

The Implication of the Indonesian Local Regulations Revocation towards the Local Economy and Out of Pocket Healthcare

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Abstract

This research discusses the implication of the local regulation revocation towards the economic and health condition in a number of regions in Indonesia. And also, some of the cases which resulted in the implication conditions. This article was the result of a doctrinal study with literature review study and secondary data. The result of the research shows that (i) there is a government's authority in revoking Perdas; (ii) the revocation of the local regulations in certain regions exerts adverse effect on the economy and healthcare. This article suggests that there is a need for the development of Perda with high-quality substances so that it can cope with the implication of legal regulations.

Keywords: Local, Regulations, Revocation, Healthcare

Introduction

The revocation of 3,143 local regulations (Perda) on June 13th, 2016 generates various reactions from many parties, including those from the media. The Chairperson of the Republic of Indonesia's House of Representatives, Hasan¹ for example, agrees very much with the revocation of the Perda. It is because it is unnecessary to maintain the Perda which inhibits investment and gets the people into trouble, according to Hasan¹. However, most people gave negative response towards the revocation of the Perda. For example, Aulianshah² in *Beritagarid* news web wrote, that the revocation of these Perdas are aimed to eliminate obstacles for the sake of economic development from investment including healthcare investment.

The revocation is conducted on Perdas inhibiting investment deregulation program because many Perdas are still in contradiction with the higher regulations and lengthen the investment licensing bureaucracy. This decision exerts serious effect on the government. The revocation of the Perda becomes the government's instrument in implementing deregulation to remove the problematic Perdas inhibiting investment, as argued by Sholikin² and Utami³.

Those Perdas are related to retribution, tax, and investment in regions in Indonesia, because they are not consistent with the vision of development led by the government with *Nawacita* (ten ideals) through a variety of economic policy packages. The impacts include the more complicated process of health services as these Perdas are also partly related to tax or retributions of healthcare workers or healthcare facilities. A study conducted mentioned that 21,7% of the population seeks medical care to doctors, whereas only 3-4% seeks medication from hospitals, thus extra financial regulations may burden it.

In the attempt of improving the nation's competitiveness, legal politics in Indonesia directs the law development to support the manifestation of sustainable economic growth, to govern economy relevant to the problem particularly in business world and industrial world, and to create investment certainty, particularly in the law enforcement and protection, as explained by Agustiwi⁴. The guarantee cannot be nationalized. In addition, it is also easy to manage the license by developing one-stop service policy. The facilities provided do not only include the regulation to get law certainty but also tax exemption or deduction or postponement and no nationalization, and if any the

corresponding investor will be given compensation approved government and investor as argued by Budiarta⁵. Aulianshah also have Statement that many of the perda gave extra burdens for the people because in the end, the extra tax, retributions and others would become production cost.

Therefore, it is expected that local agency organizations would be slimmer according to the spirit of government reinvention in order to achieve good governance, as argued by Simangunsong and Hutaso⁷. The local government's action in making regulation which burdens the medical workers or doctors' health facilities may not give healthcare services thus may hinder the patients' care as there is a limitation of facilities or human resources, which are caused by inconsiderate regulations.

Parallel to that, it was reported by Susanti in *Kompasiana*⁸ that the Perdas are against the constitutional regulations. They inhibit licensing and gives various tariff burdens to the society. Surely, those problematic Perdas are also against the spirit of decentralization and regional autonomy, which are believed to be able to increase the quality of regional service, competitiveness, work effectivity, and the people's welfare. The reality which happens is that the Perda actually increase the financial burdens of the patients (out of pocket) in obtaining healthcare.

Constitutional Economics as a scholarly direction, the subject of which constitutional-legal regulation and economic development are directly interrelated; the impact of the constitutional rules and principles on the process of adoption and implementation of economic decisions as well as the inverse correlation to the healthcare system, as mentioned by Budiarta⁶.

