



The role of the legal division of the Probolinggo regency secretariat in drafting local regulations

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ABSTRACT

This study aims to analyze the role, duties, and working mechanisms of the Legal Division of the Probolinggo Regency Secretariat in drafting Regional Regulations (Perda) to support the implementation of regional autonomy in accordance with Law Number 23 of 2014 concerning Regional Government and its amendments. The research method used is a normative juridical approach with a descriptive-analytical nature, based on a literature study of laws and regulations, official regional documents, and related academic literature. The results of the study show that the Legal Division has a strategic role in all stages of Perda formation, from planning, drafting academic papers, harmonization and legal review, to ratification and evaluation of implementation. The Legal Division serves to ensure the conformity of Perda with the national legal hierarchy and the needs of the local community. However, a number of obstacles were found, such as limited human resources, suboptimal inter-agency coordination, and low utilization of digital technology in the regional legislation system. Therefore, this study recommends increasing the capacity of legal officials, optimizing inter-agency coordination, and digitizing the regional legislation process so that the drafting of local regulations is more effective, transparent, and participatory.

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1. Introduction

Indonesia has implemented broad regional autonomy since the enactment of Law Number 22 of 1999 until the present with the enactment of Law Number 23 of 2014 concerning Regional Government (Sukma, 2017). Regional autonomy in Indonesia has become a main pillar in the post-1998 reform government system (Muhammad Rizqi Afandi et al., 2025), which aims to bring public services closer to the community through more effective and efficient management of local affairs (Sakdiyah, 2025). Law Number 23 of 2014 concerning Regional Government (as amended by Law Number 9 of 2015 and Law Number 6 of 2023) grants broad authority to regional governments to formulate regional regulations (Perda) as legal instruments that

regulate various aspects of community life, national, and state life at the local level (Rosianti et al., 2024). Regional regulations not only function as derivatives of national laws but also as tools to realize regional aspirations in the context of sustainable development, including in the economic, social, environmental, and governance fields (Chabib Faturrohman et al., 2023).

In this era, local governments and regional representative councils (DPRD) are granted the authority to create regional regulations, presenting an opportunity for regions to regulate their own territories and optimally advance and empower their regions (Nurdin, 2020a). Local governments and DPRD, when drafting and enacting regional regulations, must consider the hierarchy of laws and regulations (Isroji et al., 2024). Therefore, regional regulations must be based on or have a legal basis from higher-level laws and regulations. They must not conflict with the public interest, other regional regulations, or higher laws and regulations (Barlian, 2017a). In terms of repressive supervision, regional regulations that conflict with higher laws and regulations will be null and void or can be revoked. In the process of drafting regional regulations, known as the regional legislation process, various parties are involved, including the DPRD as the regional legislative body and the regional head (regent or mayor) as the executive (Asmawi, 2014). However, the role of the Legal Division of the Regional Secretariat (Setda) is often a crucial element that receives little attention. The Legal Division is responsible for technical legal aspects, such as harmonizing legal norms, conducting legal research, and providing consultation to ensure that the local regulations drafted align with the hierarchy of national legislation and do not conflict with constitutional principles (Rosidin et al., 2025).

The formation of laws and regulations is regulated in Law Number 12 of 2011 concerning the Formation of Laws and Regulations (Saraswati, 2013). This law includes new provisions, such as the regulation of academic papers as a requirement in drafting bills or provincial and regency/city draft regulations; regulations regarding the participation of legislators, researchers, and experts in the stages of law formation. However, the implementation of these roles in practice often faces challenges, such as limited human resources, suboptimal coordination between institutions, and political influences that can affect the independence of the legislative process (Tanti Kirana Utami et al., 2024). Probolinggo Regency, as one of the regencies in East Java Province with strong agricultural and tourism potential (Yuda Pratama, 2023), is a relevant case study because it has produced a number of strategic regional regulations, such as the Local Regulation on Waste Management and the Local Regulation on Tourism Villages. However, the legislative process there is often influenced by local issues, such as land conflicts and community participation, which require strong legal support from the Legal Division.

