

CHAPTER ONE

INTRODUCTION

A. Background

Political reform in 1998 had brought major changes in the constitutional system in Indonesia. The reform had also produced the Law Number 22 of 1999 regarding Regional Government authority and obligations.¹ The shift of Indonesia's political structure from a centralized system to a decentralization system of the regional government, made the regions have the authority to regulate and manage their respective regions related to the establishment of regulation in the regions, namely through the formation of regional regulations. Thus, the process of establishing regional regulations is governed by its own regional government.

The granting of regional autonomy aims to improve the effectiveness of the administration's output, especially its implementation to the community, as well as to increase political stability and national unity.²

¹ With the enactment of the Law Number 22 of 1999, the government in the regions has greater real authority in regulating itself, except in five fields, namely farming, religion, foreign relations, monetary and legal.

² HAW. Widjaja, (1998) *Percontohan Otonomi Daerah di Indonesia*, Rineka Cipta, Jakarta, p.147

While the regions had the enthusiasm to carry out regional autonomy, suddenly many problems appeared unexpectedly which led to the vertical disintegration government upwards and the emergence of regional egoism, namely they felt having a great power to regulate everything in the name of regional autonomy.³ In the district, the legislative and executive process of justifying all decisions were made by themselves, except declaring of war, borrowing, money printing, or making their own courts as it is prohibited by the Law Number 23 of 2014.

In fact, in 2016 there were approximately 3,143 regional regulations revoked by Jokowi on competition barriers, investment, and regional economic growth. These regulations were considered as the extension of the bureaucratic pathway; they hamper the licensing process, hinder the ease of doing business, and create conflict with higher laws and regulations.⁴ The revocation of these regional regulations occurred in various regions in Indonesia including the Special Region of Yogyakarta as there have been revoked 43 regional regulations.

Then as a preventive measure to overcome the problems of legal products, a step or method needs to be taken to filter regional regulations--- to be effective and widely acceptable regulations. In the process of its

³ Article 1 paragraph (5) the Law No. 32 of 2004 defines: regional autonomy is the right, authority, and obligation of autonomous regions to regulate and manage their own government affairs and the interests of the local community.

⁴ Dwi Murdaningsih, Detik.com
<https://republika.co.id/berita/dpd-ri/berita-dpd/17/10/18/oy0i5c368-harmonisasi-peraturan-daerah-dan-pusat-belum-tercapai>, Accessed on 14th of Dec 2018 at 11.01 am.

establishment, regional regulations need to go through preliminary procedures as a preventive measure by reviewing regional regulation's draft through a process called legislation harmonization⁵.

This is allegedly due to the absence of the participation of regional office of the Ministry of Law and Human Rights in the drafting process of a regional regulation to create a harmonious regional regulation based on the Law Number 12 of 2011 concerning the establishment of legislation. Therefore, the role of the regional office of the Ministry of Law and Human Rights is needed to guard and assist the region in the establishment of regional legal products.

So, it is necessary to conduct research that aims to evaluate the role of the Ministry of Law and Human Rights in the establishment of regional regulations and its obstacles. For this reason, the researcher conducted research entitled, **"THE ROLE OF REGIONAL OFFICE OF MINISTRY OF LAW AND HUMAN RIGHTS IN THE REGIONAL REGULATION MAKING PROCESS IN THE SPECIAL REGION OF YOGYAKARTA."**

⁵ See article 58 paragraph (1) and (2) of the Law Number 12 of 2011 on Establishment of Legislation.

B. Research Question

There are two research questions of this research:

1. How is the role of the regional office of the Ministry of Law and Human Rights in regulation making process in the Special Region of Yogyakarta?
2. What are the obstacles during the regional regulation making process in the Special Region of Yogyakarta?

C. Objective of Research

The objectives of this research are:

1. To analyse the role of the regional office of the Ministry of Law and Human Rights in regulations making the process in the Special Region of Yogyakarta; and
2. To find the obstacles in the regional regulations making process in the Special Region of Yogyakarta and prepare some recommendation.
3. To understand the regional regulation making process in the Special Region of Yogyakarta;

D. Benefits of Research

There are theoretical and practical aspect benefits by conducting this research, namely:

1. Theoretical Aspect

Theoretical aspect benefit of conducting this research is that the findings may contribute to legal information material in the field of law

such as the Regional Regulation making process and its obstacle, and also the role of Regional Ministry of law and human rights in regulation making the process in the Special Region of Yogyakarta

2. Practical Aspect

Practical aspect/benefit of conducting this research is that the findings may bring fruitful information to the Regional Office of the Ministry of Law and Human Rights, Provincial Government, and Provincial House of People's Representative in carrying out the regional regulations making process in the Special Region of Yogyakarta.