

## Regional Regulation concerning Sports Organizing: is it Necessary for Regency in Indonesia?

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### ABSTRACT

*As regional autonomy, a Regency has an obligation to organize government affairs. In addition, it also has the option of attribution authority in accordance with the constitution. The Regional Government organizes the field of government affairs that can foster healthy human resources. One of its authorities is the provision of sports facilities. This study aims to analyze the urgency of the Regulations on Organizing Sports. This research method is Legal Research through a qualitative approach by examining regulations/laws related to the authority of regional autonomy in organizing sports facilities. The results show that the formation of a Regional Regulation on the Implementation of Sports is prepared by taking into account the rules for the formation of legislation mandated by Law Number 12 of 2011 concerning Formation of Legislation. Thus the regulations decided can be implemented and in accordance with applicable legal provisions.*

**Keywords:** Sports Organizing, Healthy Human Resources, Local Government Policy

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### 1. INTRODUCTION

Based on Law Number 13 of 1950 concerning Formation of Regions, a Regency is granted regional autonomy, which should carry out government affairs (Johnston, 2016; Sigmaweb, 2014). Thus, the Regional Government has attribution authority in accordance with the constitution (Herrero-Alcalde, Tránchez Martín, & Ruiz De Zuazu, 2018). This authority is seen in Article 18 paragraph (2) of the 1945 Constitution of the Republic of Indonesia which reads "The provincial, regency, and municipal governments regulate and manage their own government affairs according to the principle of autonomy and co-administration." The implementation of the authority of the Regional Government is based on government affairs (Mahi, 2016). The authority is shared between the central government, provincial regions, and district/city areas. This is regulated in Act Number 23 of 2014 concerning Regional Government as amended lastly by Act Number 9 of 2015 concerning Second Amendment to Act Number 23 of 2014 concerning Regional Government.

Government affairs which are the authority of the Regional Government include:

1. Obligatory government affairs related to basic services, consisting of:
  - a. education;
  - b. health;
  - c. public works and spatial planning;
  - d. public housing and residential areas;
  - e. peace, public order and community protection; and
  - f. social.
2. Obligatory government affairs not related to basic services, consisting of:

- a. labor;
  - b. women's empowerment and child protection;
  - c. food;
  - d. land;
  - e. living environment;
  - f. population administration and civil registration;
  - g. community and village empowerment;
  - h. population control and family planning;
  - i. transportation;
  - j. communication and informatics;
  - k. cooperatives, small and medium businesses;
  - l. capital investment;
  - m. youth and sports;
  - n. statistics;
  - o. coding;
  - p. culture;
  - q. library; and
  - r. archives.
3. Selected governmental affairs, consisting of:
- a. marine and fisheries;
  - b. tourism;
  - c. agriculture;
  - d. forestry;
  - e. energy and Mineral Resources;
  - f. trading;
  - g. industry; and
  - h. transmigration.

Based on the above provisions, the sociological aspect reviewed by the Regency Government is the need for healthy human resources (Muda & Rafiki, 2014). Healthy human resources play an essential role in the implementation of development in the Regency (Elarabi & Johar, 2014). This role has also been established in the Long-Term Development Plan (RPJP) and the Medium-Term Development Plan (RPJM) of Regency. According to Law Number 23 of 2014 concerning Regional Government, governmental affairs in the Field of Sport which become the authority of districts/cities include:

- 1. fostering and developing educational sports at the level of education that is the authority of the regency/city area;
- 2. organizing district/city regional sports championships;
- 3. fostering and developing achievement sports at the provincial level;
- 4. fostering and developing district/city regional sports organizations; and
- 5. coaching and developing recreational sports.

The authority of the Regency Regional Government in organizing Sports requires adequate legal certainty. However, at present, there is no legal certainty regarding the organization of sports in the Regency. Based on the description above, it is necessary to study the strategies and efforts of the local government of Regency in organizing the field of sports.

## 2. RESEARCH METHODS

This research method is Legal Research through a qualitative approach by examining regulations/laws related to the authority of regional autonomy in organizing sports facilities. Legal materials were obtained from 1) the 1945 Constitution of the Republic of Indonesia; 2) Law Number 13 of 1950 concerning Formation of District Areas in the Central Java Province Environment; 3) Law Number 3 of 2005 concerning the National Sports System; 4) Law Number 12 of 2011 concerning Formation of Regulations and Regulations; 5) Law Number 23 of 2014 concerning Regional Government as amended lastly by Law Number 9 of 2015 concerning Second Amendment to Law Number 23 of 2014 concerning Regional Government; 6) Government Regulation Number 16 of 2007 concerning Sports Organization; 7) Expert Meetings; and 8) Focus Group Discussion. Legal materials obtained are further analyzed and described descriptively.