A legal analysis is necessary to uncover the role of the Legal Division through primary data, particularly from interviews with local legal officials, to evaluate the extent of their contribution in ensuring the substantive and procedural quality of regional regulations. This research is expected to provide recommendations for improving regional legislative capacity, while contributing to strengthening regional autonomy that is more accountable and based on empirical evidence. Thus, this background emphasizes the urgency of bridging legal theory with field practice, so that the regional legislative process is not only formalistic but also responsive to community needs.

This research is important to identify the duties and functions of the Legal Division of the Probolinggo Regency Secretariat in the process of drafting regional regulations (Perda), in order to understand its contribution to regional regulations that align with national law. Additionally, this research aims to analyze the procedures and working mechanisms of the Legal Division in drafting Perda, including coordination with related agencies such as the Regional People's Representative Council (DPRD), the Regional Development Planning Agency (Bappeda), and the Ministry of Home Affairs, to uncover challenges and provide recommendations for improving the effectiveness of regional legislation.

Revised Questions: Is there no in-depth study on the effectiveness of legal coordination between institutions at the district level, or on the digitalization of regional legislation?

This research will address this gap by investigating the effectiveness of legal coordination between institutions, particularly at the district level, and will explore the role of digitalization in streamlining the regional legislation process. Specifically, it will evaluate how Probolinggo Regency utilizes e-Government tools for legislative tracking and public involvement, aiming to identify opportunities for improvement through digitalization.

What are the main problems faced by the Probolinggo Regency Legal Department in the process of drafting regional regulations?

This study will explore the main challenges faced by the Probolinggo Regency Legal Department, such as coordination issues with other regional apparatus, limited resources, and political influences. The research will assess how these problems impact the efficiency and effectiveness of the legislative process, especially in terms of ensuring compliance with national laws and addressing local needs.

Are there any cases or examples of regional regulations in Probolinggo Regency that are problematic in terms of law or implementation?

The study will examine specific regional regulations in Probolinggo Regency that have faced issues in implementation or legal conflict, such as the Local Regulation on Waste Management or the Tourism Villages regulation. These cases will be analyzed to identify potential legal gaps, challenges in enforcement, and opportunities for improving the regulatory framework to ensure alignment with national laws and regional needs.

2. Method

This study will apply a normative juridical approach with descriptive-analytical characteristics, focusing on the legal norms related to the function of the Legal Division of the Probolinggo Regency Secretariat in the process of formulating Regional Regulations (Perda). The research aims to explore legal principles, doctrines, and the hierarchical structure of relevant laws and regulations, particularly Law Number 23 of 2014 concerning Regional Government and Government Regulation Number 86 of 2019 concerning Procedures for Drafting Local Regulations, to evaluate the alignment of this role with the national legal framework (Ifo, 2023). The analysis will be conducted through a systematic interpretation of relevant legal norms, examining how the Legal Division's functions and responsibilities align with these higher-level laws and regulations.

Legal analysis techniques will include comparative analysis, which will assess how the Legal Division's operations conform to national legislation, and doctrinal analysis to interpret the legal provisions. Additionally, a legal-normative evaluation will be conducted to determine how the Legal Division's role adheres to constitutional principles and legal hierarchies, ensuring the alignment of local regulations with the broader national legal framework.

This approach was chosen based on the conceptual and normative nature of the topic, facilitating a comprehensive understanding of the authority and obligations of institutions involved in the local regulation process without requiring direct field observation. The study also aims to provide a detailed understanding of how these legal norms are applied in practice by the Legal Division in the formulation of local regulations.

The data used in this study will include primary data, such as statutory regulations, court decisions, and official documents related to the drafting of local regulations in Probolinggo Regency. Primary data will serve as the foundation for analysis, while secondary data consisting of law books, journal articles, and expert references on local government governance (Nurdin, 2020b) will be used to support the arguments and provide broader contextual understanding. Data collection will be carried out through library research, where researchers

will compile, group, and analyze various legal sources from institutions such as the National Library, the official portal of the Ministry of Home Affairs, and the records of the Probolinggo Regency Regional Secretariat (Irvaniar & Dafira, 2024).

