy for Papua Province is given authority in Article 4. However, when it comes to implementing this authority, it is hampered by generally applicable laws and regulations. As a result, the regulations made cannot be implemented.

The existence of this problem is one of the reasons for changing the content of authority in Article 4 of Law no. 21 of 2001 through Law Number 2 of 2021 concerning the Second Amendment to Law Number 21 of 2001 concerning Special Autonomy for Papua Province (UU Special Autonomy). It is hoped that with this change, it can reduce or even eliminate the overlapping between Provincial Regulations (Provincial Regional Regulations/Perdasi and Special Regional Regulations/Perdasus) with higher (national) statutory regulations, as well as between Perdasi and Perdasus and Regency/Regency Regulations. City.

In particular, the people in Papua Province are still not completely prosperous, there are still many places and remote areas that are still underdeveloped, there are still many areas that have not received proper education, have not received good health services, there are violations of human rights, conflict between the community and law enforcers which results in arbitrary actions carried out by law enforcers against civil society, even though there is Papua's special autonomy, it does not yet reflect a prosperous, prosperous, safe and peaceful nation mandated in accordance with the 1945 Constitution. Where still the majority Papuan people are not yet aware of how to act fairly and not commit violations that are contrary to applicable laws.

In this context, discussions related to "Implementation of the Papua Special Autonomy Policy Based on Smart Regulations" are important, in order to create regulations that are conducive to making government administration in provinces and districts/cities in Papua more effective, in order to realize the conditions envisioned in the preamble section. UU no. 21 of 2001, namely the realization of a sense of justice, prosperity, law enforcement and human rights, use of natural resources based on indigenous communities, and being able to sit at the same low level and stand at the same height as brothers and sisters from other provinces in Indonesia.

Soehino stated that a unitary state in terms of its structure is single, that is, a state that is not composed of several countries, but only consists of one country so that there is no country within a country (Soehino, 2005).

In a unitary state, there is only one government that exercises supreme power in the field of state government, namely the central government. Kusnardi and Ibrahim argue that a unitary state has a single structure, consisting of only one state and does not recognize the existence of states within states such as a federal state. According to Busroh, a unitary state is a state that does not consist of several countries, but is a single state, meaning there is only one state (Busroh, 2001).

In a unitary state, the central government has supreme power in all areas of government. Everything in this country can be decided by the central government at the highest level.

P. J. Proudhon, who divided the federal state form in the sense of ideology and the federal state form in the sense of institutions. As an ideology, it considers the form of a federal state as an ideology, namely a doctrine about the existence of diversity in the state for the sake of realizing unity. Therefore, supporters of this understanding generally call it a school of recognition of the existence of diversity in the country. As an institution, considering the form of a federal state as a state, in the pattern of relations between the center and the states, there is a clear division of power (Eko Prasojo. 2005).

The form of a federal state in the ideological sense does not always have to be realized in a state with a federal form, even states with a unitary form can use this understanding. The same thing was also stated by P. J. Proudhon, who is said to be the founder of this theory, stating that understanding federalism (the idea of federal teachings) does not have to be done by forming a federal state ("the sole constitution which an astringent reason will compel the peoples of the world to adopt is federalism").

Based on this opinion, there is no fundamental difference between a unitary state and a federal state, the main thing is to achieve the goal of the state, namely achieving the welfare of the people. Therefore, in a country, in order to achieve the welfare of its people, changes can occur in the administration of state government, especially regarding the relationship between the center and the regions, namely what was initially centralized can change to decentralized, and vice versa, no matter what the form of the country.

Etymologically (Koesoemahatmadja. 1973), decentralization comes from the Latin, "de": detached and "centrum": center, so decentrum (decentralization) can be interpreted as detaching from the center. This understanding can be connoted as a reflection of release in the context of the nuances of delegation or transfer of central power/authority to the regions.

This is in line with Bagir Manan's opinion, that in general decentralization is "a form or action of dispersing power or authority" from an organization, position or official. In this case, decentralization means the release or can also be called the distribution of power originating from: first: one organization to other organizations below it; second: a position to another position below it; and third: officials to other officials below them (Bagir Manan, 2001).

This description shows that decentralization is understood as a concept that is still abstract and which is ultimately operationalized through the division of types or forms of decentralization. Based on this understanding, decentralization in relation to government administration can be interpreted as the method used in administering government in a country.

