



The Necessary for Implementation Regional Foreign Cooperation by Local Governments

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Abstract. Currently, the Indonesian government is actively encouraging regions to cooperate abroad. This is evidenced by the Regional Government Law and the Job Creation Act. However, this cooperation cannot be carried out immediately by the Regional Government itself, but the role of the state is needed. Foreign cooperation carried out by the regions is needed in order to increase regional development from various sectors. The method used in this study is a qualitative normative method. The data used are secondary data obtained by reading, recording, quoting, and reviewing primary legal materials, secondary legal materials and tertiary legal materials. The data collection technique used is library research. The legal basis and mechanism for implementing local government relations and cooperation with foreign parties are Law Number 37 of 1999 concerning Foreign Relations, Law Number 24 of 2000 concerning International Agreements, and Law Number 23 of 2014 concerning Governance Area.

Keywords: foreign · regional · cooperation

1 Introduction

The unstoppable advances in communication and information technology have encouraged globalization and interdependence between countries. Because countries cannot restrain the pace of technology, each country should be able to adapt to these advances. This situation makes the relations between countries that are needed increasingly without borders or what is known as borderless.

The current of globalization is getting stronger, making international relations wider and closer. As a consequence of this situation, the state can no longer be the sole actor in international relations, but there are other actors such as international organizations, non-governmental organizations, companies, multinationals, media, minority groups, individuals, and even local governments.

In Indonesia, the authority to cooperate with foreign parties is no longer the sole authority of the central government but has also become the authority of local governments. This was true after the end of the Suharto regime in 1998. The Era of Decentralization in Indonesia provided more space for local governments to play a more active role in promoting prosperous development. This policy is not without reason because

the Regional Government which is closer to its natural and human resources certainly understands its potential better than the Central Government. In supporting this, regional creativity is also highly demanded to create such cooperation.

If you look at the development of regional or city recognition in developing its territory, the existence and strategic role of the city government has received wide recognition from the international community and the United Nations. The Earth Summit in Rio de Janeiro in 1992 initiated this recognition process. The Earth Summit, through the Rio Declaration and its Agenda 21, explicitly stated that global issues in the relationship between development and the environment are basically rooted in local action and that cities are therefore key players in achieving the sustainable development agenda [1].

Based on Article 10 of Law Number 23 of 2014 concerning Regional Government as amended several times and the last time amended by Law Number 11 of 2020 concerning Job Creation, regional governments are increasingly interested in establishing relationships and cooperation with foreign parties. However, it should be realized and emphasized that the relationship created is part of the foreign relations carried out by the state.

2 Literature Review

Relations and cooperation between local governments and foreign parties must be carried out by foreign policy. Based on the 1961 Vienna Convention on Diplomatic Relations and the 1963 Vienna Convention on Consular Relations, Indonesia recognizes the representative office of the Republic of Indonesia which one of its duties and obligations is to serve the interests of the state, including local governments. Thus, local governments are not justified and do not have the authority to open diplomatic representatives.

In conducting relations and cooperation with foreign parties, local governments act as elements or on behalf of the state, not on behalf of local governments. Law Number 37 of 1999 concerning Foreign Relations and Law Number 24 of 2000 concerning International Agreements do not specify the implementation of relations and cooperation between local governments and foreign parties. However, to overcome this problem, in 2012 the Ministry of Foreign Affairs published a handbook as a reference for local governments in carrying out relations and cooperation with foreign parties. The manual is a revision of the 2006 guidebook [2].

A. *General Mechanism of Foreign Cooperation*

Based on Law Number 37 of 1999 concerning Foreign Relations and Law Number 24 of 2000 concerning International Agreements, relations and cooperation between local governments and foreign parties must be consulted and coordinated with the Minister. Based on these provisions, the areas of relations and cooperation between local governments and foreign parties that require consultation and coordination with the Ministry of Foreign Affairs are as follows: (a) economic cooperation, namely trade, investment, manpower, marine and fisheries, science and technology, forestry, agriculture, mining, population, tourism, environment and transportation; (b) socio-cultural cooperation, such as education, health, youth, women, sports, arts; and (3) other forms of cooperation.