The official documents to be analyzed will include local regulations (Perda), regional government legal opinions, and drafting process records from the Probolinggo Regency Regional Secretariat. These documents will be reviewed to assess the Legal Division's contribution in the planning, synchronization, and verification phases of local regulation drafting, ensuring that the legal provisions are consistent with national regulations and meet local needs.

Regarding the study's scope, this research will cover regional regulations formulated between 2019 and 2024, as this period includes recent changes in regulations, such as the implementation of Government Regulation Number 86 of 2019, which directly impacts the process of regional regulation formulation. The study will focus on a representative sample of regional regulations rather than analyzing all regulations, selecting key Perda that reflect the broader trends in legislative practices within Probolinggo Regency. This allows for an in-depth analysis of significant regulations while ensuring a manageable scope for the research.

To ensure the validity of data from the Probolinggo Regency Regional Secretariat's archives, triangulation will be used. Researchers will cross-check the documents and sources with official statements from the Regional Secretariat and DPRD. In addition, interviews with local legal officials will be conducted to verify the accuracy of the documents and ensure the reliability of the archival data. Secondary sources, such as journal articles and expert analyses, will be reviewed to confirm that the legal materials used are up-to-date and relevant to the research context.

By adopting these methods, this study will not only describe the role of the Legal Division from a normative perspective but also provide analytical insights that can inform improvements in regional legal policies and the effectiveness of the legislative process in Probolinggo Regency. The study aims to contribute to enhancing the regional legislative process by ensuring legal compliance, improving procedural transparency, and incorporating public participation in regional governance.

3. Analysis and Results

Duties and Functions of the Legal Division of the Probolinggo Regency Secretariat in the Local Regulation Drafting Process

In general, the Legal Division is responsible for legal aspects and consultations within the regional government, particularly in the drafting of local regulations (Perda), which are collaborative legislative products of the executive (regional government) and the legislature (Regional Representative Council/DPRD). This role is designed to ensure that local regulations comply with the hierarchy of laws and regulations, legal principles, and regional needs (Barlian, 2017b). The process of drafting local regulations and the role of the Legal Division are regulated by several national laws, which serve as references for local governments, such as Law No. 23 of 2014 on Regional Government (as amended by Law No. 2 of 2015 and Law No. 9 of 2015) (Dafid, 2017). The duties of the Regional Secretariat (Setda) are outlined in Law No. 23 of 2014 concerning Regional Government and Government Regulation (PP) No. 18 of 2016, including its amendments such as PP No. 72 of 2019 concerning Regional Apparatus, which generally states that the Regional Secretariat is a regional apparatus responsible for coordination, administration, and technical support functions, including legal aspects.

Article 236 of Law No. 23/2014 emphasizes the formulation of local regulations (Perda) to implement regional autonomy and includes tasks of regional apparatus for legal support. This article outlines the legal obligation for regional governments to formulate Perda, which is consistent with regional autonomy goals (Riza Wira Kelana et al., 2024). The Legal Division of

the Regional Secretariat plays a crucial role in this process, ensuring compliance with national laws while supporting the formulation of Perda in the context of regional needs.

The Legal Division is established as an implementing unit directly responsible to the Regional Secretary. Its primary task is to provide legal services to all regional apparatus, including the drafting of local regulations. The duties and functions of the Legal Division, as outlined in Probolinggo Regency Regulation No. 14 of 2022, include preparing regional policy formulations, coordinating regional policy, monitoring and evaluating legislation, providing legal assistance, and offering documentation and information. These functions ensure that local regulations are created with transparency, accountability, and public participation.