The results of the conducted research allow identifying the following features of investment activity. According to Kuwado in *Kompas media*⁹, the annulation or the eradication of those Perdas create a significant domino effect towards the increase of investment in Indonesia. The first domino effect which happen is the increase of the society's burden in the economic sector as it increases the society's expenditures in accessing healthcare.

The investment activities of foreign investors including in the health sector, in their territory are generally governed by national laws, regulations and administrative procedures, as well as bilateral investment

agreements. According to Sagynbekova, Allanina, and Babaeva¹⁰, the main provisions of these legislative acts are, as a rule, identical in developed countries as a whole. In almost all states, foreign investors are unable to carry out their investment activities in key sectors of the host. To invest abroad, there are declarative orders and authorization-based procedures, as argued by Sagynbekova et al¹⁰.

Materials and Method

This study employed normative juridical approach and qualitative normative analysis technique based on secondary data supported with primary data to sharpen the analysis in discussion as argued by Soekanto and Mamudji¹¹. Therefore, the library study conducted in this study provided in-depth information relevant to the problem studied.

Data analysis was conducted using qualitative approach. Qualitative approach, according to Soekanto¹², is the method of research resulting in descriptive analysis in which what is stated by respondents in written form or orally and also their behavior is investigated and studied as a whole¹³.

Results and Discussion

Hundreds of Perdas have been revoked by Ministry of Internal Affairs in Java and Bali islands, most of which are related to natural resource management. In 6 provinces in Java Island, the Ministry of Internal Affairs has revoked more than 400 Perdas. The majority of the regulations regards regional retribution, tax, and tariffs in various sectors, including the health sector.

This has impacts towards the fact that the tariffs will be burdened to the patients, which results to out of pocket healthcare. More perdas were revoked in regions in Indonesia and it occurs because those regulations were in contradiction with the higher constitutions or Law – thus certainly breaking the *lex superiori derogate legi inferiori* principle, meaning that when there are different regulations, the provision of the higher legislation disables the lower legislation. In addition, according to Fitra¹⁴ in the online media *katadata.id*, the government expects that the reduction of Perdas. The aim is so that the existing healthcare and health infrastructures can grow, thereby advancing the Indonesian and it is in line with the ideals of development.

The investment developed in Indonesia is intended to create development in regions by giving the foreigners

the opportunity of investing through international cooperation, to make the development of the regions run smoothly. Although the private sector is progressing more rapidly, but the law, the financial institutions, the growth goes very well. The legal system, as well as the financial system are well developed and they are sustainable with the private sector, as argued by Allen et al¹⁵.

In the Federation of Russia, to attract foreign investment, the development of the rule of law is necessary. The investments are done through a mechanism of a statutory law in Russia in line with the norms of international law. This law will create a supportive environment for attracting foreign investment in Russia, as explained by Skvortsova et al¹⁶.

In Indonesia, many legal products are developed, particularly related to the investment, are revoked due to some factors. To rebuild the medium-class economy and to give the foreign investors the opportunity of investing in Indonesia toward the free trade, some factors still need improvement. In the online media, *finance.detik*, Damarjati¹⁷ reported an interview with the Indonesian president, who stated that Perdas made should not complicate and make investment difficult. This statement was reported in the media as the government's explanation regarding the eradication of some Perdas.

Viewed from human resource aspect, it can be said that the quality and the quantity of the legislative drafters are still very worrying. It is not only related to their skill and knowledge, but also to their career levels and incentives. According to Abdullah¹⁸, the number of legislative drafters in Indonesia is still small and this profession has not been a functional post until today.

The development of the Perda substance is of course adjusted with individual regions' need, meaning that the development of Perda should obligatorily contain the following principles: objective clarity, institutional or organizational, compatibility of content type to material, and effectivity or effectiveness, as mentioned by Amir¹⁸. The Perda intended to facilitate regional investment also requires the local government's high-quality contribution, either formally or materially, by considering domestic local values in order to promoting Indonesian economy in general and local economy in particular.

