



## Implementation of the Right of Initiative of the Regional People's Representative Council of Palembang City in Forming Regional Regulations

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### ARTICLE INFO

*Keywords:* Regional People's Representative Council's (DPRD), Right of Initiative, Regional Regulation

*Received :* 18, January

*Revised :* 20, March

*Accepted:* 22, May

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### ABSTRACT

This research is motivated by the low productivity of regional regulations initiated by the Palembang City Regional People's Representative Council compared to those proposed by the local government. The study analyzes the implementation and obstacles of the Council's initiative rights during the 2019–2024 period in the formation of regional regulations. Using an empirical legal approach with qualitative methods, data were collected through documentation studies and in-depth interviews. The findings show that the implementation of initiative rights has not been optimal, as reflected in the limited number of initiative draft regulations enacted. The obstacles include limited technical capacity, executive dominance, low public participation, internal political dynamics, and budget constraints. Strengthening legislative capacity and coordination is therefore necessary to improve regional legislative performance.

## **INTRODUCTION**

Indonesia is a state based on law (*rechtstaat*) that places governance based on legal principles, not mere power (*machtstaat*). Within this framework, the policy of decentralization through regional autonomy grants local governments the authority to regulate and manage their own affairs (Dayanto, 2014), including establishing regional regulations as legal instruments at the local level (Yani, 2018). This is emphasized in Law Number 23 of 2014 concerning regional government, which states that regional governance is carried out by the regional government together with the Regional People's Representative Council based on the principles of autonomy and assistance tasks within the Unitary State of the Republic of Indonesia.

As a representative institution of the people in the region, the Regional People's Representative Council has legislative, budgetary, and supervisory functions as regulated in the Law of the Republic of Indonesia Number 13 of 2019 concerning the Third Amendment to Law Number 17 of 2014 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council. In its legislative function, the Regional People's Representative Council, together with the regional head, has the authority to form regional regulations that serve as the legal basis for governance, regional development instruments, and means of channeling community aspirations. One important instrument in the implementation of this legislative function is the DPRD's right of initiative, namely, the authority to submit Draft Regional Regulations independently (Al Fatwa, 2024).

The right of initiative empowers the Regional People's Representative Council to be proactive, innovative, and responsive to community concerns. However, the Palembang City Regional People's Representative Council's right of initiative is not always effectively implemented. Data from the Palembang City Regional People's Representative Council Secretariat for 2019–2024 shows that the number of draft regional regulations initiated by the Regional People's Representative Council is far fewer than those proposed by the city government. In fact, from 2021 to 2024, none of the draft regional regulations initiated by the Regional People's Representative Council were approved as regional regulations. This situation indicates a gap between the Regional People's Representative Council's ideal role as a regional legislative body and the reality of its implementation.

The low productivity of regional regulations through the Regional People's Representative Council initiative is thought to be influenced by various factors, including limited technical capacity and human resource quality of Local Parliament members, budget constraints, political dynamics between the legislative and executive branches, and suboptimal institutional support and public participation. As a result, the legislative function of the Regional People's Representative Council tends to be dominated by the executive branch, so the shift of legislative authority to the legislature has not been fully followed by an increase in the quality and quantity of regional regulations initiated by the Regional People's Representative. In fact, regional regulations hold a strategic

position as regional policy instruments that not only regulate the implementation of government but also serve as tools for social transformation, development, and the realization of the principles of good governance. Therefore, the effectiveness of the implementation of regional parliamentary initiatives is an important indicator in assessing the quality of democracy and legislative performance at the regional level.

Considering these conditions, it is necessary to conduct an in-depth study on the implementation of the Palembang City DPRD's initiative right in the formulation of regional regulations, the factors that influence its effectiveness, and strategic efforts to optimize the legislative role of the Regional People's Representative Council. This study is expected to make a theoretical and practical contributions in strengthening the role of the Regional People's Representative Council in realizing a democratic, responsive, and accountable regional government.