Procedures and Mechanisms of the Legal Division of the Probolinggo Regency Secretariat in Drafting Local Regulations

Regional regulations (Perda) are laws formed by the Regency/City DPRD with joint approval from the Regent/Mayor. The Legal Division acts as the regulatory center, overseeing all phases of local regulation drafting from inception to publication. The procedure is designed to maintain openness, accountability, and community involvement. Below is the process for drafting local regulations, with coordination from relevant agencies:

Planning Stage

The first step involves compiling a list of priority local regulations in the annual Regional Legislation Program (Prolegda), which must be approved by the Regent and DPRD. The Legal Bureau coordinates the compilation of Prolegda, involving relevant agencies, including vertical agencies from ministries and other regional institutions. Once compiled, the results are submitted to the Regional Representative Council (DPRD).

Academic Paper and Local Regulation Drafting Stage

The Legal Division forms the Local Regulation Drafting Team, which includes representatives from the Regional Secretariat, technical agencies, and external experts. The main tasks involve drafting an academic paper, reviewing legal impacts, and ensuring that the regulation follows Law No. 12/2011 on Regulatory Formation. The process involves drafting the legal framework, internal discussions, and revisions until the final draft is ready. Coordination with technical agencies and community input through public hearings or online surveys follows. If necessary, harmonization with East Java Provincial Government is conducted for cross-sectoral regulations.

Harmonization and Legal Review Stage

The Legal Division plays a key role in harmonizing the draft with higher regulations (e.g., the Constitution, laws, provincial regulations). A legal review ensures compliance with both structural and substantive legal standards. A legal audit and risk identification are conducted to propose revisions before submission to the DPRD for further discussion.

Discussion, Approval, and Promulgation Stage

During this stage, the Legal Division assists the Regional Government in discussions with the DPRD, providing legal clarification. After the draft is approved, the Legal Division verifies the final text, ensuring it aligns with national laws, and supervises the promulgation process. This stage involves coordination with related agencies and, if necessary, reporting to the Governor of East Java for evaluation and publication.

Supervision, Evaluation, and Socialization Stage

The Legal Division monitors the implementation of the Perda through periodic reports and evaluations, addressing any necessary amendments. This process includes coordination with regional agencies, the DPRD, and the public to ensure the regulations are effectively implemented and enforced.

Questions to Address in the Research

Have the Provisions of Article 236 of Law No. 23/2014 Been Consistently Implemented by the Probolinggo Regency Government?

This research will examine how well Article 236 has been applied in practice by the Probolinggo Regency Government in the process of formulating local regulations. It will assess whether the process follows the established procedures outlined in national regulations, particularly focusing on the alignment with regional autonomy and the participation of legal support from regional apparatus.

How do the Results of this Analysis Compare with Those of Other Regions in Similar Contexts?

This study will conduct a comparative analysis with other regencies in Indonesia that have similar characteristics and governance structures. By comparing the Probolinggo Regency approach to other regions, this research will assess the strengths and weaknesses of the Legal Division's role in drafting local regulations and how these approaches align with national frameworks. This comparison will also highlight best practices and areas where Probolinggo Regency may improve its legislative processes.

What are the Concrete Recommendations for Improving the Capacity of the Legal Department?

Based on the findings, the study will provide concrete recommendations for improving the capacity of the Legal Department in Probolinggo Regency. Recommendations may include enhancing coordination between regional apparatus, improving digitalization of the legislative process, increasing training for staff, and strengthening public participation in the regulatory process. The study will also suggest how to address political influences and streamline the legal harmonization process to ensure more efficient and effective regulation formulation.

How Can this Research Be Used by Other Local Governments as A Model for Best Practices?

The findings of this study can serve as a model for other local governments in implementing efficient and accountable legislative processes. The Legal Division's role in harmonizing legal frameworks, ensuring public participation, and providing legal clarity can be used by other regions as a best practice for drafting and implementing local regulations that are in line with national laws. Additionally, recommendations for digitalization and improved coordination can be replicated to enhance the legislative process in other regions.

How Can this Research Be Further Developed to Include Empirical or Comparative Studies in the Future?

To further develop this research, empirical studies could be conducted to analyze the effectiveness of the legislative process in other regencies and compare them with Probolinggo Regency. Comparative studies could also focus on the impact of local regulations on regional development, legal harmonization practices, and the role of public consultations in shaping regional laws. Future research could involve field data collection through interviews with local legal officials and stakeholders to validate the procedural analysis and identify areas for improvement in the legal framework.