Perdas which collect tax, retribution, contribution, and other forms of tariffs to health facilities actually

results to negative impacts to the facilities and to the people. The hospitals are obligated by the government to provide services for the poor, yet the hospitals are expected to survive and take care of the organization's condition by obtaining profit. It may cause cost recovery which happens if the total cost may be recovered by the total revenue of the services provided. The loss or the out of pocket services experienced by the people are because of the tariff burdens based on the Perdas, to increase the regional income, which is burdened to the people.

The Chairperson of Governmental Law Agency for South Sulawesi Province, Nasir¹⁹, stated that thousands Perdas have been revoked, 143 of which are products of South Sulawesi Province. South Sulawesi Province Government states that they will not make lawsuits against the revocation of Perdas. Out of those regulations revoked, 31 Perdas are products of the regency and the city governments. They include Perdas about telecommunication tower, public service, businesses, procurement retribution and liquor circulation and control. These taxes and retributions are also burdened to health instances of facilities, as they are regarded as businesses. "These 31 Perdas come from 19 out of 24 regencies/cities existing in South Sulawesi".

Surakarta City is also threatened to be poor due to the revocation of Local Tax Perda. Rudy, the Mayor of Surakarta,²⁰ said that the revocation of Local Tax Perda will affect the potential of the Local economy. It also affected on the out of pocket of Solo City healthcare significantly. It is because more than 80 percent of Local Original Income comes from local tax post. He said that Surakarta City government will be at loss with the lost potential local tax income of IDR 227 billion.

In addition to Solo, Depok City government reacts directly to the revocation of thousands Perda conducted by central government. Depok City government coordinates immediately with the West Java Province Government to confirm the Perda revocation plan. If there will be revocation, it will not be done entirely. The West Java Governor, Ahmad Heryawan²¹ stated that he would ask the Indonesian Ministry of Internal Affairs for an explanation about the revocation of some Perdas, because it would impact the local development. If the Perdas contain inappropriate articles considered as inhibiting, it should not be revoked entirely. If revision can be made, the revocation would not be needed. Most Perdas revoked are those which can inhibit investment. So far, there is no constraint with investment in West

Java²¹.

In Ternate area, there are five Perdas revoked that will putatively result in the loss of IDR 11 billion to Ternate City Government. The loss results from Local Original Income. Those five Perdas come from Ternate City and these will affect significantly. But the Ternate City Government (2016) does not know which Perdas will be revoked, because the local government and Local Legislative Council have not received the confirmation yet until today, as argued by Ariefana²².

A similar report has been written by Kresna, which stated that the Ministry of Internal Affairs has officially announced the revocation of 3.143 Perdas and Decrees of the Regional Government which are considered as problematic. Some of the 391 revoked Perdas are regarding local tax or retribution for healthcare and education and this became a burden for the people. From the start, the government has stated that the aim of revoking the Perdas are to increase investment dan to decrease the burdens of the people, as explained by Kresna²³.

The Perda is the law which regulates the local needs of the people who is indeed at that time is needed, therefore it becomes illogical if the cancellation is done because it conflicts with the rules above, although it is against the principle, as argued by Posner²⁴. the revocation of the perdas actually have the tendency to be similar with the government's opinion, in which the aim of the revocation is to decrease the burdens of the people. It may have effect in the decrease of the out of pocket healthcare system. According to the media reports, the revoked Perdas are those which may decrease the society's burden in the healthcare service payment from personal funds, thus impacts the public welfare. The Indonesian media stated that such annulment is crucial to develop the public welfare.

Conclusion

According to the media report, the revocation of many Perdas by the local government is actually problematic; the substance and material of the Perda regards the financial burdens of business workers, the healthcare and the education sectors, which includes licenses requirements and other factors such as tax, retributions, and financial burdens which will have impacts to the economy, to the out of pocket healthcare services, and the public welfare.

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