

Reviewing the "WelfareState" in Local Governments Around the Capital City of the Archipelago

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Abstract

Regencies/cities in East Kalimantan are still far from fulfilling welfare, because the availability of infrastructure is uneven and public services are constrained by distance. Regional expansion is expected to solve welfare problems, but it has not yet provided welfare. Since East Kalimantan was designated as an IKN, the regency/city area as well as a buffer area of the IKN strives to meet the welfare that has not been fulfilled. Using normative-empirical legal research methods, normative research found that Law 23/2014 on Regional Government has regulated the realization of welfare through regional expansion more comprehensively than the previous regulations on local government. Meanwhile, empirically, the buffer regional government around the IKN still has problems in public services and infrastructure that directly affect the welfare of the community.

Keywords: buffer areas; IKN; welfare

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Introduction

Local governments at the district/city level have broad authority to manage their government based on regional autonomy. The essence of regional autonomy is an effort to meet the aspirations of various parties in the authority owned by the local government (Dan and Autonomy 2020). The authority that is the direct business of local governments is in the affairs of concurrent government, then divided into mandatory and optional affairs. Choice affairs are related to what can be implemented by local governments and the potential of the region. The central government regulates the election affairs run by local governments due to the heterogeneous conditions of the community and regions in each region (Dinoroy M. Arintonang 2016). Meanwhile, mandatory affairs in basic services include education, and public works (infrastructure) and are not related to basic services such as population administration and civil registration (services).

Regional autonomy is given to fulfill what the community wants, including good infrastructure, fair public services, and so on. Regional autonomy is an instrument used by the state to expand the implementation of democracy to realize general welfare (Nur Wijayanti 2017). In a welfare state, it is known by the name *welfare state*. Meaning *Welfare state* from 'The word 'welfare' is interpreted as 'the state of being happy, healthy, or successful'. In free translation, the word 'welfare' contains several meanings, namely a state of happiness, health, or success (Elviandry, Khuzadaifa Dimayati 2019). Riyanto and Kovalenko said the welfare state is based on the principle of people who can help the underprivileged as a form of high solidarity to meet basic needs (Riyanto and Kovalenko 2023).

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Welfare in the community can be achieved through regional expansion because public services with geographical distances and difficult access are close so that they can be reached (Ali, City Mawar, & Noordin Shahh 2020). Regional expansion to improve community welfare, and equitable distribution of public services such as education, health, and population (Husin and Rosmawati, n.d.). R Gani Muhammad, Head of the Legal Bureau of the Ministry of Home Affairs said that the purpose of regional autonomy (regional expansion) is a way or approach to accelerate regional development and the new autonomous regions that are formed are entities both as a geographical, political, economic, social and cultural unit (Utami/Logo/LA 2020).

Regional expansion is regulated in *regeling* to local government. The inclusion of a provision for regional expansion was first included in 1999 in Law Number 22 of 1999 concerning Regional Government. Previously, the Local Government Law; Law No. 22 of 1948 concerning the Stipulation of Principles Regarding Self-Government in Regions that Have the Right to Regulate and Manage Their Households, Law No. 73 of 1957 concerning Amendments to the Law on Principles of Regional Government 1956, Law No. 18 of 1965 concerning Principles of Regional Government and Law No. 5 of 1974 concerning Principles of Government in Regions have not regulated provisions related to regional expansion.

Although Law 22/1999 regulates regional expansion, it does not fully explain regional expansion. As reads Article 6 paragraph (3), states that the criteria for regional expansion are delegated to government regulations. In the replacement law, Law Number 32 of 2004 concerning Regional Government has undergone major changes regulating regional expansion, marked by a separate chapter along with special areas, the complete chapter on the formation of regions and special areas. Even so, it has not explicitly mentioned welfare as a condition for regional expansion. In the period 1999-2014, before the birth of the latest local government law and its amendments, it was recorded that there had been regional expansion, both at the provincial and district/city levels as many as 215 regions (One Domestic Government Data 2021).

One of the regional expansions based on Law 32/2004 occurred in East Kalimantan Province (hereinafter referred to as East Kalimantan). The expansion occurred in the upstream area of East Kalimantan, namely Mahakam Hulu Regency (Mahulu) as a result of the expansion of West Kutai Regency (Kubar) in 2013. Until now there are 10 regency/city governments in East Kalimantan Province: Samarinda City, Balikpapan City, Bontang City, Kutai Kertanegara Regency (Kukar), Kubar Regency, East Kutai Regency (Kutim), Paser Regency, North Penajam Paser Regency (PPU), Berau Regency and Mahulu Regency. The expansion in East Kalimantan is carried out to bring the administrative service distance between the regions and suburbs and the city center closer, create superior human resources evenly, and provide quality infrastructure. Sri Wahyuni, Regional Secretary of East Kalimantan Province, said that the problems of human resource quality, infrastructure development, the environment, flood control, and improving public services are still strategic issues for the East Kalimantan provincial government (Cinthia 2022).

