

ASPECT DEMOCRACY IN THE FORMATION OF REGIONAL REGULATION¹ (CASE STUDY THE FORMATION OF REGIONAL REGULATION ABOUT EDUCATION IN PERSPECTIVE SOCIO-LEGAL)

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ABSTRACT

The regulation has an important role, strategic role in the regulation democracy. The fact in countries shows there are gaps in the School Participation Rate (APS), Gross Participation Number (APK), and Community Participation Number (APM), as well as educational inequality between men and women in participation, access, benefits and control that caused partly by the uncertainty of regulation of education in area. Crucial educational issues among others: the high cost of education, lack of regulation is unclear, the welfare of teachers has not been balanced with the burden of responsibilities, the ministry of education bureaucracy is not optimal, education facilities of equality has not similar, improving the quality and professionalism of teachers on the other hand has not facilitated the implementation of autonomy are common obstacles area. Political determinant influences the formation of law. Therefore, the problem is: why is aspect of democracy necessary in the formation of law? how the impact of deviations formation education law that are not based on aspects of democracy, how to model the formation of democratic law-based aspects in the field of education?. So the goal is to uncover, find the empirical-scientific arguments about the urgency of the establishment of law based on the aspects of democracy, the impact of aberration formation in education law, finding regulation-based model of the democracy aspect formation in education. Thought frame is using the legal work in the community of Chambliss and Seidman, domain-forming, executors and supervisors. Research uses qualitative tradition, legal paradigm constructivism with socio-legal approach to hermeneutics. Location of the study is in Semarang, Surakarta, Salatiga. The results showed that: very urgent aspects of democracy in the formation of Education regulations, whether philosophical, juridical and sociological. Evidently the law does guarantee equal opportunity of education, the validity of the juridical and society awareness in to receive it. Political configuration formation formed by the elites and authoritarian. The impact of Education regulations formation in Education, that are not based on aspects of democracy led to educational rights of all people cannot be obtained in fairness, usefulness for welfare, whether philosophical, juridical, and social. Construction ideal model of the formation in regulations that are based on aspects of democracy is to use analytical methods RegMAP and Regulatory Impact Assessment (RIA). Construction of this ideal is called **Integrative RegMAP-RIA (IRR)** model. The recommendations are all formation regulation must be based on aspects of democracy. Avoid the establishment of regulations for the Education Sector that are not based on aspects of democracy because it would be counter-productive impact on the organization of education in the philosophical, juridical, and sociological. Use the ideal model construction **IRR** in the formation of local regulation in the Education Sector.

Keywords: aspect democracy, local regulation, education

INTRODUCTION

Indonesia is a Law State; it means that the Indonesia has a strong juridical basis in the role of carrying out the development. The country must be built from two concepts that are law and democracy. Justice and democracy interpreted diverse with a variety of perspectives. Plural perspective legal shows that the law is a science, the doctrine of facts, law enforcement officials, decision authority, governance processes, and the regular behavior and also as a fabric of values.³ Understanding the varied law indicates that the legal scope is not limited to the normative understanding of existing law in a law course, but there are in the process of local government and the decisions of government officials.

There are two categories (models) of democracy if it is associated with the conception of the ideal of democracy itself. Two models of democracy in question is a substantive democracy and procedural democracy. Character models are the first (substantive democracy), among others, characterized by the similarity between class, ethnicity, gender, and other forms of identity or affiliation within the community. This model is essential, many refer to the model of "democratic ideal" or the concept of populist democracy. While the character models procedural democracy, among others, indicated by the presence of civil liberties, and implementation of regular elections⁴.

Democracy occupies a vital position relating to the distribution of power within a country. In general, based on the concept and principle of trias politica with state power derived from the people, and should be used for the welfare and prosperity of the people. The principle of trias politica be very important to be taken into account when the facts of recorded history the powers of

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³ Soerjono Soekanto and Mustafa Abdullah, Sociology of Law in Society, Jakarta: Rajawali. 1982. p. 37-39

⁴ Maswadi Rauf.dkk, Measuring Democracy in Indonesia, Indonesian Democracy Index 2009. UNDP-Indonesia: Jakarta. 2011. p. 11

government (executive) is so large it was not able to establish a just and civilized society, even the opposite is often that comes up is the absolute power of government that causes a violation of the right- human rights.

Democracy is a great concept and general, therefore, often attempt to measure democracy will inevitably faced with the debate about which aspects of the most important part of democracy that should be measured. Related to this is the concept of democracy must be explained in detail the hierarchy of the starting aspect, variables and indicators.