4. Conclusion

Duties and Functions of the Legal Division of the Probolinggo Regency Regional Secretariat in the Local Regulation Drafting Process. The Legal Division of the Probolinggo Regency Regional Secretariat plays a central and strategic role in the process of drafting Regional Regulations (Perda). Its primary aim is to strengthen law-based governance by ensuring alignment with national regulations such as Law Number 23 of 2014 concerning Regional Government and its amendments, along with Government Regulation Number 18 of 2016 concerning Regional Medium-Term Development Plans.

The main tasks of the Legal Division include providing comprehensive legal assistance throughout all phases of the Perda drafting process, from initiation to evaluation of local regulatory needs (such as preliminary legal studies and academic draft preparation in collaboration with Bappeda). This includes drafting with the harmonization of articles with relevant laws, coordinating discussions with the Regional Representative Council (DPRD) through technical support in Working Meetings (Raker) and Public Hearing Meetings (RDFPU), including the provision of legal opinions. The process also encompasses ratification and publication, which involves AUPB (Regional Regulation Drafting Committee) review, e-Government registration, and initial supervision of implementation in coordination with the Public Order Agency (Satpol PP).

Given the characteristics of Probolinggo Regency, which is dominated by the agriculture and tourism sectors, the Legal Division's function is not just operational, aimed at producing optimal, efficient, and conflict-free local regulations. It also plays a strategic role in realizing regulations that are sensitive to community aspirations, foster public participation, and address challenges such as time constraints through training and external partnerships. This holistic approach supports sustainable development and contributes to the overall regional welfare.

Empirical Data Analysis and Actual Obstacles, while the description of the Legal Division's tasks provides a normative view of its functions, empirical data is needed to assess the actual effectiveness of these functions and identify any obstacles that may hinder the division's ability to carry out its responsibilities. This analysis will investigate the following key aspects:

Effectiveness of Legal Coordination: Data will be collected to evaluate the effectiveness of legal coordination between the Legal Division and other regional apparatus, including the DPRD and technical agencies. The study will assess whether there are gaps in communication, and whether the coordination mechanisms outlined in the regulations are being properly followed in practice. **Implementation Challenges:** Empirical analysis will focus on the challenges faced by the Legal Division in the drafting process, such as delays due to political interference, limited resources, and inefficiencies in the public consultation process. These challenges may affect the timely delivery of Perda and could result in a disconnect between the regulations and the actual needs of the community.

Public Participation and Legal Transparency: The study will assess whether the Legal Division's efforts to involve the community through public hearings or online surveys have been effective in gathering diverse community inputs. The analysis will look into whether the public participation process truly reflects community aspirations, or if it is merely a formal step in the legislative process. **Compliance with National Laws:** The research will examine whether the Legal Division is consistently ensuring that Perda are aligned with national laws and whether any inconsistencies in the draft regulations are caught during the harmonization and legal review stages. The study will also look at how legal audits and risk assessments are conducted to mitigate conflicts with higher laws. **Role of External Partnerships and Training:** The effectiveness of training programs and external partnerships will be examined to determine whether these initiatives have successfully addressed the challenges faced by the Legal Division, particularly in overcoming time constraints and improving operational efficiency.

This study will provide a more empirical and comprehensive analysis of the Legal Division's functions, moving beyond a descriptive and normative explanation to identify the actual obstacles and barriers faced in the process of drafting local regulations. By analyzing empirical data, the research will uncover gaps in coordination, inefficiencies in the drafting process, and challenges in ensuring public participation.

The findings will provide valuable insights and concrete recommendations for improving the Legal Division's capacity in Probolinggo Regency, especially in areas such as coordination between agencies, digitalization of the legislative process, and enhancing public engagement.

By identifying the obstacles and gaps in the current system, the study aims to support the development of more effective and accountable regulatory practices that are sensitive to local needs and aligned with national legal standards.

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