## 3. RESULTS AND DISCUSSION

### 3.1. Legal Basis for the Implementation of Sports in a Regency

The legal basis for the implementation of regional sports which is the authority of the Regency is derived from:

1. Law Number 3 of 2005 concerning the National Sports System;
2. Law Number 23 of 2014 concerning Regional Government as amended lastly by Law Number 9 of 2015 concerning Second Amendment to Law Number 23 of 2014 concerning Regional Government;
3. Government Regulation Number 16 of 2007 concerning Sports Organization; and
4. Government Regulation Number 17 of 2007 concerning the Implementation of Sports Week and Championships.

Since the ratification of Law Number 23 of 2014 concerning Regional Government, it has brought many changes in the administration of government. One of them is the division of government affairs in the field of education. If it is associated with the development and development of collegiate sports, the Regency Government can only conduct the training and development of collegiate sports at the level of primary education. The Regional Government of Regency makes changes in the administration of government affairs based on the principle of positive law. This is based on Law Number 23 of 2014 concerning Regional Government as amended lastly by Law Number 9 of 2015 concerning Second Amendment to Law Number 23 of 2014 concerning Regional Government. Government Regulation Number 38 of 2007 whose main content contains the distribution of government affairs no longer has binding power (or is ruled out) because it is no longer following the contents of Law Number 23 of 2014 concerning divided governmental affairs.

Based on the principle of the legislative hierarchy, that "lower level regulations must not contradict the higher" or *Lex superior derogate legi inferiori* principle, ie "higher statutory rules overrule the lower levels". Which has been divided between the Central Government and the Autonomous Region, in Law Number 23 of 2014 is the basis for the implementation of the rights, authority, and obligations of the Regency Government as an autonomous region to regulate and manage its own government affairs. This matter is government affairs in the field of sports.

Government affairs in the field of sports are one of the obligations of the Regency government. The authority of the Regency Government in carrying out its government affairs in the field of sports can be seen in Table 1:

Table 1. Government Affairs in Youth and Sports

Authority	Main Services	Supporting Services
The fostering and development of educational sports at the level of education becomes the authority of the Region	a. fostering and developing sports education; b. fostering and developing centers and special schools	a. competency services for educational sports personnel in education units; b. education sports festival services; c. service dissemination of minimum sports education service standards; d. sports-specific school services; e. student education and training center services; f. service center for student education and training
Organizing regional sport championships	Facilitate the holding of regional-level sports championships	a. Regional sports week organizing services; b. Regional sports championship organizing services; c. Regional junior championship service between sports associations; d. sports science scientific meeting services; superior sports competition organizing services; e. sports industry marketing services; f. sports facilities and infrastructure services
Development of Regional level achievement sports	a. facilitation of regional level sports development and achievement sports; b. facilitation of fostering superior sports	Outstanding sportsman development services
Regional level sports organization development	Facilitate the development of regional level sports organizations	Strengthening management services sports organization
Coaching and developing recreational sports	a. fostering and developing recreational sports; b. formation and development of traditional sports and special services	Recreation and traditional sports festival services

National arrangements for the organization of sport are regulated in Law Number 3 of 2005 concerning the National Sports System. The arrangement is based on the spirit of regional autonomy policy, in order to realize the ability of the region and the community to be able to develop sports activities independently. Furthermore, it is emphasized in Government Regulation Number 16 of 2007 concerning Sports Organization, that in Government Regulation Number 16 of 2007 regulates the distribution of tasks, responsibilities and authorities of:

1. Central Government. The implementation is carried out by the minister who carries out government affairs in the field of sports and the relevant ministers;
2. Provincial Government;
3. Regency / City Regional Government;
4. The parent organization of sports branches at the central, provincial and district / city levels;
5. Functional parent organizations at the central, provincial and district / city levels; and

## 6. The general public.

Clarity and firmness of the duties, responsibilities, and authority of the Government, Provincial Governments, and Regency/Municipal Governments to carry out sports in order to increase:

1. The effectiveness and efficiency of the administration of government affairs;
2. The quality of public services in the field of sports;
3. Fostering and developing superior regional potential, through active community participation; and
4. Directed to prevent the implementation of the professional sports industry oriented to business-oriented (business oriented) that ignores the interests of athletes, sports players, and the wider community.