The Ministry of Foreign Affairs as the coordinator of the implementation of foreign relations and cooperation will provide political and juridical advice and considerations on the cooperation program carried out by regional governments with agencies/institutions abroad. Meanwhile, technical matters and considerations regarding the material or substance of the cooperation program are carried out with the relevant departments. This mechanism is a general reference for every economic cooperation and socio-cultural cooperation carried out by regional governments with foreign parties, including border cooperation by regional governments bordering the territory of foreign countries. However, this does not apply to the fields covered by the joint commission, bilateral consultation forums, joint border commissions, and integrated promotion and sub-regional economic cooperation.

Regarding the regulation of foreign loans and grants by local governments, it has been regulated by various national laws and regulations. In principle, local governments are prohibited from making direct loans to foreign parties. The central government determines foreign loans or grants that will be loaned or transferred to local governments.

Regional governments can submit investment activity proposals to obtain foreign loans from the central government. The procedure for foreign loans has been described in the Regulation of the Minister of Foreign Affairs Number 3 of 2019 concerning General Guidelines for Foreign Relations by Regional Governments (Minister of Foreign Affairs 3/2019).

B. *Terms and implementation of foreign cooperation*

Based on Minister of Foreign Affairs 3/2019, the requirements for establishing relations and cooperation between local governments and foreign parties must comply with the following provisions: [3].

- Have diplomatic relations;
- It is a regional government affair;
- The regional government does not open a representative office abroad;
- Regional governments abroad and institutions abroad do not interfere in domestic government affairs;
- In accordance with national and regional development policies and plans;
- Equality of administrative status and/or equality of territory;
- complement each other;
- Improved relations between communities.

Furthermore, local governments can carry out foreign cooperation with:

1) *regional government abroad*

This cooperation can be in the form of twin/sister province cooperation, twin district/city cooperation; and/or, other cooperation, based on the approval of the Central Government in accordance with the provisions of the legislation.

2) *Institutions abroad*

This cooperation is in the form of cooperation on the basis of continuing cooperation with the central government, namely with international organizations, non-profit organizations with legal entities abroad and overseas development partners; or other cooperation based on the approval of the central government.

C. *International Relations and Cooperation Initiatives*

Foreign relations and cooperation can be carried out on the initiative of: (1) the Indonesian side, namely the Ministry of Foreign Affairs, Indonesian representatives abroad, the Ministry of Home Affairs, regional governments, technical departments, non-governmental institutions both central and regional; (2) Foreign parties, namely regional governments or state governments, international agencies/institutions, foreign state agencies/institutions, foreign non-governmental organizations/non-governmental organizations, foreign private business entities [4].

Foreign relations and cooperation on the initiative of Indonesia are carried out with the following mechanisms: [4].

- The regional government as the initiating agency coordinates with the ministry of foreign affairs and related agencies and submits a proposal for a cooperation program that contains the background of cooperation, objectives, targets, considerations, regional potential, comparative advantage, and profiles of foreign parties who will become partners. Cooperation.
- The regional government as the initiating agency may hold an interdep meeting by inviting the Ministry of Foreign Affairs and related agencies to discuss the proposed program.
- Coordination can also be done through official correspondence.
- The Ministry of Foreign Affairs will then provide political/judicial considerations on foreign relations and cooperation in accordance with Indonesia's foreign policy.
- The Ministry of Foreign Affairs, based on input and representatives of the Republic of Indonesia, provides the necessary information in the context of establishing cooperation with foreign parties.
- The Ministry of Foreign Affairs communicates plans for cooperation with diplomatic and consular representatives in Indonesia and Indonesian representatives abroad.
- The Ministry of Foreign Affairs shall notify the results of the coordination of cooperation with foreign parties to relevant agencies in the regions and Indonesian representatives abroad.
- Cooperation agreements between foreign parties and local governments are set out in the form of international agreements which are commonly used in accordance with the considerations of the Ministry of Foreign Affairs. In this case, a power of attorney (Full Powers) is required from the minister of foreign affairs, which can be given after fulfilling the requirements of the applicable laws and regulations.
- The Ministry of Foreign Affairs participates in monitoring and evaluating the follow-up and implementation of cooperation.

