

Local Wisdom as the Basis for Determination of Legislation Related to Public Order

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Abstract: This paper reviews how the mechanism for absorbing local wisdom values in the formation of criminal sanctions in the process of forming regional regulations in districts, namely Ponorogo, Magetan, and Madiun Regencies, East Java Province. This research is empirical legal research using a juridical-sociological approach. Based on the results of the discussion, local wisdom in the studied districts, which is characterized by sociological studies as a Mataraman cultural character, does not exist in the formation of local regulations on public order. It can be seen that there are differences in the determination of criminal sanctions in regional regulations regarding public order. This is because there is still a need for more specific regulations governing the mechanism for forming regional regulations to accommodate the interests of local wisdom to be contained in norms as sanctions in regional regulations. Thus, in the future, it is necessary to develop national standard parameters for making regional regulations and design a linkage mechanism between these standard mechanisms and the legal values of local life that live in society, which can bridge the two domains.

1. Introduction

The implementation of local government (regional) autonomy in Indonesia is based on Law Number 23 of 2014 concerning Regional Government as amended several times, the latest by Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014. In its implementation, regions, to be precise, regencies are equipped with law instruments in the form of regional regulations (Perda) to regulate and manage their households. Regulations of the local government of the regency are formed by the Regional House of Representatives of Regency (DPRD-Kabupaten) through discussion with the Regional Head of Regency to obtain mutual agreement as political law. The technical formation of a Perda begins with the process of Perda legal drafting (Perda draft). Therefore, the quality of a Perda draft to become a Perda is determined by how and by whom the Perda draft has been arranged. This is where mutual wisdom is needed between the Regency Government, the Regency Legislative (DPRD), and the local community in making a Regional Regulation.¹ Perda, as law products which regulate licensing or obligations of citizens in specific contexts, especially in addition to the realization of security and public order, also sup-

¹ Jazim Hamidi dan Kemilau Mutik. *Legislative Drafting* (Yogyakarta: Tatasmedia, 2011) 5.

ports the revenue for the local government of regency development. By far, the local government of regency regulations include articles on obligations and prohibitions that lead to criminal sanctions.² The development of the local government of regency criminal law is increasingly used and relied upon to regulate and bring order to the community.³ This can be seen from the existence of a policy on the use of criminal sanctions by including a chapter on “criminal sanctions provisions” at the end of most Indonesian laws and regulations. The inclusion of the chapter on the provisions of criminal sanctions is not only seen in the product of the central statutory regulations, namely the law. However, it can also be seen in the product of local government legislation of regency in the form of “Regency Local Regulations.”⁴

However, the implementation of law enforcement of Perda only sometimes runs, as stated in the Perda itself.⁵ Regional government regency factually is only sometimes consistent in enforcing its local regulations. Abandonment of violations of regional regulations by citizens, even irregularities committed by bureaucratic and political elites in many regions, frequently occurred.⁶ In particular, such efforts to enforce local regulations of regency involving violations by large groups of citizens, executed by the Civil Service Police Unit as the in-charged working unit, are helpless.

The policy of imposing criminal sanctions contained in the law can be referred to as “Criminal-Policy” as a logical consideration for controlling crime by the public.⁷ So that criminal politics can be seen as an effort to determine criminal sanctions, in addition to understanding the criminalization and decriminalization of certain acts, the existence of research and thoughts on the criminal policy is demanded.⁸ Regarding criminal determination of a criminalized act, Sudarto reminded us that:⁹ a) The use of criminal law must pay attention to the goals of national development, which is to realize a prosperous and just society that is evenly material and spiritual based on Pancasila; in connection with that, the (use of) criminal law aims to tackle crime and also local government conduct granting of the act as coping law instrument, for the sake of the welfare and protection of the community; b) Actions that are attempted to be prevented or dealt with by criminal law must be “desirable acts,” i.e. acts which incur losses (material or spiritual) of community members; c) the use of criminal law must also take into account the principle of “costs and results” (cost and benefit principle); d) The use of criminal law must also pay attention to the capacity or capability of the workforce of law enforcement agencies, that is, there must be no overload of duty;

