

## **EFFICIENCY OF REGIONAL DEVELOPMENT (STUDY FOR ESTABLISHING REGIONAL REGULATIONS IN SOUTH BOLAANG MONGONDOW REGENCY ON COOPERATION BETWEEN LOCAL GOVERNMENTS)**

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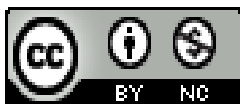
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### **Abstract:**

Cooperation between local governments is an issue that must be addressed since there are several problems and needs of the local community that must be handled and fulfilled by crossing administrative boundaries. Inter-regional cooperation is a system of working relationships carried out by two or more regions that are in a level and balanced position to achieve a common aim of enhancing people's welfare. South Bolaang Mongondow Regency's government is highly concerned about the significance of collaboration with neighboring regions. In this paper, there 2 (two) research questions, namely; 1). What is the urgency of inter-regional cooperation in regional development?; 2). What are the philosophical, sociological and juridical considerations for the information of a draft regional regulation on the implementation of Regional Cooperation in South Bolaang Mongondow Regency? This research method is categorized into normative legal research types, it is based on the issues and or themes raised as research topics using a philosophical and analytical research approach which is analyzed descriptively analytically. The philosophical basis is a consideration or reason that demonstrates that the regulations formed are based on Pancasila and the 1945 Constitution; b). Sociological Foundation, Cooperation based on the needs and considerations of efficiency, the effectiveness of public services and carried out in a mutually beneficial manner; c). Juridical Foundation, The juridical or normative basis of a rule or rule, if the rule is part of a certain legal rule which in the legal rules points one to another.

**Keywords:** Regional Cooperation, Development, Regional Regulations

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## **INTRODUCTION**

Cooperation between local governments is an issue that must be addressed since there are several problems and needs of the local community that must be handled and fulfilled by crossing administrative boundaries. To succeed in this cooperation, it is necessary to identify strategic issues, the right form or model of cooperation, and the current government principles, considering its role in determining the country's resilience, as well as looking at the principles that guide the success of



the cooperation. Keeping in mind the strategic role played by the Regional Government in this unitary state system, increasing the role and capacity of the government in this cooperation mechanism, including the adjustment of its institutional structure and function, must be an essential agenda of the government in the future.

The existence of interconnection and interdependence between one regional government and other regional governments in the administration of specific affairs and authorities requires the support of other parties. In this context, the main reason for the need for cooperation between regional governments is that various cross-administrative problems can be resolved together and vice versa, so that much of their potential can be utilized for common interests and potential disputes/conflicts of authority, which can be prevented.

When Law No. 32 of 2004 was changed to Law No. 23 of 2014, the subject of inter-regional cooperation was regulated in Article 363, which is virtually the same as that prescribed in Article 195 of Law No. 32 of 2004. Article 363 of Law No. 23 of 2014 affirms that to improve welfare, the regions can enter into a cooperation based on considerations of efficiency and effectiveness of public services and mutual benefits.

Inter-regional cooperation is a system of working relationships carried out by two or more regions that are in a level and balanced position to achieve a common aim of enhancing people's welfare. Meanwhile, Patterson in Warsono defines inter-regional cooperation as "an arrangement of two or more governments for accomplishing common goals, providing a service or solving a mutual problem".) Meanwhile, according to Article 1 paragraph (2) of the Government Regulations No. 50 of 2007 and Article 1 paragraph (3) of the Minister of Home Affairs Regulation No. 22 of 2009, regional cooperation is defined as an agreement between a governor and another governor, a governor with a regent of a regency, a regent with another regent of a regency, and or a governor, a regent with the third party, which is made in writing and gives rise to rights and obligations.

Law No. 23 of 2014 on Regional Government is more proactive in giving more legality for the execution of collaboration, both with neighboring regions, with third parties and with institutions or local governments overseas. Article 363 (1) states, "In order to improve the welfare of the people, regions may enter into a cooperation based on considerations of efficiency and effectiveness of public services as well as mutual benefit." Even article 369 firmly states the importance of cooperation by stating that: "Further provisions regarding cooperation are regulated by government regulations."

This demonstrates that the Indonesian government recognizes the significance of this relationship. One of them is the release of Government Regulation No. 28 of 2018 on Regional Cooperation. The essence of implementing regional cooperation is to strengthen regional links with other regions within the framework of the Republic of Indonesia. Regional cooperation also supports regional development harmony by synergizing potential between regions and increasing knowledge and technology exchange.