Indonesian Democracy Index (IDI) in 2009⁵ reported that there were 3 (three) aspects, 11 (eleven) variable and 28 (twenty eight) indicators. The details are as follows:

- a. Aspects of Civil Liberties (civil liberties)
- b. Aspects of Political Rights (political rights)
- c. Aspects of Democratic Institutions (institutions of democracy)

IDI records that need to be appreciated the establishment of regulatory-related legislation in this law is an aspect of civil liberties in the indicator of freedom of opinion and freedom from discrimination. Further aspects of political rights is an indicator of political participation in decision-making and supervision. Last aspect of democratic institutions is the indicator of the role of parliaments, the role of political parties and the role of government bureaucracy as a pillar-forming domain in the regulations (Perda).

Until now the most suitable model of democracy and the most appropriate implementation of democracy has not been found, even in the history of Indonesia is still in the stage of trial and error (trial and error) the concepts of democracy while seeking the most suitable. Fluctuations of democracy have ups and downs over the implementation of the basic aspects, both formal and aspects materiilnya aspects.

Formal Aspects in question is about the perpetrators of the people. The extent to which people's role in a process state. Substantive aspects of democracy concerning basic substantive issues, among others, consists of a respect for human rights (including education), the supervision of government and a fair trial⁶.

Two aspects of democracy, namely the formal and material aspects have to be a cornerstone in the establishment of laws and regulations in Indonesia, particularly the establishment of local regulations so as to establish justice. Current paradigm of democracy drive change in the substance, process and procedures for the establishment of laws and regulations become more democratic. In Indonesia, the current change is marked by the first amendment to the 1945 Constitution which is done in four stages, namely in 1999, 2000, 2001, and phase four of 2002. One important function of state power and strategic role in realizing the aspirations of the people is based on the needs of a legislative function. In a democratic country one of the pillars is the implementation of education for their people. It means that real democracy is democracy for the people who fight in education. Education is able to educate people, provide political education to participate in the development of nation and country. So the role of this legislation become very urgent in reconstructing education in the region based on people aspirations and needs.

Writing a dissertation is based on the argument, first the law has an important and strategic role in the regulation of society in a country. Second, UNS P3G results in 2004 showed there was no gender gap at the APS, the APK and APM. Rodyah's Research result in 2009⁷ found the inequality in education between men and women in participation, access, benefits and control that caused partly by lack of clarity in local education regulations.

Third, there are at least six issues of education (a) the high cost of education, especially for public school junior high and high school, (b) the regulation is unclear, (c) the welfare of teachers is still not balanced with the burden of responsibility, especially for part time teachers, (d) service is not optimal educational bureaucracy is still a lot of perceived paternalistic bureaucratic system which distorted and detrimental to society, (e) equity distribution of educational facilities that have not been evenly distributed, (f) improving the quality and professionalism of teachers has not been facilitated by the regional optimally with certain regulations. Fourth, there are of constraints affecting number in the implementation of regional autonomy in the execution Regional Regulation. Fifth, the reality that in the context about the establishment of law and politic, cannot be separated so that often the law which aim for justice to be biased by momentary political interests, as seen in the establishment of regulations in the area.

THE PROBLEMS AND RESEARCH FOCUS

The focus of research is an aspect of democracy (material and formal) in the formation of Local Regulation of Education in socio-legal perspective. The problems studied in exploring the focus of research in this dissertation are: Why aspect of democracy is necessary in the formation of local regulations?; How deviation impact the establishment of local regulations in education that are not based on aspects of democracy?; How to model the formation of regional regulations based aspects of democracy in education?

⁵ Ibid.p. 104-105

⁶ Suteki. Op.cit. p. 2.

⁷ Batch II Strategic Research Grant, "Strategy to Accelerate Regional Autonomy for Gender Mainstreaming in Education. Director General of Higher Education DP2M. 2009.

So the purpose of the dissertation research were to: reveal find empirical and scientific arguments through the exploration of hermeneutics: that aspect of democracy is necessary in the formation of local regulations; that the impact of deviations educational establishment in local regulations that are not based on harmful aspects of democracy; discover and construct models establishment of democracy local rule-based aspects in education.

The Contributions in theoretical study provides new insights about the formation of local regulations (legislation), the field of education based on aspects of democracy. This insight builds upon comprehensive research from both social-empirical as well as normative using the paradigm of constructivism.