Decentralization as a way of administering government is operationalized in various forms as stated by Smith, that in a unitary state decentralization includes devolution and deconcentration (Edie Toet Hendratno, 2009). Devolution is the transfer of authority to make decisions in the field of public policy to people's representative institutions at the local level by law, while deconcentration is the delegation of authority to make administrative decisions on behalf of the government to regional officials who are responsible for public policy in a particular jurisdiction.

2. Theoretical Overview of the Main Concepts

The terms autonomy and decentralization are often used interchangeably in the same context, however both terms have certain distinct characteristics. According to Rasyid, decentralization and regional autonomy have their place. The term autonomy tends more towards the political aspect (the political aspect of state power), while the term decentralization tends more towards the administrative aspect (the state administration aspect). However, if seen in the context of sharing of power, in practice these two terms are closely related and cannot be separated (Bonar Simorangkir et. al, 2000).

The term autonomy in etymological review comes from the Latin "autos" which means alone and "nomos" which means rule. In the terminology of the Encyclopedia of Social Science (Sarundajang. 2012), autonomy in its true sense is the legal self-sufficiency of the social body and its actual independence. This terminology implies two dimensions, namely legal self-sufficiency and actual dependence.

Autonomy is the freedom and independence of government units under it to organize and manage several government affairs, according to Manan. The household affairs of government units can be regulated and

managed freely and independently. The essence of independence is freedom (Bagir Manan, 1994).

Logemann, stated that the freedom of movement given to autonomous regions means giving them the opportunity to use their own initiative with all forms of power, to take care of the public interest. Logemenn further stated that the power to act independently (vrijbeweging) given to state units which govern their own regions, is power based on their own initiative and government based on their own initiative is what is called autonomy, which Van Vollenhoven calls "eigenmeesterschap" (Abdurahman, 1987).

In connection with the meaning of autonomy, the goals of autonomy are: improving services and better public welfare, developing democratic life, distributing public services that are better and fairer, respecting local culture and paying attention to regional potential and diversity (Sarundajang, 2001) .

3. Methodology

This research is normative and empirical where legislation is the main source and basic data to be analyzed and looks at the facts or realities that occur in the field, then the data is processed, arranged systematically so that it is easy to understand and can be accounted for (Peter Mahmud Marzuki, 2010)

4. Discussion

The meaning of "Implementation of the Special Autonomy Policy for Papua Based on Smart Regulation", if interpreted freely, can be interpreted as smart regulation within the framework of optimizing the implementation of special autonomy for Papua volume II." Regional regulations can be expressed in various forms, which can be differentiated into general and abstract decisions which are usually regulatory in nature, and individual and concrete decisions in the form of administrative decisions (beschikking). It is referred to as a regulation (regeling), if the content of the regulation is intended to regulate plural matters that are generally the same, and is referred to as a decree (beschikkings) if the content of the regulation is intended to finalize the law or determine the law regarding a certain concrete matter.

Regional Regulations are a form of legislation and an integral part of the legal framework of legislation in Indonesia. The character of legal norms contained in legislation is general in nature (algemene strekking) which regulates the relationship between the people and government institutions. Meanwhile, the Regional Head's Decree is a form of determination whose legal norm character is beschikking. In relation to the theme above, what will be stated further is related to the formation of Regional Regulations as the main instrument for elaborating the Special Autonomy Law.

Regional regulations, which are concreted in the form of Regional Regulations, aim to regulate people's lives, so that they can provide legal certainty (rechtmatigheid), legal justice (gerectigheid), and legal benefits (zwechmatigheid).

Legal certainty is a guarantee that the law must be implemented correctly. Legal certainty requires efforts to regulate the law in statutory regulations made by competent and competent parties, so that these regulations have a juridical aspect that provides a guarantee of certainty that the existence of the law has an important meaning (Sudikno Mertokusumo, 2010).

Rules serve as guidelines for individuals to behave in society in various ways. The regulations that are formed do not raise doubts because they have multiple interpretations because they do not conflict with norms. Norm conflict can be caused by uncertainty in legal regulations and can take the form of norm contestation, norm reduction, or norm distortion.