South Bolaang Mongondow Regency's government is highly concerned about the significance of collaboration with neighboring regions, third parties, and institutions or local governments overseas. The Regional Medium Term Development Plan (RPJMD) emphasizes the fulfillment of regency governance arrangements and potential regional development based on regency service standards, as well as the reinforcement of information technology-based minimum service standards. The South Bolaang Mongondow Regency Government requires collaboration with other regional governments, third parties, institutions, and regional governments overseas in the economic, socio-cultural, infrastructural, and government domains to achieve the aforementioned general goals.



On the other hand, the South Bolaang Mongondow Regency Government has had difficulty forging collaboration due to regional restrictions that have not followed appropriate laws and regulations. Since the enactment of Law No. 23 of 2014 concerning Regional Government (as amended by Law No. 2 of 2015 concerning Stipulation of Government Regulations in Lieu of Law No. 2 of 2014 concerning Amendments to Law No. 23 of 2014 concerning Regional Government to Law and Law No. 9 of 2015 concerning the Second Amendment to Law No. 23 of 2014 concerning Regional Government (Law No. 23 of 2014), the South Bolaang Mongondow Regency Government has faced numerous challenges.

Among them are problems regarding the position of regional cooperation to its regulators in Article 363 in conjunction with the explanation of Article 363 paragraph (2) point b of Law no. 23 of 2014 and the possibility of juridical implications if the South Bolaang Mongondow Regency Government cooperates. In other words, the new laws and regulations differ substantially from the Regional Regulation of the South Bolaang Mongondow Regency Number 17 of 2001 concerning cooperation between the Regency Government and the Agency (hereinafter referred to as Regional Regulations No. 17 of 2001).

Referring to the substance that has changed as well as the systematics that has changed, then based on Attachment II point 237 letters a and letter c of Law No. 12 of 2011 concerning Legislation Establishment, which says: If a change to the Laws and Regulations results in: letter a, the systematics of the Legislation changes or letter c, the essence changes, then the amended Legislation is better to be revoked and rearranged in a new Legislation regarding the matter.

Based on Attachment II point 237, letter a and letter c of Law no. 12 the Year 2011. New Regional Regulations so that problems in regional cooperation can be answered and the new regional regulations can also adapt to new laws and regulations in the field of regional cooperation.

## **METHODS**

This research is categorized into the type of research that is normative legal it is based on the issues and themes raised as a research topic. The research approach used is philosophical and analytics, the research focuses on the view of the rational, analytical, critical and philosophical, and ends with the conclusion that aims to generate new findings as answers from the subject matter that has been set as well as will be analyzed with a descriptive-analytical method, namely by describing the laws and regulations that apply to the legal theory and practices of law enforcement positively related to the problem.

## **RESULT AND DISCUSSION**

**The urgency of inter-regional cooperation in regional development.** The collaboration consists of three key elements: the presence of two or more parties who form cooperation, the interaction between the parties participating in the cooperation, and the pursuit of a shared objective. These three elements must exist in a collaboration. The existence of two or more parties describes a set of interests that influence each other so that interactions occur to realize a common goal. Interactions that do not aim to fulfill common needs are not the hallmark of collaboration. Thus, the interaction of several parties must be carried out and must allow the creation of balance, meaning that interactions that only benefit one party are not included in the criteria for cooperation. Cooperation puts the parties interacting in a balanced, harmonic, and harmonious position since the interaction attempts to accomplish mutual goals without causing harm to anybody.

Inter-regional collaboration can be an alternative invention or idea focused on efficiency and effectiveness, synergistic and mutually beneficial factors, especially in domains with cross-regional





interests, to optimize regional development potential. Decentralization and regional autonomy policies support inter-regional collaboration through regulatory umbrellas (government rules). Cooperation is supposed to act as a bridge, transforming possible conflicts of interest across areas into mutually beneficial development opportunities. Cooperation between regions can only be created and maintained if there is an understanding that these regions rely on one another to attain a common objective. As a result, the launch of new inter-regional cooperation can be successful if shared challenges, requirements, or difficulties are identified. This similarity is used as the basis for bringing together the regions that will be partners.