Moreover, since 2022, East Kalimantan has been designated by the Central Government as the new capital of the country called the Nusantara Capital City (IKN) replacing the Special Capital Region (DKI) of Jakarta. Regency/City governments in East Kalimantan that are buffer areas or IKN partners are no longer only for the regions, but to support the existence of IKN. Katsul Wijaya, regional secretary of The Paser Regency, said that The Paser Regency is a buffer that participates in the development of the IKN (Marsila 2023). Yudianto Rihartono, head of Bapepeltbangda of Kubar Regency, called Kubar a buffer area for economic activities (Administrator 2023). Former Governor of East Kalimantan Isran Noor for the 2018-2023 period called the cities of Samarinda and Balikpapan City as a buffer for the IKN by preparing educational facilities and infrastructure (East Kalimantan 2019).

From the description above, the researcher is interested in knowing how regulations related to regional expansion are oriented towards welfare? And what are the conditions of community welfare in the buffer area in the IKN?

Method

This research is based on the type of normative-empirical legal research. Normative Law Research uses a normative approach or laws and regulations (Peter Mahmud Marzuki 2010). The approach to laws and regulations in normative law research aims to comprehensively look at the provisions that regulate the authority of local governments, especially community welfare. Empirical legal research is research that wants to see in real terms legal problems in the field of how the formed law works in society (Muhammad Syahrums 2022). Empirical facts will be faced with laws and regulations so that the law can work properly and correctly. The results achieved in empirical legal research will answer the problems that are supporters and hinder in providing welfare to the community.

Discussion

Welfare State-Based Regional Expansion

Before the enactment of Law 23/2014, regulations related to local governments did not comprehensively regulate the formation or expansion of welfare-oriented regions or *welfare state*. From a search in Law 32/2004, the word and redaction of welfare are found in the section weighing the letter a which mentions welfare as a constitutional mandate to realize justice. The considerations or considerations section contains the consideration of a regulation that is briefly outlined from the main points of the regulations that are formed (Indonesia 2011). The considerations are still general, not specifically explaining the provisions that are regulated. Then Article 2 Paragraph (3) discusses the issue of regional autonomy being carried out for welfare and Article 13 Paragraph (2) explains the affairs of the provincial government's choice of potential to improve welfare and Article 14 Paragraph (2) *idem* with Article 13 paragraph (2) with the scope of the Regency/City. The direction of the regulations in Article 2 Paragraph (3), Article 13 Paragraph (2), and Article 14 Paragraph (2) explain that welfare can only be achieved if the government in the local government runs with the widest possible autonomy. However, it has not specifically contained, for example, welfare requirements to become a new autonomy.

Furthermore, Article 27 Paragraph (1) letter b explains that regional heads and deputy regional heads are obliged to improve the welfare of the people. Article 45 letter d states that DPRD members should fight for the welfare of the people in the region. Article 27 Paragraph (1) b and Article 45 letter d do not regulate welfare as a condition for regional expansion, but the obligation of regional administrators to provide literature to the community. Meanwhile, Article 129 paragraph (2) talks about the management of civil servants who pay attention to welfare. It is the same as before, that the provisions of Article 129 paragraph (2) do not discuss the conditions for regional expansion. Finally, Article 195 states that regions can cooperate with other regions to realize welfare. The last legal provision is oriented towards communication and cooperation between regions, there is no mention at all of regional expansion oriented towards welfare.

In the Law on Amendments to Local Government Law 8/2005 and Law 12/2008, there is no regulation on welfare. Law 8/2005 regulates the potential for interference or postponement of regional head elections and Law 12/2008 regulates equality and justice in the replacement of regional heads and deputy regional heads. The absence of a special provision to include people's welfare as a condition in the expansion is illustrated by the conditions of the regions that bloomed in the period before the enactment of Law 23/2014. It is recorded that from 1999-2014 regional expansion was carried out. The expansion occurred evenly with a total of 215 districts/cities (One Domestic Government Data 2021). Requests for expansion continue to be encouraged but the central government has implemented a moratorium. The moratorium was carried out by the government because the regions that had been developed using Law 32/2004 had not provided welfare to their people, which caused new problems. Mahfud MD said that regional expansion has not provided welfare to the community and burdens the budget on the State Budget instead of being sourced from the APBD (Rakhmat Noor Hakim 2019). The number of local governments around 514 districts/cities is almost 80% financed by the central government through the state budget, the burden on the state budget will increase if the 314 proposals for regional expansion of districts/cities can even increase at any time (Ministry of Home Affairs 2019).