Meanwhile, the relationship and cooperation between local governments and foreign parties on the initiative of foreign parties is carried out with the following mechanism:

- After going through political/juridical considerations, the Ministry of Foreign Affairs officially submits offers of cooperation programs from Indonesian representatives abroad and/or foreign parties to regional governments and/or related agencies.
- To the offer of the cooperation program, the regional government officially submits responses including the proposed cooperation program containing the background, objectives, targets, considerations, regional potential, comparative advantage, and regional profiles to the Ministry of Foreign Affairs and the Ministry of Home Affairs, as well as agencies directly related to the substance or material of cooperation.
- Proposed cooperation programs are discussed in interdep meetings coordinated by the Ministry of Foreign Affairs or agencies directly related to the substance or material of cooperation by involving the regions.
- The Ministry of Foreign Affairs submits the results of interdepartmental meetings to Indonesian representatives abroad and conveys and coordinates with diplomatic and consular representatives of foreign parties in Indonesia.
- The Ministry of Foreign Affairs shall notify the results of the coordination of cooperation with foreign parties to the relevant agencies in the regions.
- Cooperation agreements between foreign parties and local governments are set out in the form of international agreements commonly used in accordance with the considerations of the Ministry of Foreign Affairs. In this case, a power of attorney from the minister of foreign affairs is required, it can be given after fulfilling the requirements of the applicable laws and regulations [5].

3 Methodology

The method used in this study is a qualitative normative method [6]. The data used are secondary data obtained by reading, recording, quoting, and reviewing primary legal materials, secondary legal materials and tertiary legal materials. The data collection technique used is library research.

4 Result and Discussion

A. *Foreign cooperation and regional autonomy*

The regional autonomy policy was born after the emergence of the reform era, for equitable distribution of community welfare and regional development. The policy contained in Law no. 22 of 1999 concerning Regional Government and Law no. 25 of 1999 concerning the Financial Balance between the Central and Regional Governments. Over time, changes in regulations related to regional government and financial balance between the central government were amended by Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014 concerning Governance of Blood and Law Number 1 of 2022 concerning Financial Relations Between Central Government and Regional Government.

Regional Autonomy is an answer to the problems of national unity, poverty, unequal development, and the distribution of justice and the welfare of people's lives [7]. Autonomy was also born as a forum to prepare regions to compete on a global scale. Regions

are given the authority and responsibility to utilize the resources [8] they have, including the freedom to carry out cooperative relationships as well as to manage their natural and human resources. In addition, the local government is also authorized to manage the finances obtained in order to improve people's living standards, increase regional creativity, increase the role of the community, and develop the function of the DPRD [9].

The policies formed in the context of regional autonomy are based on the demands of the local community. Regions have the authority to formulate, implement, supervise, control and evaluate various policies of their own. The local government has a role as a driving force, facility provider, coordinator and at the same time as an entrepreneur in carrying out regional development. This system also provides opportunities for regions to be able to compete in the international arena. Autonomy is a driving force for regions to be better prepared to accept investment challenges and attract foreign investors so that regional budgets can be obtained independently apart from the central government budget. There are high hopes for creating efficiency and effectiveness in resource management regional resources, improve community welfare, and provide opportunities for the community to participate in regional development.