² Abdul Madjid. *Reformulasi Pelanggaran dan Sanksi Pidana pada Peraturan Daerah*. (Disertasi. FH-Univ. Brawijaya Malang, 2017). hlm. 11-17. Lihat juga Fani heru Wismoyo. “Analisis Potret Penerapan Perda Vs Perda Bermasalah Pajak Dan Retribusi di Kalimantan.” Akses: <https://media.neliti.com/media/publications/52386-ID-analisis-potret-penerapan-perda-vs-perda.pdf> Akses: Senin/25-03-2019/ Pkl. 14.06. Lihat juga, “Komite Pemantauan Pelaksanaan Otonomi Daerah (KPPOD)”. Akses <https://finance.detik.com/berita-ekonomi-bisnis/d-3202731/banyak-perda-bermasalahcontohnya-di-3-daerah-ini> Senin/25-03-2019/ Pkl. 14.06.

³ Evi Nurleni et al., “Perempuan Berjuang Mengatasi Kelangkaan Pangan (Studi Jender Terhadap Dampak Kebijakan Pembangunan Pada Masyarakat Kelurahan Kereng Bangkirai),” *Talenta Conference Series: Local Wisdom, Social, and Arts (LWSA)* Universitas Sumatera Utara, (2019), <https://doi.org/10.32734/lwsa.v2i1.594>.

⁴ Teguh Prasetyo. *Kriminalisasi Dalam Hukum Pidana*, (Bandung: Nusa Media. 2010) 159.

⁵ A. F. Prakoso, A. Haryono, and ..., “MENGAJAR EKONOMI MIKRO BERBASIS WIRUSAHA EKONOMI KERAKYATAN DAN LOCAL WISDOM: BAGAIMANA?,” *JOURNAL OF APPLIED ...*, (2022), <https://jurnal.polibatam.ac.id/index.php/JABA/article/view/3666>.

⁶ Teguh Prasetyo dan Addul Hakim Barkatullah. *Politik Hukum Pidana: Kajian Kebijakan dan Dekriminalisasi*. (Yogyakarta: Pustaka Pelajar. 2005) 13.

⁸ D. S. Nagin, R. M. Solow, and C. Lum, “Deterrence, Criminal Opportunities, and Police,” *Criminology*, (2015), <https://doi.org/10.1111/1745-9125.12057>.

⁹ Sudarto, *Hukum dan Hukum Pidana*, (Bandung: Alumni. 1983) 35.

Criminal-charged regulations regulating public order and public peace must refer to doctrinal measures in criminalization, as mentioned by Muladi in Abdul Madjid:¹⁰ a) may not lead to “over-criminalization”, which falls into the misuse of criminal sanctions category; b) may not be ad-hoc; c) criminalization must contain both actual and potential victims; d) criminalization must take into account the analysis of costs, results, and *ultimum remedium* principles; e) criminalization must produce enforceable regulations; f) criminalization must get public support; g) criminalization must contain an element of “*subsosialitet*” (resulting in danger to the community, even if very small); h) criminalization must heed the warning that every criminal regulation restricts people’s freedom and gives law enforcement officials the possibility to curb that freedom.

Therefore, as criminal law as *ultimum remedium*, it must be realized that in addition to paying attention to rational and proportional matters, it must also consider the actions that will be used as criminal acts and what sanctions should be used or imposed on the perpetrators.¹¹ The content and substantive consideration of the regulation of the formation of a regional regulation based on the doctrinal measures in the criminalization policy conceptualized by Muladi can at least avoid the initial purpose of the criminalization itself.¹² However, the granting of authority to regional governments, specifically the regency, to make local regulations on public order and peace policies that contain criminal sanctions is still indicated to be blurred by the standard references for their formation. Law Number 23 the Year 2014, in conjunction with Law Number 12 the Year 2011, merely “permits” the formation of criminal policy¹³ Local government regulations without providing details of standard references when forming and establishing that criminal sanctions have an impact on the many differences in the determination of criminal sanctions among the local governments that make these regulations, even though the objects they regulate are similar.¹⁴ The absence of detailed and standardized criminal arrangements in Law Number 23 the Year 2014, in conjunction with Law Number 12 the Year 2011, has implications for the inability to attain the true purpose of granting authority to the regency government to determine criminal sanctions through criminal policy.

