

Implementation Of The Archipelago Principle In Regional Regulations On The Protection And Empowerment Of Farmers And The Tobacco Products Industry In East Java

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ABSTRACT

Tobacco and the Tobacco Products Industry have a strategic role in improving the community's economy, absorbing labor, and state or regional revenues from both the tax and excise sectors, especially for East Java which is the main Tobacco producing region and is a center for IHT. However, this commodity and sector have continued to experience a quantitative decline over time. This is due to strict control policies in the Tobacco and IHT sectors and the still weak protection and empowerment of Tobacco Farmers and business actors in the IHT sector. Therefore, this sector requires regulatory support that can provide guarantees of protection and business continuity both in the on-farm and off-farm sectors. The application of the Archipelagic Principle in the Content Material of Regional Regulations on the Protection and Empowerment of Farmers and the Tobacco Products Industry in the Form of Regulations in East Java is reflected in the provisions of the articles in the Regional Regulation of East Java Province Number 8 of 2024 concerning the Development and Protection of Tobacco. which is based on Pancasila and the 1945 Constitution and applies the principles of the Unitary State.

Keywords: Archipelagic Principle, Tobacco, East Java, Empowerment, Farmers

INTRODUCTION

The Republic of Indonesia is a State of Law, a state of law is one that is based on law (*rechtsstaat*) not based on mere power (*machtsstaat*) and its government must be based on a constitutional system in this case the 1945 Constitution of the Republic of Indonesia as the constitution of the Republic of Indonesia. Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia stipulates that the earth, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people, one of the natural resources owned by Indonesia is the tobacco plant.

One example of IHT is the Cigarette Industry, the cigarette industry is an industry that has a much larger contribution to tax revenue compared to other sectors. The cigarette industry with an industrial size of IDR 326 trillion, contributes 61.40% of the total value of the cigarette industry or IDR 200 trillion in taxes. One interesting comparison is that state-owned enterprises (BUMN) with an industrial size of IDR 1,754 trillion, only contribute 9.50 percent of their industry value in the form of taxes of IDR 167 trillion. The cigarette industry is also a sector that contributes an average of 10.5 percent to tax revenue from 2013-2017, with high revenue growth, although on the one hand the volume of the cigarette industry has decreased.

The implementation of the Archipelagic Principle is closely related to the Protection and Empowerment of Farmers and the Tobacco Product Industry in East Java as the largest tobacco producer in Indonesia, in this case the Implementation of the Archipelagic Principle in the formation of legislation in East Java Province. high acceptance, even though on the one hand the volume of the cigarette industry has decreased.

In 2024, the East Java Provincial Government enacted the East Java Provincial Regulation Number 8 of 2024 concerning the Development and Protection of Tobacco. The background to the enactment of this Regional Regulation is that Tobacco and IHT have a strategic role in improving the community's economy, absorbing labor, and state or regional revenues from both the tax and excise sectors, especially for East Java which is the main Tobacco producing region and is a center for IHT. However, this commodity and sector have continued to experience a quantitative decline over time. This is due to strict control policies in the Tobacco and IHT sectors and the still weak protection and empowerment of Tobacco Farmers and business actors in the IHT sector. Therefore, this sector requires regulatory support that can guarantee protection and business continuity both in the on-farm and off-farm sectors. . an explanation of the material content of the Protection and Empowerment of Farmers and the Tobacco Product Industry in the form of regulations in East Java Province will be discussed in the discussion of this legal research.

LITERATURE REVIEW

Principles of Good Legislation

The principles for the formation of Legislation according to Prof. A. Hamid S. Attamimi are legal principles that provide guidelines and guidance for the pouring

of the contents of regulations into appropriate forms and structures, for the formation with appropriate methods, processes and procedures for formation.