## **THEORETICAL REVIEW**

### ***Authority Theory***

The terms "authority" (English) and "bevoegdheid" (Dutch) are synonymous with the term "authority." In Dutch law, "bevoegdheid" is used in both private and public law, while "authority" in the Indonesian context is more closely associated with public law. Administrative law essentially regulates public authority, including how to obtain, use, test, and control that authority (Hadjon, 1997). Authority is the legal power granted by statute to government bodies to carry out public legal actions. Authority differs from ordinary power because it is derived from law and encompasses rights and obligations. Authority contains components called "authorities." Authority is the ability to carry out certain public legal actions, such as making decisions (*besluit*) and other governmental actions.

According to Prajudi Atmosudirjo, authority is formal power derived from law and is comprehensive in a particular area of government, while authority is only a specific part of that authority. Philipus M. Hadjon emphasizes the difference in legal character between the terms "authority/authority" and "bevoegdheid." Authority is not automatically vested in government officials but rather is granted by lawmakers as a manifestation of the principles of the rule of law and democracy. Every exercise of authority has legal consequences and must be accounted for through control and review mechanisms.

According to Fachruddin (2004), the source of authority in state administrative law is obtained through three ways, including the first, attribution, namely, the direct granting of new authority by the constitution or law to a government organ. This authority is continuously attached to the position. Second, delegation, namely the transfer of authority from a higher organ to a lower organ, where responsibility and accountability are transferred to the recipient of the delegation. The delegator can no longer use the authority unless it is revoked (the principle of *contrarius actus*). And finally, a mandate, namely the transfer of authority in a superior-subordinate relationship, but responsibility and accountability remain with the mandate giver. The mandate giver can reuse the authority at any time. Thus, authority is the legal basis for

government action. Without legitimate authority, government actions do not have legal force (*Rechtskraft*). Therefore, the regulation, implementation, and supervision of authority are central aspects of state administrative law.

### ***Legislative Theory***

Legislation theory is a theory that studies the methods and techniques of forming laws and regulations, starting from the planning, drafting, discussion, ratification, promulgation, and socialization stages (Salim & Nurbani, 2016). This theory is used to assess whether a legal product has complied with the principles of good regulation formation. Legislation is defined as the process of forming positive law by authorized institutions, especially the House of Representatives as the institution vested with legislative authority as stated in the 1945 Constitution and the legislation governing the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and the Regional People's Representative Council, with a specific role for the Regional Representative Council within the framework of checks and balances in the Indonesian constitutional system (Ibrahim, 2008).

In its formation, legislation must be based on the principles stipulated in Law Number 12 of 2011 concerning the Formation of Legislation as amended by Law Number 13 of 2022, both the principles of material content such as protection, humanity, justice, and legal certainty, as well as the principles of good formation such as clarity of purpose, suitability of type and hierarchy, and openness. The structure of legal norms in Indonesia follows the theory of the hierarchy of norms of Hans Kelsen and Hans Nawiasky, which places the 1945 Constitution as the highest norm, followed by legislation below it hierarchically, with the principle that lower regulations must not contradict higher regulations.

The legislative process in Indonesia involves the initiation stage; the preparation of a draft law accompanied by an academic text and philosophical, legal, and sociological basis; discussion in the House of Representatives together with the government; joint approval; ratification by the President; and promulgation and implementation. In the context of regional autonomy, regional regulations are formed by the regional house of representatives together with the regional head as a manifestation of the constitutional authority of the region to regulate and manage its own affairs. The entire legislative process also emphasizes the importance of public participation to ensure transparency, accountability, and the quality of the resulting legal product to suit the needs and aspirations of the community and fulfill the principle of legality as stated by Lon L. Fuller.

## METHODOLOGY

This research uses an empirical juridical approach with qualitative methods, which views law not only as written norms but also as a social phenomenon related to behavior and practices in society (Sonata, 2015). Primary data were collected through interviews with the Chairperson of the Legislative Body of the Palembang City Regional People's Representative Council for the 2019–2024 period, members of the special committee, and the Head of the Legislation Section of the Palembang City Regional People's Representative Council. Secondary data was collected through a literature review of laws and regulations, academic papers, scientific literature, journals, and official documents relevant to the formation of regional regulations.