East Java Province, as part of Java Island, has 38 regencies and cities, so it has a variety of social cultures. There are ten cultural regions in East Java alone, namely Java-Mataraman, Java-Panaragan, Java-Arek, Java-Samin (Sedulur Sikep), Java-Tengger, Java-Osing (Using), Java-Pandalungan, Java-Madura Island, Java-Madura Bawean, and Java-Madura Kangean. The Indonesian government has the authority to regulate its regions through local regulation mechanisms whose forms and procedures are similar to formal laws made by the central government. The substance of the local regulation also allows for criminal sanctions as an embodiment of the criminalization

¹⁰ Abdul Madjid. *Reformulasi Pelanggaran dan Sanksi Pidana pada Peraturan Daerah*. (Disertasi. FH-Univ. Brawijaya Malang, 2017) 15.

¹¹ W. N. and P. W. Harris, “*Criminal Justice Policy and Planning: Planned Change*” (books.google.com, 2016), https://books.google.com/books?hl=en&lr=\&id=jwreCwAAQBAJ\&oi=fnd\&pg=PP1\&dq=criminal+policy\&ots=QL6a8qGU_W\&sig=0TqPAiFaDVNs5ft50fgske4IqjU.

¹² L. K. Gaines and R. L. R. Miller, “*Criminal Justice in Action*” (books.google.com, 2021), https://books.google.com/books?hl=en&lr=\&id=RsYpEAAAQBAJ\&oi=fnd\&pg=PP1\&dq=criminal+policy\&ots=qXMC7UUEh6\&sig=rVZg8NBf0T7pLW-VAHs8eXA_-7Q.

¹³ A. Gruszczak, “The EU Criminal Intelligence Model: Problems and Issues,” *EU Criminal Law and Policy*, (2016), <https://api.taylorfrancis.com/content/chapters/edit/download?identifierName=doi\&identifierValue=10.4324/9781315690605-13\&type=chapterpdf>.

¹⁴ F. D. Boateng, D. K. Pryce, and M. L. Hsieh, “The Criminal Police Officer: Understanding Factors That Predict Police Crime in the United States,” *Crime & Delinquency*, (2023), <https://doi.org/10.1177/00111287211054732>.

¹⁵ L. Salvati and P. Serra, “Estimating Rapidity of Change in Complex Urban Systems: A Multidimensional, Local scale Approach,” *Geographical Analysis*, (2016), <https://doi.org/10.1111/gean.12093>.

of undesirable actions of citizens in an orderly manner in social life in the area. However, such improved public facilities, infrastructure, and ease of transportation can cause unrest for residents of one different area when traveling and committing social engagement in another area due to differences in the criminal acts in each region.

In this study, 3 (three) regional regulations of regency were examined in the field of public order, namely Ponorogo, Magetan and Madiun, as part of the Mataraman sub-culture. Various public acts have been considered the object of criminal policies with sanctions when people violate existing provisions. The primary measurement variables used as benchmarks for determining this criminal behavior by each region were the local-wisdom values originating from the formal mechanism of sub-culture people representation. Therefore, this paper identified and analyzed local-wisdoms which were used as the basis for determining acts that are given criminal sanctions in the local regency regulation, as well as analyzing the mechanism of absorption of local-wisdom values in the formation of criminal sanctions in the process of establishing local regulations to do with criminal sanctions in the field of public-order in regencies of Ponorogo, Magetan, and Madiun.

2. Method

This research is empirical legal research or called sociological, legal research or field legal research, which focuses on the principle of *receptio in complexiu* of the local-wisdom values in the formation of positive law.¹⁵ The study area was determined based on purposive sample categories according to district and regency area characteristics, agreement on access to key informants, and the availability of primary legal materials and primary-secondary data sources. The sample area covers three regions: Ponorogo, Magetan and Madiun regencies. The consideration of the selection of the three sample regions was because the three have relatively similar social, economic, educational, and cultural typologies for knowing whether there is a range of differences in the political roots of law "Policy-criminal" through local regulations, especially in the field of public order and peace and what factors cause the presence or absence of these differences. Another fundamental consideration for the selection of the three study sites is due to the availability of primary legal materials¹⁶, primary data, secondary legal materials, and secondary data that can be accessed at every level of government offices (executive and legislative), including consideration of efficiency in the data collection process.