This reseach thought frame, are in the process of forming legislation to determine popular democracy. The theory of principal to be used as a knife primary analysis is the theory of the workings of law in society from the William J. Chambliss and Robert B. Seidman. This theory will analyze the legal ideally work in society through the three domains, namely domain-forming, domain implementers and regulatory implementation of laws (legislation). As well as to analyze various factors will affect the legal relations among the three domains in the formation of laws education regulations.

Theories and concepts used to analyze the first problem (why the aspect of democracy is necessary in the formation of local regulations?), With (1) theory of operation of law in society from the William J. Chambliss and Robert B. Seidman, (2) cybernetic theory of Talcott Parsons who will show the reasons for the action / action of the legislation domain formation, (3) preparation of draft local regulation and the academic preparation concept of the manuscript, (4) the theory of political configuration by Moh. Mahfud MD, (5) the communication legal theory of Hurgun Habermas. The second problem: how the impact of aberration formation in education local regulations that are not based on aspects of democracy? analyzed using (1) conflict theory Ralf Dahrendorf, (2) legal system from Lawrence M. Friedman, (3) theory of policy impact Rossi and Freeman, (4) The concept of synchronization of the law. Third problem: how to model the formation of regional regulations based aspects of democracy in education? analyzed using (1) Regulatory Concept Mapping (RegMAP) and draft Regulatory Impact Assessment (RIA), (2) the paradigm of constructivism with the hermeneutic approach, to analyze the reconstruction model of the formation of Education regulations based on aspects of democracy, and (3) The concept of holistic thinking by Fritjoff Capra to see the overall factors that influence the formation of law.

RESEARCH METHODS

This research is included in the tradition of qualitative research, such as research that to interaction four elements, namely: (1) determination / purposive sampling, (2) inductive analysis, (3) grounded theory, (4) while the design will change according to context⁸. The paradigm used in research is legal constructivism on the context and contents substance in regional regulation⁹. Hermeneutic approach is to the socio-legal research¹⁰. Research sites in Central Java province, in the city of Semarang, Surakarta and Salatiga. Primary data sources are the stakeholders (stakeholders) is directly related to the parties that understand the formation of regulatory legislation Perda-education field. The secondary data obtained through the study of documents about some primary legal materials in the form of legislation related to regulation with local regulations establishment. Secondary data was also obtained from the second of legal materials such as documents of Education minutes of meetings of the establishment of local regulations at the sites. Technical data validity (validity) uses tianggulasi method, resource persons, the source-material data and theory. Data analysis uses the interactive analysis models (Hubermen and Mills).

THE RESULTS OF RESEARCH AND DISCUSSIONS

The results showed that: Aspects of democracy is very urgent in the formation of local regulation in the Education Sector. This proved to be normative, scientific, and social as well as empirical (socio-legal) in the perspective of the basic foundation formation about local regulation in the Education Sector. The urgency includes:

- a. Philosophical argument, that the fourth paragraph of the Preamble of the 1945 Constitution mandates the State purposes, requires the state through the administration actually implement it in the life of the state, nation through education. Education makes man will acquire knowledge useful for life. Quality education will make the quality of life so that they can run a decent life by enjoying the rights of live-optimally. Quality education made man to be intelligent and good citizens (good citizenship and smart). Further in Section 28B of the 1945 Constitution, paragraph (1) is that everyone is entitled to develop themselves by fulfilling their basic needs, they are entitled to education and benefit from science and technology, art and culture to improve the quality of life to achieve human welfare. Article 31 UUD 1945 subsection (1) mandates that "Every citizen has the right educational opinion." Every citizen has the right to get education and compulsory basic education and government follow the required finance. In this research area so that the philosophical basis of Education regulations to guarantee equal opportunity of education and improvement of human resources and able to face globalization. However, in achieving improved quality of education has not been optimal at the sites. Arrangement of education in Surakarta, Salatiga Semarang City and expected to participatory, equitable, non-discriminatory to uphold human rights, religious values, cultural values, and ethnic diversity.
- b. Juridical argument, that the state law contextually every government action must be based on authority given by law (principle of legality). A government action that is done without a basis of authority is the result null and void (unless

⁸ Noeng Muhadjir, *Qualitative Research Methodology*, Sarasin Rake Publishing, Yogyakarta, 2002, p. 165-168.