The research was conducted at the Palembang City Regional Representative Council, Gubernur H. Bastari Street No. 2, Seberang Ulu I District, Palembang City, South Sumatra. Data collection techniques included interviews and documentation, including meeting minutes, regional regulations, and other supporting documents (Suwendra, 2018).

Data analysis was conducted qualitatively using the Miles and Huberman model, which includes data reduction, data presentation, and conclusion drawing and verification. Data validity was ensured through source triangulation techniques, comparing interview results, official documents, and other written sources to obtain valid and scientifically accountable data (Miles & Huberman, 1992).

## RESEARCH RESULTS AND DISCUSSION

### *Implementation of the Right of Initiative of the Regional People's Representative Council (DPRD) of Palembang City for the 2019–2024 Period in the Formation of Regional Regulations*

Research results show that during the 2019–2024 period, the Palembang City Regional Representative Council only successfully submitted two initiative draft regional regulations: the Child Protection Draft and the Women's Protection Draft. These were then combined and ratified into Palembang City Regional Regulation Number 9 of 2022 concerning the Protection of Women and Children from Violence. This process reflects the implementation of the Regional People's Representative Council legislative function through the right of initiative mechanism, although quantitatively, it remains relatively limited.

The planning stage was carried out through the Regional Regulation Formation Agency, which incorporated both draft regulations into the Regional Regulation Formation Program. The basis for the submission included a legal vacuum at the regional level, alignment with national policy, community aspirations, and the urgency of the high incidence of violence against women and children in Palembang City. The absence of regional regulations on child protection or women's protection in Palembang City creates a legal need. According to Sukardi & Wardana (2024), the absence of regional regulations on strategic issues often hinders the implementation of legal protection at the local level. This shows that the planning of regional regulations initiated by the Regional People's Representative Council has taken into account legal, sociological, and political aspects.

During the drafting stage, the Regional People's Representative Council prepared the academic text and draft regional regulations through a special committee, involving the views of the factions and conducting substantive discussions based on empirical data and national regulations (Nadia, 2022). This process reflects the application of regional legislative procedures in accordance with statutory regulations and demonstrates the importance of quality academic texts in ensuring the effectiveness of regional regulations (Nasihuddin, 2016). The discussion stage was marked by differing views regarding the separation or merging of the two draft regulations. After consultation with relevant ministries and harmonization with higher-level regulations, the Regional People's Representative Council agreed to merge the two draft regulations due to their overlapping substance and the goal of protecting vulnerable groups. This agreement demonstrates the existence of a democratic deliberation process and cross-sectoral coordination in regional policy formation (Lestari, 2023).

During the ratification and enactment stage, the draft regional regulation, jointly approved by the Regional People's Representative Council and the mayor, is then promulgated in the Regional Gazette, thereby gaining binding legal force. This process reflects the principles of legal certainty, accountability, and timeliness in the formation of regional regulations (Fitria et al. 2024).

Overall, the implementation of the Palembang City the Local Legislative Council right of initiative in the formation of the Local Legislative Council regulation on the protection of women and children demonstrates regional legislative practices that are responsive to community needs and aligned with national policy. However, the low number of initiative regulations during the research period indicates that the legislative function of the Regional People's Representative Council is not yet optimal quantitatively. Nevertheless, qualitatively, the resulting regulations possess strong legal and social legitimacy and support the realization of democratic, responsive, and accountable regional governance.

#### ***Obstacles to the Implementation of the Right of Initiative of the Palembang City Regional People's Representative Council period 2019–2024***

The research results indicate that the implementation of the initiative rights of the Palembang City Regional Representative Council during the 2019–2024 period has not been optimal, as reflected in the low number of initiative draft regional regulations compared to those proposed by the city government. Of the eight initiative draft regional regulations submitted, only a small fraction was successfully enacted into regional regulations, and almost all of them remained unrealized in 2021–2024. This situation indicates the weak utilization of the Regional Representative Council's (DPRD) independent legislative function.