3. Local Wisdom as a Basis for Establishment

The criminal policy profile of local wisdom as the basis for determining acts that are given criminal sanctions in the three districts of Ponorogo, Madiun, and Magetan in the context of a favorable legal system is analyzed using the concept of *Receptio in Complexiu* and Legal-System. Some key concepts of analysis used include a) *Receptio in Complexiu*¹⁷ 'Local-Wisdom' criminal

¹⁶ R. Alamsyah, I. Thooyibah, and T. Novianti, "Pengaruh Teori Receptie Dalam Politik Hukum Kolonial Belanda Terhadap Hukum Islam Dan Hukum Adat Dalam Sejarah Hukum Indonesia," *PETITA*, (2021), <https://journal.unrika.ac.id/index.php/petita/article/view/3875>.

¹⁷ M. Rana, "Pengaruh Teori Receptie Dalam Perkembangan Hukum Islam Di Indonesia," *Mahkamah: Jurnal Kajian Hukum Islam*, (2018), <https://www.syekhnuurjati.ac.id/jurnal/index.php/mahkamah/article/view/2745>.

¹⁸ S. Megayanti and A. Elcaputera, "Analisis Kearifan Lokal Masyarakat Bengkulu Dalam Festival Tabot Berdasarkan Receptio in Complexu Theory," *Al Ijarah: Jurnal Pemerintahan Dan Politik ...* (core.ac.uk, 2019), <https://core.ac.uk/download/pdf/287227922.pdf>.

sanctions in the Regional Regulation, covering aspects of 1) Philosophical; 2) Sociological; 3) Juridical; 4) Theoretical; 5) Psychological; b) Synchronous Legal System of criminal sanctions in the Perda with the National Law System (KUHP-UU-HAM), including 1) Legal Structure; 2) Substance; 3) Legal Culture Law.

The key concept is to answer the research question of whether local wisdom is used as the basis for determining the actions that are given criminal sanctions in local regulations in the 3 (three) districts studied and how the mechanism of absorption of local wisdom values in the formation of criminal sanctions in the process of establishing local regulations in the form of criminal sanctions in the field of order in 3 (three) areas studied.¹⁸ The criminal policy profile of local wisdom as the basis for determining the actions that are given criminal sanctions in the three districts is presented as follows.

3.1. Profile of the Local Wisdom Criminal Policy Profile of Madiun Regency

The results of the profiling of the local wisdom criminal policy in Madiun district that have been carried out include reviewing the Perda document Number 4 of 2017 concerning the Implementation of Public Order and Community Peace. The research findings show that in the formation of Perda in the Madiun Regency, all mechanisms for the formation of Perda follow the standard procedure for forming existing Perda. Academic paper preparation is usually an initiative carried out by the Madiun Regency Government through the Madiun Legal Division in cooperation with academics and related NGOs. The mechanism of establishing a Perda in its guidelines does not regulate the specific interests of local wisdom into an issue to be normalized in a Perda. The local wisdom of the Madiun district, which is marked by the cultural character of Mataraman, is no longer a customary value but rather what is referred to as the living law of the Madiun district community.¹⁹

The process of establishing a Perda, as it is usually held, begins with an academic study of networking and verification of the aspirations of the general public through various discussion forums and focus group discussions. Through a system of representation of community interest groups in academic discussion and research forums, all of them are accommodated and grouped into various political issues of local law.²⁰ Local significance values of the people of Madiun district, who are suspected of having the mainstream Mataraman culture, no longer appear to be the dominant customary values that influence the formation of local regulations because of the influence of modern civilization.²¹ The process and procedure for establishing a Perda in its guidelines also do not contain specific local wisdom issues. The issue of local wisdom has now been understood as the living law in society in the form of the norms of people's daily lives according

¹⁹ A. Agan and S. Starr, "Ban the Box, Criminal Records, and Racial Discrimination: A Field Experiment," *The Quarterly Journal of Economics*, (2018), <https://academic.oup.com/qje/article-abstract/133/1/191/4060073>.

²⁰ P. D. Jayanti et al., "Pembuktian Tindak Pidana Pencucian Uang Hasil Tindak Pidana Korupsi Pengadaan Barang/Jasa Di Kota Madiun," *Dikmas: Jurnal ...*, (2023), <https://ejournal.pps.ung.ac.id/index.php/dikmas/article/view/1818>.