⁹ Agus Salim, 2006. *Theory and Paradigm Research Sosial*. Yogyakarta: UGM Press

¹⁰ Soetandyo Wigjosoebroto, *Law: Paradigms, Methods and Dynamics problem*, Jakarta, ELSAM and HuMA, 2002, p.. 164.

discretion). Urgency juridical on site showed that the education law which was formed based on the rule of law which is superior or higher as in the view of Hans Kelsen and his theory "Stufenbau Theorie des Recht, namely a hierarchy based on the basic values of the 1945 Constitution, 1945 Constitution, particularly Article 31 (paragraph 1,2,3,4,5) and Law No. 20 of 2003 on National Education System, then the rules that lower the PP, and regulation. Defined binding or valid because it shows the relationship between a state with a mandatory consequence, the location of the study showed that education law made binding and indicates the necessity that must be executed by the parties involved, especially in this case is the local authority. Semarang City Government to revise Education regulation because one of the reasons is the review of Semarang City Government ability to finance education (free education) to grade twelve (12) or up to high school, which in practice turned out to not be implemented due to lack of funding. Defined as the establishment of legal norms according to the procedures applicable law that is based on the procedure in the law-making process under the Act N0.10 of 2004, Law no. 32 of 2004, Permendagri No. 16 of 2006. In the context set as the norm of law by the institution that is authorized. Perda Education in all study sites established by the competent institution of parliament as a law initiatives and discussed the proper procedures with local government in this regard is the municipal government of Semarang, Salatiga and Solo.

- c. Sociological argument, that aspect of democracy in the establishment of education law in sociological perspective tends to prefer the approach that empiric by prioritizing multiple choice criteria, namely 1) the recognition criteria (recognition theory), (2) admission criteria (reception theory), or (3) criteria fact of law. The first criterion (principle of recognition) concerning the extent of the law which governed the subject acknowledges the existence and power tie and obligation to subject themselves to the relevant legal norms. If the subject of law in question does not feel bound, then sociologically relevant legal norms cannot be said to apply to him. Criteria for acceptance as the second criterion (principle of reception) in principal with regard to public awareness concerned to accept the power-set, power-tie, and the power-law forced her norm. While the third criterion emphasizes the factual reality that is the extent to which the rule of law itself is truly effective in real life society. Although a formal juridical legal norm is valid, recognized (Recognized), and accepted (received) by the public as something that does exist (existed) and valid (valid), but in reality completely ineffective practice, it means that in fact the legal norm does not apply. By \neg Hence, a new legal norms to apply sociological. The result of sociological research shows that the urgency has been met on the formation and enforceability of Education regulations. Both are fulfilling the criteria of recognition, acceptance criteria and the criteria for legal fact. At the location of the education stakeholders research shows recognition of the existence and power tie and obligation to subject them in the norm of law education. In the category of public awareness is concerned to accept the power-set, power-tie, and the power-law norms are forced him showing an interest in community education providers with a full consciousness with the orderly and regular conduct of Education regulations effectively.

Political configuration is defined as an array or constellation of strong political in a dichotomous split into two opposing concepts in diameter, the political configuration of democracy and authoritarian political configuration¹¹.

Mahfud MD opinions about the political basis of the legal framework are that¹²: Politics of national law must always lead to the ideals of the nation that is a fair and prosperous society which based on Pancasila;

- a. Political national law should aim to achieve the objectives of State, namely: to protect the people and the entire country of Indonesia, promote the general welfare, the intellectual life of the nation, execute world order based on freedom, lasting peace and social justice.
- b. Politics of national law must be guided by the values of Pancasila as the State, namely: moral-based and nation; Respect and protect human rights without discrimination; Uniting all elements of the nation with all its primordial ties, lying of power under the rule of the people; Establish justice social.
- c. If the goal is associated with laws in Indonesia country, so the politics of national law must be guided to: Protect all elements of the nation for the sake of the integrity or the integrity of the nation which include ideology and territorial; Creating social justice in economic and social; Realizing democracy (popular sovereignty) and monocracy (the rule of law); Creating tolerance of religious life based on politeness and humanity.

Characteristics resulting from the political configuration according to Mahfud MD there are two types¹³:

(1) Responsive legal products / populastic which is legal products that reflects a sense of justice and fulfill society expectation. In the manufacturing process gives a large veranda and full participation of social groups or individuals in the community. The result is responsive to the demands of social groups and or individuals in society. (2) Law Product conservative / orthodox / elitist is a legal product which consist of better reflect the social vision of the political elite, better reflect the government's desire, is positivist-instrumentalist, which is a tool of ideology and implementing the State program. Contrary to the law responsive, more in orthodox law claims the demands of groups or individuals in society. In making role and public participation is relatively small.