Government Regulation Number 16 the Year 2007 also regulates the division of authority between the Central Government, Provincial Governments and Regency / City Governments to organize Sports. Every society always has a legal ideal (*rechtsidee*), which is what people expect from the law. For example, the law is expected to guarantee justice, expediency, and order as well as welfare. Legal ideas grow in the community's value system of good and bad, their views on individual relationships and society, and so forth. All of that is philosophical, meaning that it involves a view of the essence or nature of something. In public life, Indonesia has Pancasila as the nation's philosophy. Thus, Pancasila must become the philosophical foundation of all Laws and Regulations based on the 1945 Constitution of the Republic of Indonesia (Prasetyo, 2016). Legislation that becomes positive law must reflect a sound value system, as a means of protecting the values that live in society and also as a means of realizing it in community behavior.

The philosophical foundation of the organization of Regional Sports has a relation with the aim of the formation of the Unitary Republic of Indonesia. This is due to the purpose of the Regency Region as an autonomous region, namely "to advance public welfare, educate the life of the nation, and participate in carrying out world order based on independence, eternal peace and social justice" (Omara, 2019). Based on the above premise and within the framework of the principle of decentralization, the Regional Government is obliged to advance public welfare in order to realize a useful community life. Both for equitable and democratic development, gradually and continuously. Therefore, the urgency in educating the community is needed by local legal products in the field of sports. This is an effort to improve the quality of life of people physically, spiritually, and socially in realizing an advanced, just, prosperous, prosperous, and democratic society based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

The sociological basis is that every legal norm, as outlined in the legislation, must reflect the demands of the community's own needs (Post, 1989). Besides, the existence of legal norms that are following the reality of community legal awareness (Bix, 2018). Therefore, in the preamble, it must be well formulated regarding empirical considerations. So that, a normative idea outlined in the legislation is based on living reality. Thus, the legal norms contained in the legislation can later be implemented as well as possible during the legal community that it regulates. In the study of law or legal sociological research, the law is conceptualized as a social institution that is actually associated with other social variables. If the law is an empirical social phenomenon, it is assessed as an independent variable that causes effects and effects on various aspects of social life. The study is a sociological, legal study (socio-legal research). However, if the law is examined as a dependent variable as a result of various forces in the social process, the study is a study of the sociology of law.

The scope of the arrangements contained in the Regional draft Regulation on the Implementation of Regional Sports contains the following material:

1. General Provisions
  - a. Sports are all aspects related to sports that require regulation, education, training, coaching, development, and supervision.
  - b. Sports development and development is a conscious effort carried out systematically to achieve sports goals.
  - c. Sports are all systematic activities to encourage, foster, and develop physical, spiritual, and social potential.
  - d. Sports personnel is every person who has a qualification and certificate of competence in the field of sports.
  - e. Sportsman is a sportsman who follows training regularly and championships with full dedication to achieve achievement.
  - f. Sports facilities are equipment and equipment used for sports activities.
  - g. Standardization is the process of formulating, establishing, implementing, and revising national standards in various aspects related to sports.
  - h. Competence is a minimum ability possessed by sports personnel, which includes attitudes, knowledge, and skills in the field of sports.
  - i. Minimum service standard is a measure of the performance of the delivery of basic services in the field of sports that must be provided by both the Government, regional governments, as well as sports organizations and organizations.
  - j. Facilitation is the provision of assistance or services for the ease and smooth implementation of sports activities.
  - k. The parent organization of a sports branch is a sports organization that fosters, develops, and coordinates one branch/type of sport or a joint sports organization of one type of sport that is a member of the relevant international sports federation.
  - l. Parent functional sports organization is a sports organization that fosters, develops, and coordinates one or more branches of amateur and / or professional sports in the scope of educational sports, recreational sports, and / or performance sports based on the functions of the sport or sportsman.
  - m. Coordination is a process of activities for adjustments and arrangements between the parties in the management and organization of sports so that harmonious and synergistic cooperation occurs.
  - n. Supervision is the process of activities aimed at ensuring that the implementation of sports runs following the plans and provisions of the legislation.
  - o. Regency Area, hereinafter referred to as Region, is a regency region which has the authority to regulate and manage government affairs and the interests of local communities according to their own initiatives based on the aspirations of the people in the system of the Unitary State of the Republic of Indonesia.
  - p. Regency Government is the administration of government affairs by the Regional Government and the Regional People's Representative Council according to the principle of autonomy and assistance tasks with the principle of broadest autonomy in 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 .
  - q. Regency Regional Government, hereinafter the Regional Government is the Regent as the organizer of the Regency Government who leads the implementation of government affairs which are the authority of the Region assisted by the regional apparatus.
  - r. Regent is the head of the Region as the organizer of the Regional Government of Regency who leads the implementation of government affairs, which are the authority of the Region.