²¹ A. Retnowati et al., "Environmental Ethics in Local Knowledge Responding to Climate Change: An Understanding of Seasonal Traditional Calendar Pranotomongso and Its Phenology in Karst ...," *Procedia Environmental ...*, (2014), <https://www.sciencedirect.com/science/article/pii/S1878029614000966>.

²² A. P. Pradhana, M. A. Chairani, and ..., "... Terhadap Pertimbangan Hakim Dan Putusan Hakim Perkara No 75/Pid. B/2021/Pn. Mad Dalam Tindak Pidana Pencurian (Studi Kasus Di Pengadilan Negeri Madiun ...," *YUSTISIA ...*, (2022), <http://yustisia.unmermadiun.ac.id/index.php/yustisia/article/view/185>.

to their respective interest groups.²² Various interest groups start from the alim-ulama group with the students, the “Abangan” group, the Mataraman tradition group, the “Entrepreneur” group, the “Intellectuals” group, or the “Gender Main-stream” group, the group “Farmers” all mixed in discussion forums and legal, political dialogue.²³

This condition is at least caused by standard procedures that are always carried out. Before a regulation is enacted, it is consulted first by the government of superiors, in this case, the Provincial Government. East Java. Although academically, it is known that there are weaknesses in the perspective of Legal-Structure, Legal-Substance, and Legal-Culture in the Regional Regulations, up to now, it has only happened once it was subjected to a Judicial Review by the interest groups in Madiun district.

3.2. Profile of the Local Wisdom Criminal Policy in Ponorogo City

The results of the profiling of the local wisdom criminal policy of the district of Ponorogo that have been carried out include the review of the Perda document No. 5 of 2011 concerning the Implementation of Public Order and Community Peace and interviews with key informants. The results of the review of documents and interviews have been analyzed and produced criminal profiles of local wisdom. The research findings show that in the formation of Perda in Ponorogo District, all mechanisms for the formation of its Perda follow the existing procedures for establishing a Perda. The Ponorogo Regency Government usually prepares Perda academic scripts through the Ponorogo Setkab Legal Department in collaboration with academics and related NGOs.

The mechanism of establishing a Perda in its guidelines does not regulate the specific interests of local wisdom into an issue to be normalized in a Perda. Local wisdom in the Ponorogo regency, characterized by the cultural character of Mataraman, is no longer a customary value but rather what is referred to as the living law of the Ponorogo district community. The process of establishing a Perda, as it is usually held, begins with an academic study of networking and verification of the aspirations of the general public through various discussion forums and focus group discussions. Through a system of representation of community interest groups in academic discussion and research forums, all of them are accommodated and grouped into various political issues of local law. The values of local significance of the people of the Madiun district, which are suspected of having the mainstream of Mataraman culture, are no longer visible as the dominant customary values that influence the formation of local regulations because of the influence of modern civilization. The process and procedure for establishing a Perda in its guidelines also do not contain specific local wisdom issues. The issue of local wisdom has now been understood as the living law in society in the form of the norms of people’s daily lives according to their respective interest groups. Various groups of interest ranging from the group of alim-ulama with their students, the group “Abangan”, the traditional group Mataraman, the group “Entrepreneurs”, the group “Scholars” or the group “Gender Mainstream”, the group of “Farmers” all mixed in discussion forums and legal, political dialogue.

²³ K. Carrington, R. Hogg, and M. Sozzo, “Southern Criminology,” *British Journal of Criminology*, (2016), <https://academic.oup.com/bjc/article-abstract/56/1/1/2462428>.

²⁴ A. Abeliawati and SH Natangsa Surbakti, ... *Dalam Upaya Mencegah Pengulangan Tindak Pidana Yang Dilakukan Oleh Residivis Narkotika (Studi Kasus Lembaga Pemasyarakatan Kelas 1 Madiun)* (eprints.ums.ac.id, 2022), <https://eprints.ums.ac.id/id/eprint/98100>.

The synchronicity of the local regulation norms on public order with the above laws and regulations has yet to be tested synchronized, so the court must cancel it, the superior government, or the Supreme Court.²⁴ This condition is at least caused by standard procedures that are always carried out. Before a regulation is enacted, it is consulted first by the government of superiors, in this case, the Provincial Government. East Java. Although academically, it is known that there are weaknesses in the perspective of Legal-Structure, Legal-Substance and Legal-Culture in the Regional Regulations, up to now, it has never happened until it was subjected to a Judicial Review by an interest group in Ponorogo district.