Purnadi Purbacaraka and Soerjono Soekanto, introduced several principles in legislation (Soekanto, 2017), namely:

1. The law may not apply retroactively.
2. Laws made by higher authorities have a higher position.
3. Special laws override general laws (*lex specialist derogate lex generali*).
4. The law that came into effect later cancels the law that came into effect earlier (*lex posterior derogat lex priori*).
5. The law cannot be contested.
6. The law is a means to achieve as much spiritual and material well-being as possible for society and individuals, through renewal or preservation (the principle of *welvaarstaat*).

The Principle of Archipelago

According to the provisions of Article 6 paragraph (1) letter (e) of Law No. 12 of 2011 concerning the Formation of Legislation, the Archipelagic Principle is that every Content of Legislation always takes into account the interests of the entire territory of Indonesia and the Content of Legislation made in the regions is part of the national legal system based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

The archipelagic norms in the 1945 Constitution of the Republic of Indonesia are important to be interpreted correctly, the above investigation needs to be proven epistemologically, ontologically, and axiologically. The urgency of interpreting the archipelagic will at least provide indicators or elements that must be fulfilled as the embodiment of the archipelagic principle, which is a necessity in every formation of legislation that the content material reflects the archipelagic principle. The formation of nationally applicable legislation will be good if it takes into account the diversity of conditions and situations of each region, because the territory of the Republic of Indonesia as a single unit of land, inland waters, archipelagic waters and

territorial seas along with the seabed and land beneath it, as well as the airspace above it, including all the sources of wealth contained therein.

Regional autonomy

Linguistically, the word "autonomy" comes from the Greek *autonomia*, meaning "autos" (self) and "nomos" (descent). Autonomy, in this context, means having one's own rules and laws. The term "autonomy" later evolved into "self-government." Self-government refers to government regulated and implemented by each region, commonly known as regional autonomy.

Prof. Dr. Jimly Assiddiqie, SH, stated that regional autonomy is the right, authority, and obligation of an autonomous region to regulate, manage, and administer its own government based on applicable laws and regulations.

The implementation of regional autonomy may seem simple. However, it actually carries a rather complex meaning, as it encompasses the meaning of democratization in terms of political maturity of local people, community empowerment, and simultaneously, the pursuit of equitable public welfare.

METHODS

The approach methods used in this research are the statute approach and the conceptual approach.

Analytical legal research always emphasizes secondary data sources. Secondary data in research is obtained from primary, secondary, and tertiary legal materials. This research draws on the following secondary data sources:

Primary legal materials

Primary Legal Materials, namely binding legal materials. Here, the law consists of statutory regulations such as: Law Number 19 of 2013 concerning the Protection and Empowerment of Farmers, Law Number 39 of 2014 concerning Plantations, Law Number 22 of 2019 concerning the Agricultural Cultivation

System and Regional Regulation of East Java Province Number 8 of 2024 concerning the Development and Protection of Tobacco.

1. Secondary legal materials

Secondary legal materials provide explanations of primary legal materials. The secondary legal materials used in this study utilize books on human rights and migrant worker law.

3. Tertiary legal materials

Tertiary legal materials are materials that provide guidance and explanations for primary and secondary legal materials. The tertiary legal materials used for this research are the Great Indonesian Dictionary and legal dictionaries to support the author's research.

DISCUSSION

CONTENT MATERIAL ON THE PROTECTION AND EMPOWERMENT OF FARMERS AND THE TOBACCO PRODUCTS INDUSTRY IN THE FORM OF REGULATIONS IN EAST JAVA PROVINCE

Protection and Empowerment of Farmers and the Tobacco Industry in the form of regulations in East Java Province

East Java, as a tobacco-producing province in Indonesia, requires tobacco regulations in the form of Regional Regulations specifically governing tobacco in East Java Province. Tobacco regulations are intended to create a tobacco business climate that is able to provide protection and development of tobacco businesses in East Java from upstream to downstream that are

strong and sustainable in an effort to improve community welfare, ensure the availability of IHT raw materials, maintain the richness of East Java's unique tobacco germplasm, and maintain the sustainability of kretek as a national heritage.