- s. Deputy Regent is the deputy head of the Region which has the task of helping the Regent.
- t. Regency Regional Representative Council, starting now referred to as DPRD, is a Regional people's representative institution domiciled as an organizer of the Regency Regional Government.
- u. The Regional Apparatus is the supporting element of the Regent and DPRD in carrying out government affairs, which are the authority of the Region.
- v. the Office of Youth and Sports, starting now referred to as the Office is the Regional Apparatus that organizes government affairs in the field of youth and sports.

## 2. Principles

This Regional Regulation on the Implementation of Regional Sports is compiled based on the principle of establishing legislation, which includes: (i) clarity of purpose; (ii) appropriate institutions or forming officials; (iii) conformity between types and material content; (iv) can be implemented; (v) usability and efficacy; (vi) clarity of formulation; (vii) openness; and (viii) participatory. Whereas the content of the Regional Regulation concerning the Implementation of Regional Sports is based on:

- a. Pancasila;
- b. The 1945 Constitution of the Republic of Indonesia;
- c. the principle of regional administration; and
- d. the principle of Sports.

## 3. Purpose

The purpose of organizing Sports Organization in the Regions is to:

- a. maintain and improve:
    - 1) health and fitness;
    - 2) Regional achievements;
    - 3) human quality in the Region;
  - b. embed:
    - 1) moral values and noble morals;
    - 2) sportsmanship;
    - 3) discipline;
- ## 4. Strengthen and foster:
- 1) national unity
  - 2) strengthen national resilience; and
  - 3) elevate the dignity and honor of the Region as part of the Indonesian nation.

The contents of the Regional Regulation concerning the Implementation of Regional Sports contain the following matters:

### 1. In General

- a. Coaching and developing sports in the Regency Area, including:
  - 1) sportsman;
  - 2) sports energy;
  - 3) organizing;
  - 4) funding;
  - 5) method;
  - 6) sports infrastructure and facilities; and
  - 7) sports awards are carried out through sports recognition and monitoring, scouting, talent development and achievement improvement stages.

- b. Guidance and sports development in the Regency Area, carried out through the following channels:
  - 1) family;
  - 2) education; and
  - 3) a community based on the development of sports for the community that takes place continuously and continuously.
- c. The Regional Government in organizing sports development and development in the Regency is carried out through:
  - 1) establishment of policies;
  - 2) upgrading or training;
  - 3) Coordination;
  - 4) consultation;
  - 5) communication;
  - 6) counseling;
  - 7) guidance;
  - 8) correctional facilities;
  - 9) pioneering;
  - 10) research;
  - 11) trials;
  - 12) competition;
  - 13) help;
  - 14) facilitation;
  - 15) licensing; and
  - 16) supervision.
2. Fostering and developing sports education at the level of basic education.
3. Coaching and developing sports achievements.
4. Coaching and developing recreational sports.
5. Sports Organizations in Regency, which include:
  - a. sports organization;
  - b. functional sports organizations; and
  - c. Regional sports committee.
6. Sports Championships in the Regency Area, which includes:
  - a. Regional sports week;
  - b. Regional student sports week; and
  - c. Regional sports championships.
7. Implementation of Regional Sports by the Regional Government, including the implementation of management elements and the implementation of the management of Regional Sport management in Regency.

#### 4. CONCLUSION

Regional Regulation on the Implementation of Regional Sports can be used as a new legal institution that has legal force based on Law Number 23 Year 2014 concerning Regional Government as amended lastly with Law Number 9 Year 2015 concerning Second Amendment to Law Number 23 Year 2014 About Regional Government. Furthermore, in the formation of a Regional Regulation on the Implementation of Regional Sports this must be prepared to pay attention to the rules of establishing a statutory regulation mandated by Law Number 12 of 2011 concerning Formation of Legislation. The establishment of this regional regulation is expected to be able to provide a legal umbrella for the welfare of the people in the region, particularly in the field of sports in the Regency Region. It's just that the

policy makers must really pay attention to the social conditions that exist. The existence of these regional regulations should not cause negative effects in the midst of society. In fact, this is not in accordance with the ideals of the law.

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