The requirements of DOB as an indicator of welfare in regional formation have only been enacted in Law 23/2014. Article 34 paragraph (1) letter b states that there are basic requirements for regional capacity that are possible to develop regions in realizing community welfare. The regulation of welfare as a basic requirement is a hope for regional expansion, no longer limited to forming or merging regions. However, regional expansion must meet indicators that confirm that a region has achieved prosperity. In the explanation in article 31 paragraph (2) letter b which is inherent in article 34 paragraph (1) accelerating the improvement of community welfare" is an increase in the human development index which is characterized by an increase in health, education, and community income. In law, the principle is known as *Non Retro Active* which means that the law must not apply retroactively. The consequences must not apply retroactively that the provisions stipulated in the laws and regulations apply in the future (Raharjo 2008). So after the enactment of Law 23/2014 which regulates the conditions for regional expansion by including welfare, it applies to the next regional expansion.

In fact, the basics *Non-Retro Active* on the expansion of the district prevails. However, regional expansion is still carried out even though the moratorium or temporary suspension of regional expansion is imposed by the government. The basic requirements for regional expansion to meet welfare based on Law 23/2014 are ignored by the new regional expansion in Papua. Indicators of the realization of the welfare of a government include fulfilling educational, infrastructure, and economic facilities. Counter-expansion actors in Papua said that expansion is not a solution to solve welfare problems, because Papua's problems are complex on all fronts (Sumirat and Eriyanto 2023). Responding to regional expansion in Papua, the Papuan People's Assembly rejected regional expansion in Papua because of problems with regional expansion areas due to inadequate facilities, inter-tribal conflicts, and armed conflicts (mrppa 2022).

The provisions contained in the law remain *guidance*, understood, and implemented. Legal interests must be the main of political interests, especially the interests of certain groups or groups. If the provisions of the law are violated, it is far from the purpose of the law, namely certainty, justice, and utility. In the regional expansion rules of Law 23/2014 the formation of new regions is not exempt under certain conditions, such as political reasons or other reasons. Like the formation of regions in Papua, the government should prioritize the conditions that have been regulated in laws and regulations, namely fulfilling welfare, for example in the fields of education and health. The state of education in Papua has not gone well, starting from the facilities, equitable distribution of teachers to the learning curriculum and school management (Afriansyah 2023). Likewise, with the ongoing health conditions in Papua, the management of health services is still a problem, including uneven health workers (Kadam and Setiadi 2021).

Condition of "Welfare State" in the Area Around IKN

The capital city of Nusantara or IKN should be the center of the new government which is different from the condition of the center of government in Jakarta and can even be better. DKI Jakarta is experiencing severe environmental problems as a result of development and economic activities (Nabillah 2022). Support for the new government must also be obtained from autonomous regions around the IKN that organize the government autonomously or independently. Deep *Regulation* The local government stated that regional autonomy is The right, authority, and obligation of autonomous regions to regulate and manage their government affairs and the interests of local communities in the system of the Unitary State of the Republic of Indonesia (Law 2014a). The broad autonomy of local governments, once considered a threat to national integration, is now tightening national integration (In 2013). According to Bagir Manan, autonomy is referred to as the spearhead to realize welfare, because local governments are the center of welfare (Manan 2004).

The authority of the local government is broad and as a welfare center, not all of its authority can be carried out. The development carried out is not enough to only have authority but must be supported by good policies and finances from the government. Local governments tend to return the authority they already have to the central government because they are not ready and unable to manage road infrastructure (Endurance 2022).

The inability of local governments has an impact on uneven development, and disparities in the

availability and quality of infrastructure, including the empowerment of human resources only for certain groups. Problems in the regions are urgent in reality so regional expansion is needed (Shame 2020). Therefore, the sound of regional expansion is heard so loud in the regions. Votes for equitable development regardless of the location of the area, whether it is in the middle of the city or on the outskirts of the city.