¹¹ Moh. Mahfud MD. 1998. Politics of Law in Indonesia. New York: LP3ES. p.. 4

¹² Ralf Dahrendorf, Op.cit., p. 31

¹³ Ibid , p.25

Linear is said by Moh. Mahfud MD that politics is always dealing with the law, the other said by Dahrendorf¹⁴ that there are six characteristics of the dominant group or groups in holders of political power. First, the numbers are always smaller than the controlled group. Second, have excess wealth to maintain its dominance particular form of material wealth, intellectual and moral honor. Third, the opposition is always better organized than those who were deferred. Fourth, the ruling class consists only of those who hold a dominant position in politics that defined the ruling elite as the ruling elite in the political field. Fifth, always trying to monopolize the ruling class and its political power to pass the class / group itself. Sixth, there is a reduction of social change to changes in the composition of the ruling class.

The basic assumption is the law as a product of politics, and then politics will determine the law¹⁵. From the data obtained in the study site shows the political tradition in Parliament,¹⁶ namely the establishment of the Special Committee that major fractions will get a bigger portion. Likewise, the formation of the Special Committee of Education regulations, otherwise the small fractions will get a small portion. Such a political tradition will get only benefit big fractions, and otherwise less profitable small fractions. The composition of such committee that makes major fractions dominated the discussion with a liberal education law and easily realizes the political interests of fraction and party. In contrast, the small fractions, the more limited opportunity to realize interests owned by the fraction or party politics¹⁷. Such influence, firstly, the large fractions dominance of small fractions in the discussion meetings of Education regulation. Secondly, the course of the discussion meetings in Education regulation is less democratic. Thirdly, the discussion is just more of Education regulations to accommodate the political discourse of the major fractions. As the result the discussion of education law makes almost all the construction and formulation of draft law on the appointment of the Principal and granting permission to establish schools, shows more crystallization political interests of fraction or the major parties.

Accumulation of the implications in the dominance of the membership committee, the lack of democracy in the course of discussion meetings and political energy unbalance of Education during the discussion of regulation less assure justice law and democracy in society. The opinion of Moh Mahfud said that his political influence against the law to apply in law enforcement as well as characteristics of the products and the manufacturing process, is very precisely if attached with the fact that occur in the process of forming the Regional rules about Education at Study Sites¹⁸.

If the democratic aspects (formal legal basis for the establishment of local regulations and material-load, the material clauses in Local Education) is not used in its formation will have effects contrary to the educational rights of all (every) person as human rights, because the articles in Local Education it only causes the inability of the state apparatus in carrying out the education implementation. As a result of people cannot get public education. Both in access, control, and education participation. This occurred at three study sites in the form of education as a right in all people cannot be obtained in a fair and usefulness for welfare, both in juridical, social and political. Quality education means there is increasing uncertainty and a declining trend in student achievement.

Construction of the ideal model of the formation of regional regulations based democracy aspect in education is to use an analytical method the formation of legislation RegMAP and Regulatory Impact Assessment (RIA). Construction of this ideal is a model of integrative RegMAP-RIA. Integrative RegMap-RIA model is a model constructed by using the meaning of substance RegMAP (mapping of existing legislation through the synchronization and harmonization of legislation vertically and horizontally so that the priorities contained in the regulations and or prolegda Prolegnas) further regulatory priorities should be in RIA-out. It means that if through RegMAP the implementation of RIA will be more effective by using the six stages, namely the formulation of the problem, identify goals, alternative actions, cost and benefit analysis, selection of action and strategy implementation. The six steps in the corridor there should be public consultation contained in the formation of the Academic Manuscript.

The construction gives clear view that the formation of regional regulation fields of education must begin by using RegMAP analysis so it will be clearly mapped existing legislation regulates the education and will be seen also in a concrete material and the principal what you have not already contained in legislation. So this stage uses the synchronization and harmonization of existing legislation. Then RegMAP used as the basic in Local Regulation preparation of Education with the RIA's step and linear with the law in society Chambliss Seidman in the currency legislation, in Law No. 12, 2011.

The IRR construction based on the principle of formal aspects Establishment Laws and regulations in this case is a good local regulations, which include the principle: Clarity of purpose; Institutional or right-forming organs; Correspondence between the type and material content, can be implemented; forces and benefits; Clarity formulation; Openness. Furthermore, the formal establishment of regulation is the process of formation starts from the planning, preparation, preparation techniques, discussion, adoption, promulgation and dissemination.