The results of this study align with previous research showing that the implementation of the Regional People's Representative Council's (DPRD) right of initiative in various regions remains suboptimal. Research by Samson, Liando, and Kimbal (2019) found that the legislative function of the Tidore Islands City DPRD "still falls short of expectations" due to the very low number of initiative regulations produced. Furthermore, Pranoko (2020) also stated that the implementation of initiative regulations by the Ponorogo Regency DPRD "is not going well" due to various institutional and political obstacles. These research findings are further supported by research by Djafar, Husen, and Risma (2024), which shows that the legislative function of the Gorontalo Provincial DPRD for the 2019–2024 period has not been optimal due to the small number of initiative regulations passed by the end of its term. Meanwhile, Candra, Wisnaeni, and Herawati (2020) explain that the weak implementation of the DPRD's legislative function is due to the DPRD's ineffective role in championing public aspirations and the absence of regulations originating from the DPRD's right of initiative. Yarsina's research (also confirms that in practice the DPRD does not yet have an equal position with the regional government in the formation of regional policies, so that executive dominance is still very strong in the regional legislative process. Thus, the results of this study strengthen the argument that the low productivity of the Draft Regional Regulation initiated by the Palembang City DPRD reflects the still weak implementation of the DPRD's legislative function, both due to limited internal capacity, political dynamics, and the dominance of the regional government in the process of forming Regional Regulations.

Based on interviews with the Regional Regulation Development Planning Agency and the Legal Section of the Regional Secretariat of the Regional People's Representative Council of Palembang, the main obstacle does not lie in budgetary or administrative support from the local government, as the city government has provided adequate facilitation and is responsive to Regional People's Representative Council proposals. Therefore, the obstacles predominantly stem from internal factors within the Regional People's Representative Council, including structural, human resources, and cultural aspects.

Structurally, time constraints due to a busy institutional agenda and weak coordination with Regional Apparatus Organizations and the Legal Division of the Palembang City Regional Secretariat hampered the effectiveness of the draft regional regulation deliberations. Schedule asymmetry and suboptimal regulatory harmonization resulted in a slow and substantively in-depth legislative process. The findings of this study align with those of Saifullah Samad, Insan Tajali Nur, and Poppilea Erwinta (2024), which stated that the implementation of the Regional People's Representative Council's (DPRD) right of initiative in drafting regional regulations still faces various structural obstacles, particularly "weak coordination between the DPRD and regional apparatus" and a lack of synchronization in the regulatory deliberation process. These conditions have slowed down the legislative process and prevented the Regional Legislative Program targets from being optimally achieved.

In terms of human resources, the limited technical capacity of some members of the Local Legislative Council in drafting academic papers and

formulating legal norms has resulted in the low quality and readiness of initiative draft regional regulations. This is exacerbated by internal issues such as difficulty in meeting a quorum, differing interests between factions, and low motivation to push through draft regulations deemed politically un strategic.

Furthermore, psychological and political factors, such as the dominance of sectoral egos and the presumption of having the best understanding of the issue, also hinder a rational and collaborative deliberation process. As a result, regulatory discussions often do not optimally orientate themselves toward the public interest and regional development needs.

Overall, the low utilization of the Palembang City Local Legislative Council right of initiative is not only caused by technical operational issues but also influenced by intertwined structural and cultural factors. This condition indicates that the legislative function has not been fully positioned as a strategic priority in the institutional practices of the Local Legislative Council. Therefore, strengthening the capacity of legislators, improving institutional coordination, and improving the legislative work culture are needed to optimize the formation of responsive and high-quality regional regulations.