In addition, the issue of the feasibility of cooperation, both economically and politically, also needs to be considered. Politically, because the final decision regarding the commitment to cooperate is a political decision that must be made at the leadership level, arguments for cooperation that are politically appealing to that leadership level are required. Of course, because politically this cooperation must be attractive to all regions involved, it must also be beneficial for all regions. This "mutual benefit" principle is one of the fundamental philosophies of cooperation.

In the discussion of inter-regional cooperation (KAD) it cannot be separated from several strategic and interesting issues related to the urgency of cooperation between regional governments so far, namely:

**Public Service Improvement.** Inter-regional cooperation is expected to be one of the innovative methods in improving the quality and coverage of public services. Effectiveness and efficiency in providing public service facilities and infrastructure such as education, health, clean water and so on are also important issues, especially for disadvantaged areas. This improvement in public services also includes infrastructure development. This infrastructure can include road networks, power plants and so on.

**Border Area.** Cooperation in terms of security in border areas is also a strategic issue, apart from security, cooperation in border areas is also focused on regional development because most of the areas in these border areas are underdeveloped areas.

**Spatial Order.** Spatial links between regions are needed in matters that can affect more than one area such as watersheds (DAS), environmental areas and so on.

**Disaster Management and Potential Handling Conflicts.** Disaster mitigation efforts and post-disaster actions, as well as other areas, turn out that this situation requires good coordination and cooperation between adjacent areas.

**Poverty Reduction and Regional Disparities.** Limited capabilities, capacities, and resources vary between regions, leading to regional disparities and poverty (social inequality). Through inter-regional cooperation, it is hoped that there will be an increase in regional capacity in more optimal use of resources and local economic development to reduce poverty and regional disparities.

**Increasing the Role of Provinces.** Law number 32 of 2004 concerning Regional Government indicates the need to increase the role of the province, including in facilitating the resolution of inter-regional problems. For this reason, it is necessary to increase the province's ability to organize and encourage inter-regional cooperation (Regional government cooperation). This role is mainly in the provincial capacity as an extension of the central government and as a facilitator and catalyst for inter-regional cooperation.

**Regional Expansion.** In addition to the regional growth policy, inter-regional cooperation (KAD) can be used to improve the effectiveness and efficiency of public service delivery. This right increases the expansion policy requires more resources than cooperation between regions, and the development of new autonomous regions does not always produce the desired results.



In addition to the strategic issues described above, there are reasons behind the cooperation between regional governments. Each region in reality, has administrative boundaries (according to laws and regulations) and functional boundaries (according to socio-economic relations across administrative boundaries). The boundaries of administrative areas are determined formally through laws and regulations, but in reality various problems and interests often arise due to functional relationships in the socio-economic field that cross the boundaries of these administrative areas. In this context, the main reason that cooperation between local governments is needed is that various cross-administrative problems can be resolved and vice versa so that their many potentials can be utilized for the common good. The consequence is that it is necessary to revamp the abilities of government at the regional level, a form of public management reform that the current government must pay attention to, and not only fix macro organizational capacities at the local level. In other words, improving the capacity of government institutions under the center is very much needed.

Other reasons for cooperation between local governments are as follows:

- a. Parties working together can form a greater power. When regional governments cooperate, the capabilities of each working area can be synergized to cope with complicated environmental risks or issues that would otherwise be handled separately. They can work together to overcome environmental barriers or achieve higher productivity levels.
- b. Collaborating parties can achieve higher results. With cooperation, each region will transfer knowledge, skills, and information. For example, one area learns strengths or skills from another area.
- c. Collaborating parties can be more empowered. With cooperation, each involved region has a better bargaining position or can better fight for its interests to a higher government structure.
- d. Collaborating with parties can minimize or prevent conflict. With cooperation, regions previously in tight competition or involved in a conflict can be more tolerant and try to take advantage of or learn from the conflict.
- e. Each party received greater justice. Each region will feel that it is not disadvantaged because there is transparency in the cooperative relationship. Each region involved in the collaboration has the same access to the information created or used.
- f. Each cooperating party will maintain the sustainability of handling the areas being cooperated. With this cooperation, each region commits not to betray its partners but to maintain mutually beneficial relationships on an ongoing basis.
- g. This collaboration has the potential to reduce regional ego. Through this cooperation, the tendency of "regional ego" can be avoided, and the vision of togetherness as a nation and state can grow.