¹⁴ Ralf Dahrendorf, *Conflict-Conflict in Industrial Society*, Rajawali, Jakarta, 1986, p. 238-246 which summarizes the work of three sociologists such as redacted in this book are: Vilfredo Pareto, *Algemeine Soziologie*, translated and edited by C. Brinkman, Tübingen, 1985; Gaetano Mosca, *Die herrschende Klasse*, Bern, 1950; Raymond Aron, "Social Structure and the Ruling Class", in Reinhard Bendix and SM Lipset (eds.), *Class, State and Power: A Reader in Social Stratification*, Glencoe, 1953.

¹⁵ Moh. Mahfud., MD. *Politics of Law in Indonesia*. Ed. Third 2006. Library LP3ES Indonesia; Jakarta. p. 14

¹⁶ This tradition stipulated in Talib Parliament at each study site

¹⁷ This is as said by Mr. Member of Parliament Zaenal Surakarta, that are small fractions, which says that the model of the formation of the committee membership based on political tradidisi like that, where a great will automatically get a large portion, and vice versa fraction small portions only get better, it can inhibit the dynamics p. democracy, ensuring less sense of justice, and the effect on the quality of legal product is produced, because a large fraction is not necessarily more qualified than a small, small, and vice versa is not necessarily less qualified compared with the large fractions.

¹⁸ Moh Mahfud MD, *Causality Relationship Between Law and Politics in Indonesia*, article in Magazine Gelora FH UMS Law No. IV of 2004, 1994, p. 4-5.

The next basic in the IRR model is a material aspect of democracy by using the principle of forming legislation (regulations) must be based on the principle of the substance of legislation, which includes: aegis; Humanity; Nationality; Families; Archipelagoes; Unity in Diversity, Fairness ; Similarity Position in Law and Governance, Order and Certainty of the law; Balance, Harmony. From the thought frame is the construction of the ideal model the formation of local regulations that an ideal education in formal and material in the material charge is as follows:

Table 1
Establishment Local Regulation Ideal Model in the Education Sector

No	Local Regulation Establishment Construction in Education Sector
1	Basic: Article 31 UUD 1945 Law no. 20 of 2003 on National Education System Law no. 12 of 2011 on the Establishment of Laws and Regulations
2	The subject of: Unitary Republic of Indonesia (the Government and People). People participation in the process of forming legislation, particularly the education law as well as community participation in the education process
3	The purpose of Operation Education are: a. Expanding the access to adequate educational services, equitable, and affordable; b. Improving the quality and competitiveness of education and its relevance to the needs and / or condition of society; and c. Develop education management relies on community participation, transparency education budget, effectiveness, efficiency and as a whole of education accountability. The importance of education for poverty alleviate, increase equity, gender equality, understanding cultural values and multiculturalism, as well as increasing social justice.
4	Substance: a. Every citizen has the right to education b. Every citizen is obliged to follow basic education and the government must pay for it. c. The government shall establish and conduct a national education system that enhances faith and devotion and noble attitudes in order to achieve the life of the nation, governed by the laws d. Prioritize state education budget at least 20% of the national budget and regional budgets to meet the needs of national education e. Government to advance science and technology to uphold religious values and national unity for the advancement of civilization and prosperity of mankind. f. Education held in a democratic and fair and not discriminatory to uphold human rights, religious values, cultural values, and national diversity; g. Education held as an integral and systematic with the open system, multiple meanings, the purpose of education held an open education with the flexibility of choice and time of the cross-unit programs and education channels (multi-entry multi-exit system). Education was held as a civilizing process and the empowerment of learners that lasts a lifetime;
5	The consequences: State (the Government through the Local Government-City Government) form of legislation (Local Regulation in Education) which obviously gives of legal certainty, justice and expediency that every citizen the opportunity to acquire education so that local government should be able to finance the all process of quality education.

Using Conditions of IRR (Integrative RegMAP-RIA), preceded by using of RegMAP early then using of RIA, and interactive RegMAP-RIA (IRR). RegMAP used when the regulation has not been mapped certainty. Therefore RegMAP can be used both to existing regulations (mapping and reviewing) and draft a new regulation (review). Some reasons for using RegMAP, are: the amount of regulation is very much (unknown) and is often found that overlap, are not necessary, contrary to one another, the use of RIA approaches to large number of regulations (collected) takes a relatively long time. Stages RegMAP conducted in full include: planning, mapping, assessment, reporting and dissemination, institutionalization.