B. *The need for cooperation abroad*

In the last few decades, international relations have been carried out with an inter-mestic pattern, namely a combination of domestic international. That is, international problems that are closely related to domestic handling and become a domestic concern. This condition is driven by globalization which expands the connectivity of an area with other regions without boundaries through advances in knowledge of information technology and computers. All institutions in the nation state, whether formal government institutions, private institutions, including individuals, can relate directly to government, private and individual institutions in other countries. The relationship that occurs is no longer limited by space and time, because the meetings are held in real time. This fundamental change has brought the condition of the actors involved in international relations to a position of interdependence.

This sub-regional cooperation relationship is ultimately expected to increase economic growth, spur cooperation between the private sector, and provide flexibility to the private sector in carrying out the economic system. This cooperative relationship certainly has a positive impact on the development of Indonesia, especially in the economic sector. This cooperation can give birth to development and distribution of economic results to producing regions, this cooperation can also produce a synergistic relationship between the government, the private sector and the community, this relationship can increase the potential possessed by the region, and this cooperative relationship can also strengthen national relations in the region in country. The existence of local government authorities to establish foreign relations, related to the ease of investment systems, foreign trade, tourism systems, education, and various regional development efforts (outside foreign policy, security and defense systems, monetary, fiscal, legal, economic economics, etc. and religion).

The Ministry of Foreign Affairs will play a role in giving consideration to the cooperation program to be implemented. In addition, this cooperative relationship must also

meet the requirements in accordance with state regulations, be approved by the DPRD, do not violate the legal system or state rights, do not cause harm to the state and must be supportive of the work program owned by the government [10]. This form of cooperation between local governments and foreigners will be contained in the MOU or Letter of Intent.

Overall, the government has a role as a facilitator in carrying out cooperative relationships. The government also has a function to form official regulations in carrying out cooperative relationships so that Overall, the government has a role as a facilitator in carrying out cooperative relationships. The government also has a function to form official regulations in carrying out the cooperative relationship in order to create order in the formed cooperation system. Because this sub-regional cooperation relationship usually involves not only cooperating countries, but also domestic private parties and other countries. Central and local governments have shared their respective roles.

The central government is more focused on the system of making regulations and providing facilities in carrying out cooperative relationships, including formulating rules and procedures that are easy to apply in cooperative relationships. Meanwhile, the local government plays a greater role in controlling their own resources, developing potential, and various coaching activities. This means that local governments must play an active role.

The high intensity of the current form of cooperative relations between local governments requires seriousness in carrying out existing cooperative relationships. Local governments must be able to complete investment tools, both in the form of facilities and regulatory systems. The government must also be able to mobilize local entrepreneurs to establish this cooperative relationship, because the various programs formed are basically only as regulators in cooperative relationships. The parties involved are more focused on the performance of the private sector, because the community must be able to feel the impact of this cooperative relationship [11].

5 Conclusion and Suggestion

Foreign cooperation carried out by the regions is indeed needed in order to increase regional development from various sectors. The legal basis and mechanism for implementing local government relations and cooperation with foreign parties are Law Number 37 of 1999 concerning Foreign Relations, Law Number 24 of 2000 concerning International Agreements, and Law Number 23 of 2014 concerning Governance Area. To provide a more detailed reference regarding the implementation of local government relations and cooperation with foreign parties, the relevant ministries, namely the Ministry of Foreign Affairs and the Ministry of Home Affairs, issued regulations that provide guidelines for the implementation of relations and cooperation between local governments and foreign parties. The Ministry of Foreign Affairs in 2012 published a Guidebook on Procedures for Foreign Relations and Cooperation by Regional Governments. Meanwhile, the Ministry of Home Affairs issued Regulation of the Minister of Home Affairs Number 3 of 2008 concerning Guidelines for the Implementation of Regional Government Cooperation with Foreign Parties. The Guidebook of the Ministry of Foreign Affairs Number 3 of 2008 is used as a reference for local governments in establishing relations and cooperation with foreign parties.

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