The Regional expansion includes East Kalimantan Province which is set to become an IKN in 2022. East Kalimantan Province with a large area of 194,489 km² experiencing difficulties in development, so it is necessary to distribute development evenly for all levels of society. Finally, in 2012 there was an expansion of a new province that was the parent of East Kalimantan, named North Kalimantan Province (hereinafter referred to as Kaltara). Some districts in East Kalimantan joined Kaltara, bringing the area of East Kalimantan to 129,066.64 km² (East Kalimantan Provincial Government 2024). Regional expansion, in addition to the reduction in area area, the regency/city area used to be in East Kalimantan Province has shifted to Kaltara Province. Development that has not been or has not been touched finally gets welfare. The people of Bulungan Regency from Kaltara province said that the expansion of the province provides convenience in obtaining public services because of the distance that has been reached and decent road infrastructure both by land and air (Padillah Safitri and Permatasari 2021). Likewise, for the people of Tanah Tidung Regency from Kaltara Province, the expansion aims to provide ease of services provided by the government to the community and realize equitable development (Maulana, Supriyono, and Hermawan 2013).

Regional expansion in East Kalimantan province is not only the merger of districts/cities into provinces. In realizing equitable development and community welfare, in 2013 it was approved the expansion of a new district called Mahulu Regency (Law 2013). Not only Mahulu Regency but there are also several regions in East Kalimantan Province that are discussed to form new autonomous regions (DOB), such as Kutai Pesisir Regency, Samarinda Regency, and Sangkulirang Regency. Muhammad Samsun, Deputy Chairman of the East Kalimantan Provincial DPRD, said that several districts/cities in East Kalimantan continue to discuss DOB because services to the community are closer (adv/hms7 2021). Regional expansion is the hope that justice is distributed evenly in a community that requires the presence of the government. A government that is autonomous independently and democratically brings the government closer to different people can be served reasonably (Manan 2004). Currently, the development of districts/cities in East Kalimantan does not only focus on local governments but can also support IKN. The regency/city governments around the IKN area become a buffer or partner for the IKN. Amran, Director of Regional, Urban and State Boundaries of the Ministry of Home Affairs, said that the needs of the IKN are met by local governments who are a buffer as well as a partner of the IKN (News from the Directorate General of Regional Development 2023).

The readiness of the regions around the IKN to become a buffer area or IKN partner can be seen in the 2023 report on the implementation of local government (hereinafter abbreviated as LPPD). The report provided comes from one year of work by the local government, both provincial and regency/city governments. Local governments will get the status of the government performance report held which consists of; very low, low, medium, high, and very high. LPPD indicators in determining the performance status of local governments are based on: *first*, macro performance achievements, namely the human development index (HDI), poverty rate, unemployment rate, economic growth, per capita income, and income inequality; *second*, performance achievements in the implementation of local government affairs based on performance indicators in each matter; *third*, the achievement of accountability for local government performance by assessing the achievement of the regional head's performance agreement on the performance of government agencies; and *fourth*, service standard reports that contain the results of service achievements, service constraints and budget availability (Directorate of Performance Evaluation and Regional Capacity Building 2023). The LPPD indicator to determine the performance status of local governments, in Article 31 Paragraph (2) of Law 23/2014 is an indicator of accelerating the improvement of welfare in the community (Law 2014b).

As a result, in running the government, the IKN buffer areas each obtained government performance status, namely Samarinda City with high status; Balikpapan City has medium status; PPU Regency has medium status; Paser Regency has medium status; Kukar Regency has medium status; Bontang City has medium status; East Kutai Regency has medium status; Berau Regency has medium

status, Kubar Regency has medium status and Mahulu Regency has low status (National 2024). The performance status obtained by the buffer areas or IKN partners, even though it is highly achieved, does not mean that welfare has been implemented. Moreover, the implementation of the government with medium and low status. Samarinda City as a buffer area of the IKN has obtained a high-performance status, but there are still areas that are far from welfare to the community and require the development of basic services, such as clean water and infrastructure. Dwi Siti Noorbayah, Sungai Kunjang Sub-district Head of Samarinda City, said that the Loa Kumbang village area, which borders Kukar Regency, is still in poor infrastructure. In addition, to the community's basic need for clean water, residents depend on the river (Zul 2023).

Meanwhile, Kukar district, which is directly adjacent to the IKN, has a moderate level of government performance status, in line with the development carried out. The fulfillment of infrastructure in Kukar is not good is still found, such as the road in Loa Kumbang village which borders Samarinda City. Another location, Sunggono, Regional Secretary of Kukar Regency, said that the problems in Kukar range from environmental damage, inequality in education and health, and uneven development between regions, including the availability of infrastructure that is not optimal (Diskominfo 2024). Likewise in areas directly adjacent to the IKN, namely PPU Regency. Welfare has not been well felt by the community. How could it not, through the Ombudsman of the Republic of Indonesia, the East Kalimantan Representative released data on public services in PPU in 2022 with a fairly low predicate with a score of 55.8 (Erwan Masbanjar 2023). Located right in the IKN, PPU Regency gets a high-performance status instead of a medium-performance status. Of course, through good performance in organizing the government to meet the welfare of the community. Another thing is the city of Balikpapan, the entrance to the IKN. Andi Arif Agung, Chairman of the Balikpapan City DPRD Bapemperda, revealed that in addition to the traffic congestion that plagues the city of Balikpapan, the problems faced by Balikpapan are the provision of settlements, the need for clean water and social inequality will increase (Swara4 2024). In line with what was conveyed by Sabaruddin Panrecalle, Deputy Chairman of the Balikpapan City DPRD said that the problems in Balikpapan are related to the availability of clean water, infrastructure development that is running slowly, once flood control is carried out (Maulana 2024).