In the future, because cooperation between regional governments must be viewed as an essential necessity that cannot be avoided, the government must make a concerted effort to introduce, encourage, and institutionalize inter-regional cooperation so that regional governments are accustomed to it and can benefit from it.

**Considerations in Philosophy, Sociology, and Law for the Development of Draft Regional Regulations for the Implementation of Regional Cooperation in South Bolaang Mongondow Regency.**

**Philosophical Foundation.** The philosophical foundation is a nation's view of life, namely moral or ethical values that contain good and bad values. At the level of legal philosophy, the understanding of the implementation of the nation's morals into law (including this Regional Regulation) is included in a sense called *rechtsidee*, namely, what is expected from the law, for



example, to ensure justice, order, welfare and so on that grow from the value system of society (nation). About good and bad, views regarding the relationship between individuals and society, material things, the position of women, the unseen world and so on.

Therefore, in the formation of regional legal products or statutory regulations in Indonesia, it must be based on the philosophical view of Pancasila, which includes:

- a. The Religious values of the Indonesian nation are summarized in the precepts of One Godhead;
- b. The values of human rights and respect for human dignity as summarized in the precepts of a Just and Civilized Humanity;
- c. The values of the nation's interests as a whole and the unity of national law as summarized in the precepts of the Unity of Indonesia;
- d. Democratic values and people's sovereignty as embodied in the precepts of Democracy Led by Wisdom of Wisdom in Deliberation/Representation; and
- e. The values of social justice as summarized in the precepts of Social Justice for All Indonesian People.

A regional regulation is said to have a philosophical basis if its formulation or norm contains a nation's view of life that contains the moral or ethical values of that nation. Based on the above understanding, the regulation on regional cooperation must also be based on Pancasila as a way of life (*Weltanschauung*).

This is a manifestation of welfare state law, in which the state's obligations and functions are not merely to preserve and enforce the law as ideally as possible to achieve an orderly and safe communal life but also to provide a legal foundation for the general welfare of all levels. Citizenship (society) can be attained. The philosophical foundation for making Regional Regulations Concerning Regional Cooperation is essentially related to the practice of the state's goals, namely advancing the general welfare and educating the nation's life, where achieving general welfare requires a system that can be the foundation of leaders in issuing policies to ensure implementation. A long-term government service system to promote the community's well-being. It is possible to infer that regional autonomy grants the regional administration the ability to execute regional cooperation to optimize regional development and achieve community welfare.

Referring to Law No. 12 of 2011 on Legislation Establishment, which confirms that the philosophical basis is a consideration or reason that demonstrates that the regulations formed take into account the views of life, awareness, and legal ideals, which include the spiritual atmosphere and the philosophy of the Indonesian nation, which are sourced from Pancasila and the Preamble to the 1945 Constitution. As a result, the philosophical goals expressed in the Regional Regulation should mirror those held by the community in question. Pancasila as a philosophy must be represented in the philosophical concerns contained in regional rules in the framework of state life. Thus, efforts to increase community welfare and support the region's smooth growth can serve as the conceptual foundation for the execution of regional cooperation.

**Sociological Foundation.** The sociological basis can be interpreted as a reflection of the reality that exists in society, with the hope that the laws and regulations (including the Regional Regulations therein) will be naturally and even spontaneously accepted by the community so that they will have effective power and do not require much institutional mobilization to implement them.

A Regional Regulation is said to have a sociological basis if its provisions are in accordance with the general belief or legal awareness of the community. This is in line with the flow of Sociological Jurisprudence, which views the law as something that grows in the midst of the people





themselves, which changes according to the development of time, space and nation. This is the result of a change in thinking from conservative to sociological, legal thought, thanks to Ehrlich's persistent efforts to socialize the concept of living law which is the key to his theory.

In Law no. 12 of 2011, it is stated that the sociological basis is a foundation related to conditions or empirical reality that lives in society so that it has effective binding power (living law). These empirical needs are a consequence of the dynamics of developments that occur in society along with the increasing demands of needs. The needs that are currently part of the pattern of community life include the need for cooperation to address the need to improve community welfare and provide support for regional development.

Cooperation based on the needs and considerations of efficiency and effectiveness of public services and carried out in a mutually beneficial manner can be used as a sociological basis for the preparation of the South Bolaang Mongondow Regency Regional Regulation concerning the Implementation of Cooperation.