L. J Van Apeldoorn said justice does not mean everyone gets the same share. It's not always fair to one person. Everyone gets the most out of their share, because regulations provide a balance between protected interests (L.J. Van Apeldoorn, 2009).

According to Fence M. Wantu, justice is putting everything in its place and giving rights to everyone. Law (Fence M. Wantu, 2012). The aim of law is to provide maximum benefit or happiness for as many members of society as possible according to Jaremy Bentham, one of the adherents of the utility school

(Muh. Erwin, 2011).

In connection with the formation of "smart" regional regulations, what is needed is how to design regional regulations that meet the requirements for legal certainty, legal justice and legal benefits.

1) Legal certainty

Legal certainty, as stated above, is related to the existence of conflicting norms. Norm conflict is one of the factors causing the effectiveness or ineffectiveness of a regulation, which is related to the presence or absence of:

- unclear norm formulation (unclear norm);
- conflict of norms between articles within one or between regulations; And
- legal vacuum.

The causes of norm conflict are caused by:

- Objective: ability to norm (language);
- Subjectivity: political interests of regulators (legal politics).

Apart from conflicting norms, which can be the cause of a regulation being less or ineffective, it can also be caused by empirical factors, especially those related to aspects of law enforcement, namely:

- low or high level of understanding and skills of law makers, law enforcers and law supervisors;
- easy or difficult practices of corruption and nepostism among law makers, law enforcers and law supervisors;
- strong or weak political will of law makers, law enforcers and law supervisors.

The causes of the ineffectiveness of a regulation come from empirical factors, namely:

- mentality of law makers, law enforcers and law supervisors;
- community legal awareness and legal compliance.

Indonesian law regulates all aspects of social life. Law Number 12 of 2011 concerning the Formation of Legislation and Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products was amended by the Minister of Home Affairs. This regulation must serve as a guide for drafters of regulations in Indonesia.

This arrangement shows that the Government is aware of the many laws and regulations that have been formed, which have the potential to overlap and not be in harmony with each other, both vertically and horizontally. Vertical norm conflict is an incongruity between higher and lower norms in accordance with the hierarchical order of Legislative Regulations according to Law no. 12 of 2011, and horizontal norm conflict is an incongruity between norms that have equal positions in the hierarchical order of Legislative Regulations according to Law no. 12 of 2011.

In order to avoid conflict of norms as stated above, Law No. 12 of 2011 Articles 5 and 6 regulate the principles that must be used in drafting statutory regulations, namely Article 5, that in forming statutory regulations it must be carried out based on on the principles of forming good laws and regulations, including:

- clarity of purpose;
- appropriate establishing institutions or officials;
- correspondence between type, hierarchy and content material;
- can be implemented;
- usability and usability;

- clarity of formulation; And
- openness.

The principles of law, as stated above, are not concrete legal regulations, but basic ideas that are general in nature or constitute the background of "positive law" contained in and behind every legal system that is manifested in statutory regulations. Legal principles function as: First, the broadest foundation for the birth of a legal regulation. Legal principles are abstractions and legal regulations are the highest abstraction from which no higher general understanding can be drawn. Second, the "logical ratio" or reason for the birth of legal regulations.

These principles are "guidelines" (richtlijn) in the formation of statutory regulations, including the formation of regional regulations. By being guided by these principles, it is hoped that regional regulations will have the qualifications as good legislation (behoorlijke wetgewing/regelgeving) in substance, and procedurally fulfill the elements of validity because these regional regulations are discussed and stipulated jointly by the Regional People's Representative Council with the Regional Head .

As an illustration, the principle of statutory regulations as a legal norm in Law no. 12 of 2011 Article 5 Letter d and its explanation, namely: the principle of "implementation" is that every Legislative Regulation is formed must take into account the effectiveness of the Legislative Regulation in society, both philosophically, juridically and sociologically.

a. Applicability of Philosophy

A legal rule is said to have philosophical validity, if its content or material is ethically acceptable and justified on the basis of rational considerations, so that based on moral beliefs that live in society it does not conflict with fundamental values and human dignity, and thus meets the sense or demands of justice . The aspect of moral validity is the object of study in Legal Philosophy.

Moral or ethical values are reflected in a nation's outlook on life. Morals or ethics that contain the values of truth, justice and decency and various other values that are considered good will be highly upheld by the nation concerned. Therefore, the formation of statutory regulations, including regional regulations, must pay attention to the morals of the nation, so that the regional regulations that are formed will be obeyed and complied with by the entire community.