## **CONCLUSIONS AND RECOMMENDATIONS**

The Palembang City Regional Representative Council's (right of initiative for the 2019–2024 period) was realized through the submission of two draft regional regulations: the Draft Regional Regulation on Women's Protection and the Draft Regional Regulation on Child Protection. These were then merged and enacted into Palembang City Regulation Number 9 of 2022 concerning the Protection of Women and Children from Violence. The formulation process complied with statutory provisions, from the planning stage through the preparation of the academic paper, through discussions with special committees and factions, through harmonization with relevant ministries, to the enactment and promulgation based on Law 12/2011, Law 23/2014, and Home Affairs Ministerial Regulation 80/2015.

The draft regional regulations were well-founded, primarily due to the high rate of violence against women and children, the legal vacuum in the region, and the need for harmonization with national policy. The legislative process demonstrated strong cross-sectoral participation and coordination. The merger of the two draft regional regulations was decided upon to increase regulatory effectiveness and avoid overlapping policies.

Overall, the use of the initiative right of the Palembang City Local Legislative Council has not been optimal due to the influence of various interrelated obstacles, both structural, technical, and cultural. The limited number of proposals despite the available budget; the dense agenda and busyness of the Regional Representative Council members, which impacts the quorum issue and delays in discussions; and weak coordination with the Regional Apparatus Organizations and the Legal Section of the Palembang City Regional Secretariat are the main obstacles in the legislative process. This condition is exacerbated by the limited technical capacity of some members of the Regional Representative Council in drafting regulations, internal conflicts

between members and factions, low legislative motivation, and the emergence of sectoral egos that hinder the process of deliberation and reaching consensus. Thus, the low utilization of the initiative right of the Regional Representative Council is not solely caused by administrative issues but is the accumulation of various institutional factors, human resources, and legislative work culture.

Based on the analysis and conclusions of the research, it is recommended that the Palembang City Local Legislative Council strengthen its legislative institutions by increasing budget support for drafting regional regulations and improving internal governance, particularly in enforcing session discipline and strengthening the culture of deliberation. Members of the Regional Representative Council are also expected to increase their motivation and substantial orientation by prioritizing the interests of the community and increasing their technical capacity through education, training, and development of legislative competencies. Furthermore, the Regional Representative Council (DPRD) and the Palembang City Government need to strengthen synergy through more effective coordination with Regional Apparatus Organizations (OPD) and the Legal Section of the Palembang City Regional Secretariat and expand community participation so that the process of forming regional regulations becomes faster, more harmonious, and more responsive to social needs.

#### **ADVANCED RESEARCH**

Based on the overall results of the study regarding the implementation of the Regional People's Representative Council's right of initiative in the formation of regional regulations in the Palembang City Regional People's Representative Council, this study has several limitations. This study only focuses on one regional legislative body, so the results cannot be generalized to all Regional People's Representative Councils in Indonesia, which have different political, social, and institutional characteristics. Furthermore, this study places more emphasis on normative and empirical aspects based on interviews and official documents, thus relying heavily on the transparency of information from the informants. The limited timeframe also limits the in-depth study of the internal political dynamics of factions and the informal processes that influence the birth of initiative regional regulations. Furthermore, this study does not quantitatively examine the level of success of the implementation of initiative regional regulations after they are enacted.

Based on these limitations, further research is recommended to expand the scope of the region by conducting comparative studies between several District/City or Provincial Regional People's Representative Councils to obtain a more comprehensive picture of the practice of the right of initiative. Future research could also use a quantitative or mixed methods approach to measure the effectiveness of the initiative regulations that have been enacted, including their impact on the community. Furthermore, an in-depth study of political factors and the human resource capacity of Regional People's Representative Council members, as well as the role of experts and public participation in the regional legislative process, is also important to obtain a more comprehensive understanding of strengthening the legislative function of the Regional People's Representative Council.

### **ACKNOWLEDGMENT**

We would like to express our gratitude to all the informants who willingly participated in this research and provided invaluable information to complete the research data. We also extend our deepest appreciation and gratitude to Muhammadiyah University of Palembang for the academic and institutional support provided, enabling this research to be successfully implemented and completed. We hope that the results of this research will contribute to strengthening the legislative function of the Local Legislative Council and developing studies on constitutional law and regional governance.

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