The results of the profiling of the local wisdom criminal policy of the Magetan regency that has been carried out include reviewing the Perda document Number 3 of 2014 concerning Public Order and Public Peace and interviews with key informants and have been analyzed, producing a profile of Magetan's local wisdom criminal policy. The research findings show that in forming local regulations in the Magetan regency, all mechanisms for forming local regulations follow the standard procedures for forming existing regulations. The Magetan regency usually prepares Perda academic scripts through the Magetan Setkab Legal Section in collaboration with academics and related NGOs.

The mechanism of establishing a Perda in its guidelines does not regulate the specific interests of local wisdom into an issue to be normalized in a Perda. The local wisdom of the Magetan regency, which is characterized by the cultural character of Mataraman, is no longer a customary value but rather what is referred to as the living law of the Magetan district community. The process of establishing a Perda, as it is usually held, begins with an academic study of networking and verification of the aspirations of the general public through various discussion forums and focus group discussions. Through a system of representation of community interest groups in academic discussion and research forums, all of them are accommodated and grouped into various political issues of local law. The values of local significance of the Magetan district community, which is suspected of having the mainstream of Mataraman culture, no longer appear as the dominant customary values that influence the formation of local regulations because of the influence of modern civilization. The process and procedure for establishing a Perda in its guidelines also do not contain specific local wisdom issues.²⁵ The issue of local wisdom has now been understood as the living law in society in the form of the norms of people's daily lives according to their respective interest groups. Various interest groups start from the alim-ulama group with the students, the "Abangan" group, the Mataraman tradition group, the "Entrepreneur" group, the "Intellectuals" group, or the "Gender group" Main-stream", the group "Farmers" all mixed in discussion forums and legal, political dialogue.

The synchronicity of the local regulation norms on public order with the above laws and regulations has not yet been tested in synchronization, so the court must cancel it, the superior government, or the Supreme Court. This condition is at least caused by standard procedures that are always carried out. Before a regulation is enacted, it is consulted first by the government of superiors, in this case, the Provincial Government. East Java. Although academically, it is known that there are weaknesses in the perspective of Legal-Structure, Legal-Substance, and Legal-Culture

²⁵ P. Sharkey, G. Torrats-Espinosa, and ..., "Community and the Crime Decline: The Causal Effect of Local Nonprofits on Violent Crime," *American Sociological ...*, (2017), <https://doi.org/10.1177/0003122417736289>.

in the Regional Regulations, up to now, it has never happened until it was subjected to a Judicial Review by an interest group in Magetan Regency.

4. Analysis Profile of Local Wisdom Criminal Policy in Madiun, Ponorogo and Magetan Regencies

The research findings show that the formation of regional regulations in the Regencies of Ponorogo, Madiun, and Magetan shows that the mechanism for establishing its regulations follows the standard procedures for forming existing regulations. Perda academic scripts are usually prepared by three parties in Ponorogo, Madiun and Magetan regencies through the Local Government Legal Department in collaboration with academics and related NGOs.

The mechanism of establishing a Perda in its guidelines does not regulate the specific interests of local wisdom into an issue to be normalized in a Perda. The local wisdom of the three regencies of Ponorogo, Madiun, and Magetan, which are marked by the cultural character of Mataraman, is no longer a customary value, but rather what is referred to as the living-law community of the three regencies of Ponorogo, Madiun, and Magetan. Forming process

The regional regulation, as it is commonly held, begins with an academic study of networking and verification of the aspirations of the general public through various discussion forums and focus group discussions. Through a system of representation of community interest groups in academic discussion and research forums, all of them are accommodated and grouped into various political issues of local law. The values of local significance of the people of the three regencies of Ponorogo, Madiun, and Magetan, which are suspected of having the mainstream of Mataraman culture, are no longer visible as the dominant customary values that influence the formation of local regulations due to the influence of modern civilization. The process and procedure for establishing a Perda in its guidelines also do not contain specific local wisdom issues.