The morals of the Indonesian nation are embodied in Pancasila which is a view of life, national ideals, philosophy or way of life. Therefore, the formation of regional regulations must reflect the nation's philosophy, and must not conflict with the nation's moral values.

b. Juridical Applicability

A legal rule is said to have juridical validity if it is formed in accordance with applicable procedures by an authorized party, body or official, and its contents do not substantially conflict with other legal rules, especially legal rules of a higher position. Aspects of juridical validity are primarily the object of study in legal science, which is also called dogmatic legal science or legal dogmatics or normative legal science or practical legal science.

Juridical validity functions to eliminate opportunities for internal and external conflict, consisting of principles that provide guarantees of legal certainty and harmony, as follows:

- "Lex superior derogat legi inferiori", meaning that higher rules override lower rules.
- "Lex posteririor derogat legi priori", meaning the later rule overrides the previous rule.
- "Lex specialis derogat legi generali", meaning that special rules override general rules.
- “Non-retroactive”, meaning the rules do not apply retroactively.

c. Sociological Applicability

A legal rule is said to have sociological validity, if in reality society is seriously and consistently obeyed by citizens, and especially officials who are authorized to comply with the legal rule. This is clear evidence

that these legal rules are effective, because they have actually succeeded in influencing the behavior of citizens and officials who regulate community life. The fact of the existence of sociological practices is generally researched empirically by legal sociology.

Society is always dynamic, therefore the values of life in society also experience changes. These fast-moving changes in societal values must be predictable and accumulated in the regional regulations that are prepared, so that the resulting regional regulations can be future-oriented. Therefore, it is often stated that a legislative regulation must be able to reflect the social life of the community. If it does not reflect social life, it will not be possible to implement the regulations that are made because the community will not adhere to them and adhere to them.

In this context, the regional regulations that are formed must be in accordance with the realities of life in society. This is to avoid problems at the implementation level, because the regional regulations that are made are not in accordance with the reality in society. On the other hand, if regional regulations are formed in accordance with the values that exist in society, legal awareness will naturally grow in society.

Despite the strong principles of regulation and law enforcement mentioned above, Law no. 12 of 2021 also limits the regulation of statutory regulations, including regional regulations. For example, Article 14 stipulates that the responsibilities of regional regulations are: to carry out regional autonomy and assistance tasks and to accommodate special regional conditions and/or additional needs.

2) Legal justice

Legal justice is based on the principle that everyone is equal before the law and aims to put everything in its place. Regional regulations must provide a sense of justice to everyone in the area. The General Explanation section states that an affirmation policy towards Indigenous Papuans has been established. This is an important element that needs to be considered when drafting regional regulations. Almost all areas of life have experienced differences due to various development policies and government administration, especially in the fields of education, health, economics, culture and social politics. To accelerate progress in the welfare of the Papuan people, the letter "g" is used in the opening section to reduce the distance between Papua Province and other provinces.

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This is in line with Denny Indrayana's opinion (Janedjri M. Gaffar, 2012), that "in order to be fair, sometimes the law must be applied in a discriminatory manner". This opinion was further refined by Gaffar, that this statement must be addressed carefully in relation to the principle of equality before the law. Therefore, to achieve justice, the word equality must be interpreted substantively, and not be separated from the initial assumption that all humans are born equal and equal. Thus, equality before the law must be interpreted as equality towards subjects with the same conditions, and conversely discrimination is different treatment towards conditions and subjects that are not the same.

The reason given by Gaffar regarding this statement is that the reality shows that human equality and equality do not materialize by themselves, but are influenced by socio-economic conditions, which ultimately give rise to differences. Therefore, this condition cannot be treated equally by law, and the instrument to achieve equality is through affirmative actions policies.

In this context, the rights of the Papuan people must be equalized first, before being given the same rights and obligations as non-Papuan people. Therefore, according to Baghi, in a well-ordered society, people live not only based on the demands of their rights, but must also comply with their obligations. This means that the imposition of obligations can be implemented if rights have been fulfilled, or there are no

obligations without being preceded by the fulfillment of rights (Felix Baghi, 2012).