Balikpapan's condition towards infrastructure, as well as Kubar Regency with moderate performance status. Infrastructure problems also occur, as a result of which the welfare of the community cannot be realized. There are still points in the area with damaged infrastructure conditions, affecting public services. Veridiana Huraq Wang, Chairman of Commission III of the East Kalimantan Provincial DPRD, explained that road infrastructure in Kubar is still experiencing problems with road damage in several villages that affect public services (Swara Kaltim 2024). Meanwhile, areas with low-performance status in Mahulu Regency are more concerning. Mahulu Regency since it was ratified until now (2024) has not been running well. Welfare for the community has not been achieved. Spatial planning, road infrastructure, and physical office buildings are not 100% available. Infrastructure development in Mahakam Ulu Regency only had a paved road for the first time in 2018, 5 years after experiencing expansion, which is 300 meters long from the total target of 145 kilometers (Henry 2022). The Regent of Mahulu, Bonifasius Belawan Geh, said that the development of infrastructure and public services is an even problem in Mahulu Regency (up to 2024).

Poor infrastructure will provide obstacles and infrastructure with a good system supports regions to increase the rate of economic growth and community welfare rather than areas with limited infrastructure (Safira., Djohan, S. 2019). Andersen in Sarbini and Sigit Sapto Nugroho said *Welfarestate* can be achieved by 3 things: first, guaranteeing the minimum income of individuals and families; second, individuals and families meet certain "social contingencies" (e.g., sickness, old age, and unemployment) and third, citizens regardless of status or class get the best standards and agreed social services (Sarbini 2023).

The support or partners of the IKN can support an inclusive and integrity central government. It is an alternative place or the main choice for living or just traveling. The development of the IKN must be integrated with other areas around the IKN because it will have an impact such as the Special Capital Region (DKI) of Jakarta with the Bogor, Tangerang, and Bekasi areas (Sari 2022). Regency/city governments around the IKN area can synergize with other governments, including the IKN authority, and

build good communication so that each government carries out what has become its authority in infrastructure and human resource development. The lack of infrastructure threatens to fail the purpose of moving the capital city, including for equitable development and reflecting the identity of the Indonesian nation (Kementerian_PPN/Bappenas 2020). The government has a direct role to protect and prosper its people both in the economic and social context (Lismanto and Utama, 2020).

Conclusion

Regional expansion is a way to achieve community welfare through equitable development. Welfare indicators consist of the inclusivity of public services, the availability of infrastructure, and the resolution of social problems in the community. Regional expansion based on Law 32/20024 which has been amended several times has failed. The welfare of the community cannot be achieved, which is a burden on the state to provide subsidies to the new autonomous regions. The government has carried out a moratorium or an effort to temporarily stop regional expansion, but it is excluded from regional expansion in Papua Province. In 2014 through Law 23/2014, the affirmation of the requirements in regional expansion so that expansion is carried out in areas that have met the welfare requirements. Even though welfare conditions have been listed, in 2024 regional expansion in Papua Province will still be approved. Law 23/2014 as a guideline for regional expansion can be complied with as a welfare traffic regulator so that the welfare received by the community does not harm other communities.

Welfare fulfillment can be achieved in all regions, including the local government of East Kalimantan Province. Since being designated as IKN, the local government of districts/cities in East Kalimantan Province has become a buffer area or partner of the IKN. The existence of IKN cannot run on its own without being supported by a buffer area. Of the 10 districts/cities in East Kalimantan Province that function as a buffer for the IKN, the implementation of local governments has not gone well. In the 2024 LPPD from the 2023 activities, there is 1 region with high-status government performance, 8 regions with medium status, and 1 region with low status. The indicators used in LPPD, in Law 23/2014 are indicators to realize welfare in the community. The report provided by the local government is in line with the implementation of local government, where there are problems such as uneven public services, infrastructure not being felt by all communities in buffer areas, and social inequality due to development not reflecting justice.

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