The issue of local wisdom has now been understood as the living law in society in the form of the norms of people's daily lives according to their respective interest groups. Various interest groups ranging from the alim-ulama group with their students, the "Abangan" group, the Mataraman tradition group, the "Entrepreneur" group, the "Intellectuals" group, or the "Mainstream Gender" group, the "Farmer" group all melt together in discussion forums and legal, political dialogue. The synchronicity of the local regulation norms on public order with the above laws and regulations has not yet been tested in synchronization, so the court must cancel it, the superior government, or the Supreme Court. This condition is at least caused by standard procedures that are always carried out. Before a regulation is enacted, it is consulted first by the government of superiors, in this case, the Provincial Government. East Java. Although academically, it is known that there are weaknesses in the perspective of Legal-Structure, Legal-Substance, and LegalCulture in Perda, but until now this has never happened until experiencing Judicial Review by interest groups in three districts of Ponorogo, Madiun, and Magetan.

Criminal provisions in regional regulations are still a polemic of the legal debate because there is a diverse absence of standard signs as a benchmark for the values of justice, certainty, and usefulness. Each region has benchmarks based primarily on the living law in the community. The validity of criminal sanctions against legal subjects in the Perda is questionable in its adjustability. Provisions regarding criminal sanctions should be regulated at the level of the law, such as the Criminal Code, nothing else except forms of administrative sanctions. However, if you view the

UUP of Justice, local regulations such as local regulations can be used as consideration by the judge in certain criminal cases. The living law as living in a society with the General Standing Orders differs from the degree of validity as a source of law and the principle of legality of criminal law, even though the law is a source of organic law. The principle of “Nullum dictum nulla poena sine praevia lege penile”, which is an act that cannot be convicted, except based on the strength of the provisions of existing criminal laws (Article 1 paragraph (1) of the Criminal Code) as a reference for criminal law enforcement.

The synchronization of local norms with the Criminal Code is also a critical problem that always occurs in forming General Standing Orders. Synchronization between laws and regulations, especially with regulations and legislation on it, the local government must comply with the principle of “lex superior derogat legi inferior” in making law politics, according to the provisions of the hierarchy of laws and regulations (Law 12/2011 about Establishment of Legislation). The higher law is superior to the law under it, or the lower law must refer to the rules above so that the General Standing Orders must refer to favourable laws that are higher in position, such as the Criminal Code or other relevant laws.

5. Conclusion and Suggestions

As a general conclusion, the results of criminal policy studies on the formation of local regulations are that the profile of the mechanism of absorption of local wisdom values in the formation of criminal sanctions in the law in the field of order in the districts of Ponorogo, Madiun, and Magetan findings show that in the formation of these regulations, all mechanisms follow the standard procedure for establishing Existing legislation. The district government usually carries out the preparation of Perda academic scripts.

The mechanism of establishing a Perda in its guidelines does not regulate the specific interests of local wisdom into an issue to be normalized in a Perda. The local wisdom of the three regencies marked by the cultural character of Mataraman is no longer marked as traditional values, except to become the living-law community. The process of establishing a local regulation is carried out through the academic study of networking and verification of the aspirations of the general public through various discussion forums and focus group discussions. Through a system of representation of community interest groups and academic research, all of them are accommodated and grouped into various legal issues. The local wisdom values of the three regencies, known as having the mainstream of Mataraman culture, are no longer seen as the dominant customary values that influence the formation of the Local Regulation due to the influence of modern civilization. The process and procedure for establishing a Perda in its guidelines also do not contain specific local wisdom issues. The issue of local wisdom today as the living law is interpreted as the norm of people’s daily lives according to their respective interest groups. Various interest groups in society, such as the alim-ulama group with their students, the “Abangan” group, the Mataraman tradition group, the group “Entrepreneurs”, “Cendikiawan” groups, or “Mainstream Gender” groups, “Farmers” groups all dissolve in discussion forums and legal, political dialogue.

6. Recommendation

Therefore, maintaining the balance of the living law norms, whether formal, material, system, mechanism, or procedure, is necessary with positive law. Thus, it is necessary to design a

mechanism for the connectedness of the construction of the Criminal Code Book, Law Number 23 of 2014 concerning Regional Government and Law Number 12 of 2011 concerning the Formation of Regulations and Regulations, which can be bridged through government regulations regarding the formation of local regulations. The maintenance of the synchronicity of legal substance, legal culture, and the balance of norms between the living law of local communities and positive law must be put in the construction of the formulation of local regulation norms and the competence of public officials of the regional government holding the authority of Public Order.

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