3) Legal benefits

The benefit of law, as stated above, is to provide the greatest benefit or happiness for as many members of society as possible. This is related to the urgency of the existence of a regulation, namely that it has the main target of overcoming real problems that occur in people's lives. Thus, there is no need for regulations if it turns out that there are no problems that will be answered, resolved or resolved through regulatory instruments. Because, if the creation of a regulation is forced without a prior process of problem identification and preparation in a complete, systematic and anticipatory manner, then the existence of a regulation can actually cause or increase unnecessary problems.

Thus, regional regulations must be made in principle. Therefore, the planning, preparation, discussion, determination and promulgation stages must be the formal basis for the formation of regional regulations. Planning is one of the steps that must be paid special attention to by regional regulatory institutions. This stage requires in-depth investigation. This stage determines whether solving problems in the region should be regulated by regional regulations or only under regional law. In addition, at this planning stage, individuals can gain an understanding of the philosophical, sociological and juridical basis that underlies the implementation of a regional regulation. This knowledge is usually conveyed in the form of explanations or statements, but may also take other forms. The Regional Legislation Program then publishes an academic plan.

Designing "smart" regional regulations means being able to ensure that the regional regulations that are formed meet the requirements for legal certainty, legal justice and legal benefits. The requirements for legal certainty, legal justice and legal benefits, in the context of the formation of regional regulations based on Special Autonomy for Papua, are stated as follows:

1. Avoiding norm conflicts and strengthening the functioning of the legal system

    a. Avoiding Norm Conflict

There was a conflict of norms when the law came into force. The 2001 education regulations can be seen here. The implementation of education in the province is the cause. The Government's obligation is only to determine general policies regarding higher education autonomy, core curriculum and quality, while the Provincial Government is responsible for the implementation of education at all levels. Implementation guidelines for higher education leaders and the Provincial Government are based on standards at all levels, pathways and types of education.

The implementation of this article, at the implementation level, creates a conflict of norms with Law Number 20 of 2003 concerning the National Education System (UU No. 20 of 2003). Article 50 Law no. 20 of 2003, regulates that the organizer of primary and secondary education is the Regency/City Government, while the Provincial Government only coordinates the implementation of education across districts/cities for the primary and secondary levels.

Elaboration of Article 56 of Law no. 21 of 2001, the Papua Provincial Government promulgated Perdasi Number 5 of 2006 concerning Educational Development in Papua Province (Perdasi No. 5 of 2006). This Perdasi regulates the authority to administer education, namely that the authority to administer secondary education, both general and vocational, falls under the authority of the Provincial Government, while the administration of basic education falls under the authority of the Regency/City Government. This is different from the regulations in Law no. 20 of 2003 which gives the authority to administer primary and secondary education to the Regency/City Government, while the Provincial Government only coordinates.

Learning from the conflict of norms as stated above, the authority of provinces and districts/cities as regulated in the Special Autonomy Law and Government Regulation Number 106 of 2021 concerning Authority and Institutions for Implementing the Special Autonomy Policy for Papua Province (PP No. 106 of 2021) needs to be carefully observed. Good. This scrutiny is mainly related to conflicts between norms and higher regulations (for example between Law Number 11 of 2011 concerning Job Creation and provincial and district/city authorities as regulated in PP No. 105 of 2021, or between Perdasi/Perdasus

and Regency Regulations/City.

As an illustration, can provinces regulate guidelines regarding the implementation of secondary education and special education services, or is the implementation of education directly only guided by general (national) laws and regulations, or can districts/cities translate these levels of education into regional regulations based on on regional characteristics without being guided by the regulations above.

b. Strengthening the Working of the Legal System

Strengthening the Working of the Legal System is carried out through strengthening the mentality of law makers, law enforcers and law supervisors, in the form of providing understanding and skills. It is hoped that this strengthening will improve the welfare of law makers, law enforcers and law supervisors, and another important thing that also needs to be done is to impose sanctions on law makers, law enforcers and law supervisors who practice corruption and nepostism.

For the community, socialization must be carried out continuously and in every drafting of regulations, including regional regulations, it must involve community participation, so that it is hoped that it can generate public understanding regarding the regulations being made. This will have implications for creating legal awareness and public legal compliance with the regulations that have been made.

Meanwhile, for regulatory content material, if the content material is not in line with existing conditions in society, then the regulation needs to be evaluated for further improvements, especially aligning it with what is happening in society.