**Juridicial Foundation.** The juridicial basis is a consideration or reason that illustrates that regulations are formed to overcome legal problems or fill legal voids by considering existing rules, which will be changed, or which will be revoked in order to ensure legal certainty and a sense of justice for the community. In a legal state, in principle, every government action must be carried out based on the authority granted by the legislation. A government action that is carried out without the basis of authority is null and void.

The juridicial basis related to Regional Cooperation can be divided into 2 (two), which include:

- a. The juridicial basis from a formal point of view is the juridicial basis that gives authority to certain agencies/officials to make certain regulations, such as Article 236 of Law Number 23 of 2014 concerning Regional Government which provides a juridicial basis and a formal angle to the Regional Government and DPRD to make regional regulations. The existence of regional regulations is a "condition sine qua non" (absolute/absolute requirement) in order to carry out the authority of autonomy, regional regulations must be used as guidelines for regional governments in carrying out government affairs besides that, regional regulations can also provide legal protection for the people in the region. The authority of local governments in accordance with Law Number 23 of 2014 above is the attribution authority of the 1945 Constitution Article 18 paragraph (6), which states that "Local Governments have the right to stipulate Regional Regulations and other regulations to carry out autonomy and assistance tasks".
- b. The juridicial basis from the material point of view, namely the foundation that provides the legal basis for regulating certain matters, such as Article 363 of Law Number 23 of 2014, which gives authority to Regency/City Regional Governments in carrying out cooperation in the context of improving the performance of Regional Government administration.

The juridicial or normative basis of a rule or rule is if the rule is part of a certain legal rule which in the legal rules points one to another. Such a system of legal rules consists of an entire hierarchy of special legal rules based on general legal rules. In it the lower special legal rules are derived from higher legal rules. The juridicial basis for the preparation of the Draft Regional Regulation of South Bolaang Mongondow Regency concerning the Implementation of Regional Cooperation, namely the current laws and regulations, in particular those ordering the issuance of the Regional Regulation, including:

1. Legal Drafting Aspects:
  - a. Article 18 paragraph 6 of the 1945 Constitution;
  - b. Law No. 12 of 2011 concerning the Legislation Establishment.



2. Substance Aspects:
  - a. Law No. 23 of 2014 concerning Regional Government.
  - b. Government Regulation No. 28 of 2018 concerning Regulation Cooperation;
  - c. Regulation of the Minister of Home Affairs No. 22 of 2020 concerning Procedures for Regional Cooperation with Other Regions and Regional Cooperation with Third Parties; Method of Regional Cooperation with Other Regions and Regional Cooperation with Third Parties; and
  - d. Minister of Home Affairs Regulation Number 25 of 2020 concerning Procedures for Regional Cooperation with Regional Governments Abroad and Regional Cooperation with Overseas Institutions.

## CONCLUSION

The main reason for the need for cooperation between regional governments is that various cross-administrative problems can be resolved together and vice versa so that much of their potential can be utilized for common interests, and potential disputes/ conflicts of authority can be prevented. The urgency of inter-regional cooperation found by the author is as follows:

1. Public Service Improvement
2. Border Area
3. Spatial Order
4. Disaster Management and Potential Handling Conflicts
5. Poverty Reduction and Regional Disparities
6. Increasing the Role of Provinces
7. Regional Expansion

Implementing Regional Cooperation in the South Bolaang Mongondow Regency required much deliberations and considerations in the philosophical foundation, sociological foundation, and juridical foundation. These considerations are as follows:

**Philosophical Foundation.** The philosophical basis is a consideration or reason that demonstrates that the regulations formed take into account the views of life, awareness, and legal ideals, which include the spiritual atmosphere and the philosophy of the Indonesian nation, which are sourced from Pancasila and the Preamble to the 1945 Constitution.

**Sociological Foundation.** Cooperation is based on the needs and considerations of efficiency and effectiveness of public services and is carried out in a mutually beneficial manner.

**Juridical Foundation.** The juridical or normative basis of a rule or rule is if the rule is part of a certain legal rule which in the legal rules points one to another. Such a system of legal rules consists of an entire hierarchy of special legal rules based on general legal rules. In it the lower special legal rules are derived from higher legal rules.

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