Using of RIA is when it is mapped in regulation. Regulatory Impact Assessment (RIA) is a method used to create a balanced regulatory system so can be reached economic growth area optimally. The objective of RIA are: (1) assess the effectiveness of policies in: (a) resolve the existing problems, (b) achieve the goals underlying the issuance of such policy, (2) ensure that policy makers have considered all the available alternative actions, (3) examine the benefits and costs of a policy, especially the benefits and costs that must be faced by implementers of policy; (4) ensure that in all stages of policy formulation and coordination has been carried out adequate consultation with the parties concerned, (5) assess policy implementation strategies, including administration, dissemination, and monitoring the implementation of policy. Thus, the RIA process is needed both on a regulatory scheme and regulations still apply.

Using of IRR is the most ideal conditions with systematic ranging from mapping regulation (RegMAP) so that it appears as a priority, then streamline the regulatory substance of the next goal is to do the process and stages of RIA. Use of this IRR must be based on the formal aspects of democracy (Law no. 10 of 2004, UU.No.32 of 2004, Permendagri No.16 of 2006) as well. And it

based on the material aspects of democracy (according to the substance of the charge material basic needs, the real community of educational needs). A complete model of the IRR based on the following construction.

Table 2
Ideal Model Local Rule on Education Establishment based Model IRR

No	Construction of the establishment of local regulations in education
1	<p>Foundation:</p> <ul style="list-style-type: none"> a. Article 18 UUD 1945 b. Law no. 12 of 2011 on the establishment of legislation c. Law no. 32 Year 2004 on Regional Government d. Permendagri No.16 Year 2006 on Procedures for Formulation of legislation in the Region
2	<p>Characteristic¹⁹:</p> <ul style="list-style-type: none"> a. Meet the two aspects of democracy that is the material aspect and the formal aspects. b. Optimizing Baleg function (formation under Law No.10 of 2004) to perform RegMAP appropriately, followed by a modified RIA stages. c. Legislation requires the Regional Board of Supervisors (BPLD) d. Cargo material laws established by the IRR model is more show regional characteristics of local and indigenous values in society.
3	<p>Excess:</p> <ul style="list-style-type: none"> a. The resulting legislation did not overlap, because the laws are made based on analysis RegMAP first generating an urgent priority the establishment of local regulations. b. Stages of its formation by RIA based on public consultations (to facilitate people's participation in the formation of legislation), this is the formal aspects of democracy which is based on Law NO. 10 of 2004, UU.32 of 2004. Hereinafter set forth in the Academic Paper. c. Academic manuscript contains a philosophical argument, juridical and sociological need for regulation, this is the material aspect of democracy. Academic manuscript is based on the real needs of society.
4	<p>Weakness:</p> <ul style="list-style-type: none"> a. In general, the weakness has not yet appeared in the use of IRR. b. Relative weakness in the use of a rather long time if Baleg not work effectively in doing RegMAP legislation in the area.
5	<p>Terms & Conditions of Use IRR:</p> <ul style="list-style-type: none"> a. IRR can be executed if Baleg run effectively perform RegMAP. HR legislation forming the Parliament (Baleg, committee, BPLD) dn-quality local government, both academic, moral, character Pancasila Indonesia, Responsible to the people. b. IRR can be run effectively be supported with the proper budget support. c. Public awareness in the establishment of effective regulation through community organizations, religious organizations in the area, and based on local professional organizations.
6	<p>Stages of IRR:</p> <ul style="list-style-type: none"> a. RegMAP to map the priority needs of the establishment of law b. Committee formation regulation c. The establishment law through the implementation of methods (tools) RIA with stages : <ul style="list-style-type: none"> 1) Formulation of the problem or issue that brings out the need to issue a policy (action); 2) Identify objectives and targets to be achieved with the policy, taking into account risk assessment (risk assessment) 3) Identification of the various alternatives of action (options) for achieving objectives and targets; 4) Assessment of the benefits and costs (gains and losses) for each option, from the perspective of governments, communities, businesses,

¹⁹ Characteristics of the IRR is based on the results of the analysis of research on the formation of Education regulations at three study sites. In Semarang shows the characteristics of the formation of education legislation that is dominated by the power of Parliament who prefer keterpenuhannya formal aspects of the formation of legislation, so that the material aspect (which had a lot of material aspects of the material (the charge material is executive-education law Semarang City Government through the Department of Education Semarang) becomes optimal, it became one of the need to revise legislation pendidikan in Semarang City. Salatiga show on a balanced role between the parliament and the City of Salatiga in the formation of education regulation, despite many challenges encountered during the process of formation of the discussion of Article financing basic education. While in Surakarta showed similar characteristics to the city of Semarang is dominated by the power of parliament, but the difference Surakarta city Government through the Department of Education and NGOs are able to balance at the time of the discussion of the charge material (the material aspect). conclusion IRR compliance characteristics of two aspects of democracy, based on the material charge karakteristik and regional needs are met. While the optimization has not been effective because Baleg Baleg at that time was not yet formed.