2. Creating conducive conditions in the region

Conducive conditions are related to guaranteeing order and security in society, creating a climate that is conducive to investment, guaranteeing environmentally sound development, and so on. Regional regulations must be able to guarantee a sense of security and create an orderly living environment for the community, so that people can carry out their daily activities without worry. For this reason, the content of regional regulations also needs to regulate procedures for their enforcement. This is related to who does it and how it is enforced.

Likewise in efforts to create a conducive climate for investment in the region. Not infrequently, regions, in order to increase Original Regional Income (PAD), form regional regulations that place excessive burdens on the business world. As an illustration of the application of regulations regarding special levies for certain types of work that are considered to receive a rather large income allowance, or the imposition of administrative fees and forms for Building Construction Permits (IMB). There are also regional regulations that restrict residents from outside the area concerned from doing business in the area, unless they agree to collaborate with local residents. Such regional regulations will of course hinder the development of investment in the region, which will lead to sub-optimal regional revenues in terms of PAD and can also reduce the creation of new jobs for the community.

3. Provide benefits for the welfare of the community, especially OAP

Under consideration, letter a of Law Number 2 of 2021 states: "that in order to protect and uphold dignity, affirm and protect the basic rights of Indigenous Papuans, both in the economic, political and socio-cultural fields, it is necessary to provide legal certainty ." Article 4 of Law Number 106 of 2021 further explains the authority of Papua Province.

This can be seen, among other things, in the field of education, namely provincial authority, including:

- Provision of education financing is prioritized to ensure that every OAP receives education from early childhood education to higher education level free of charge;
- Providing service bond scholarships is prioritized for OAPs in required fields in Papua Province through collaboration with universities that meet the requirements;
- Organizing prioritized additional educational services for OAP to assist in preparation for entering higher education and/or official education;

- Establish affirmation policies in order to meet the needs and/or improve the quality of educators and education personnel by referring to national education standards;
- The authority in the education sector for districts/cities includes;
- The provision of special education services is prioritized for OAP who have special intelligence and talent potential and are in remote or underdeveloped areas, areas with remote conditions of indigenous communities, border areas with other countries, areas experiencing natural disasters, social disasters, or areas that was in another emergency;
- Providing scholarships to students who excel in the fields of academics, sports, arts and technological development is a priority for OAP.

Provincial, Regency/City Governments and the Papuan People's Representative Council (DPRP) and the Regency/City People's Representative Council (DPRK) as well as the Papuan People's Assembly (MRP) within the framework of implementing these authorities, must be able to design models of education, health, people's economy and infrastructure in framework for implementing affirmative policies based on the spirit of implementing the Special Autonomy Law. This opportunity must be a top priority for provinces and districts/cities to take an active role in preparing the Master Plan for the Acceleration of Development for Papua (RPPP).

5. Conclusions

Recommendations related to smart regulation within the framework of optimizing the implementation of Special Autonomy for Papua are as follows:

a. To avoid norm conflicts, both vertical and horizontal conflicts, it is necessary to: align perceptions with the Central Government (relevant Ministries), regarding the scope of content of Provincial Regional Regulations (Perdasi) and Special Regional Regulations (Perdasus) as well as relevant Regency/City Regional Regulations. must be drafted as an elaboration of the Special Autonomy Law. Apart from that, it also identifies authorities based on Law no. 2 of 2021, PP no. 106 of 2021 and examine the level of synchronization with Law Number 11 of 2020 concerning Job Creation, Law Number 23 of 2014 concerning Regional Government, and sectoral laws.

b. Providing strengthening to the forming, law enforcement and legal supervisory apparatus in the form of providing incentives, training, supervision and providing sanctions in the event of violations. Likewise, the community as part of the legal system needs to be given continuous socialization and be involved in drafting regional regulations, including regional regulations.

c. Produce documents containing affirmative policy models in the fields of education, health, people's economy and basic infrastructure which can be used as a thought contribution to the preparation of the RIPPP document; and/or materials in the preparation of regional legislation programs and regional regulations.

d. Identifying Law no. 2 of 2002, and PP no. 106 of 2021, to find out the programs and activities that fall under the authority of each (province, district/city), especially programs and activities related to affirmation policies towards OAP.

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