	<p>consumers and the economy as a whole;</p> <p>5) Determining the best option (selected);</p> <p>6) Formulation of a strategy to implement and revise policies.</p> <p>d. Pour in the Academic Paper (element DPRD, Regency / kot, stakeholders, universities).</p> <p>e. The discussion is based on phasing the formation of legislation (Act No.10 of 2004).</p> <p>The draft Regulation has to strike a deal reported to the governor or regent / mayor by the Regional Secretary accompanied by a Memorandum of delivery Gubernur or regent / mayor to the head of parliament to be discussed by asserting things that are deemed to include the background and purpose of the preparation of drafting regional regulations resolution as well as the desired properties. The process of discussion carried out under the Rules of Procedure Parliament, prior to discussion in Parliament, first be scheduled by Parliament Consultative Committee (Panmus). Public hearings are substances capable of accommodating the needs, aspirations of the people (through parties stakeholders local regulation.</p> <p>f. Endorsement</p> <p>g. Enactment</p> <p>h. Dissemination</p>
7	<p>How To Use:</p> <p>a. Should Systematically through RegMAP continue using the RIA mechanism</p> <p>b. Through constructive discussion of RIA based on the analysis of the real needs of society based on public participation</p>
8	<p>Consequences:</p> <p>The establishment the Supervisory Board of the Regional Legislation (BPLD), consisting of universities and NGOs, Governments, parliaments, working synergistically with the Legislature (Baleg) and regulation committee.</p>

Things must exist in the articles (material charge) on the regulation of Education as an embodiment of the material aspects of democracy include: the management of education, education, informal education equality, rights and obligations of students, teachers and education personnel, establishment of educational units, the role community participation, monitoring, sanctions, basic functions and purposes of education, principles of education, pathways, levels and types of education, religious education, national education standards, curriculum, funding, accreditation, education facilities.

CONCLUSIONS AND IMPLICATIONS OF THE RESEARCH

The conclusion is that aspect of democracy is very urgent in the formation of local regulation in the Education Sector, both in the perspective of philosophical, juridical and sociological. Establishment of Education regulations is based on aspects of democracy to achieve education for all the access, control, and participation in education. The ideal model construction in the formation of local regulations called integrative RegMAP-RIA (IRR) model.

Implications of study in this dissertation are: (1) paradigmatic implications, the change of law paradigm formation. So if the law is often the formation of the legislative and executive, with this process moves toward the formation of the substance of regulation of public education needs a real education in realizing a justice and welfare, (2) theoretical implications, legal discovery in the formation of law for Education and Perda others in general (not just rely on legislative-executive) but must use the analysis and RIA RegMAP simply by effecting society (stakeholder) and expert-parliament, executive in constructive synergistically in the process of working of the law on legislation groove Law. 10 in 2004 which capable in producing quality regulations in the Education Sector. Establishment of Education regulations for these are only based on normative aspects have shifted in a progressive and balanced to the material aspects of democracy in charge of pouring the material, (3) Implications for Praxis (recomendasi), among others:

- a. All of the formation of local regulation, especially the field of organizing Education must rely on aspects of democracy. The former Regulations (DPRD-legislative), Local Government, through the Law Department Mayor (Executive) must be able to analyze in a concrete, scientific and empirical basic of regional regulations establishment. Political configuration in the regulation committee for the Education Sector should be able to actualize the interests of whole society, real rather than the interests of the party or party's vision and mission.
- b. Avoid the formation of Local Regulations for the Education Sector that is not based on aspects of democracy. It is recommended the establishment of local regulation in field of education should be able to realize a society in obtaining a good education in access, control, and participation.
- c. Using of the ideal model construction Integrative RegMAP-RIA in the formation of Education regulations. This construction can be done by modifying the uniqueness, characteristics and knowledge of local values in societies where the educational needs of local regulations in the form of the legislation still rests on the Law No.10. of 2004, Law No.32 of 2004 and Permendagri No.16 of 2006.

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