So that in 2024 with the joint approval of the East Java Provincial DPRD and the Governor of East Java, the East Java Provincial Regulation Number 8 of 2024 concerning the Development and Protection of Tobacco was ratified, hereinafter abbreviated as the Tobacco Regional Regulation.

The content of the Tobacco Regional Regulation concerns planning and determination; research; development of cultivation, IHT and marketing; utilization; control; guidance, supervision and evaluation; information systems; Protection and empowerment of farmers and IHT; financing; establishment of the East Java Tobacco Forum (FPJT); and community participation. Tobacco regulations are intended to create a Tobacco business climate that is able to provide protection and development of tobacco businesses in East Java from upstream to downstream that is strong and sustainable in an effort to improve community welfare, ensure the availability of IHT raw materials, maintain the wealth of East Java's unique tobacco germplasm and maintain the sustainability of kretek as a national heritage.

Material on the Protection and Empowerment of Farmers and the Tobacco Industry in the Form of Regulations in East Java Province

The scope and direction of the regulations of the Regional Regulation of East Java Province Number 8 of 2024 concerning the Protection and Development of East Java Tobacco have been explained in the academic paper of the Draft Regional Regulation of East Java Province concerning the Protection and Development of East Java Tobacco.

The scope of the material on the protection and empowerment of farmers and the tobacco industry in the form of regulations in East Java Province includes:

1. Planning and Determination
2. Research
3. Tobacco Cultivation Development, IHT and Marketing
4. Utilization

5. Guidance and Supervision
6. Control
7. Information Systems
8. Protection and Empowerment of Farmers and IHT
9. Partnership
10. Financing
11. Tobacco Forum
12. Community Participation
13. Prohibition

The above content will be further regulated in the implementing regulations of the Regional Regulation of East Java Province Number 8 of 2024 concerning the Protection and Development of Tobacco in the form of a Governor's Regulation, the Governor's Regulation is currently in the process of being drafted by the East Java Provincial Government.

IMPLEMENTATION OF THE ARCHIPELAGO PRINCIPLE IN THE CONTENT OF REGIONAL REGULATIONS ON THE PROTECTION AND EMPOWERMENT OF FARMERS AND THE TOBACCO PRODUCTS INDUSTRY IN THE FORM OF REGULATIONS IN EAST JAVA

The Meaning of the Principle of Nusantara

Paul Scholten argues that legal principles and the principles for establishing proper legislation are not legal rules (*rechtregel*). To be considered a legal rule, a legal principle must be so general that it either does not say anything at all or is too verbose (*of niet of veel to veel zeide*). In other words, legal principles are not law, but law cannot be understood without them.

According to Sudikno Mertokusumo, legal principles or legal principles are not concrete legal regulations, but rather are basic thoughts that are general in nature or are the background of concrete regulations that are found in and behind every legal system that is embodied in statutory regulations and judges' decisions which are positive law and can be found by looking for the general characteristics of these concrete regulations.

The principle of unity is regulated in the provisions of Article 6 of Law Number 12 of 2011 concerning the Formation of Legislation as amended several times, most recently by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning

the Formation of Legislation in the region, which is part of the national legal system based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

From this explanation, every Regional Regulation, whether at the provincial or district/city level, must consider the national legal system based on Pancasila and the 1945 Constitution of the Republic of Indonesia in the content of the regional regulation. The following table will facilitate understanding of the substantive categories of the archipelagic principle that must be reflected in the content of Indonesian legislation:

Dibedakan atas Wilayah Berlakunya Peraturan Perundang-undangan	
Jika Berlaku di seluruh wilayah Republik Indonesia	Jika Berlaku di Daerah
Memperhatikan kepentingan seluruh wilayah Indonesia	Memperhatikan bagian dari sistem hukum nasional yang berdasarkan Pancasila dan UUD NRI 1945
Penerapan Asas Keadilan dan Asas Kedaulatan Rakyat	Penerapan Asas/ Prinsip Negara Kesatuan

Pancasila and the 1945 Constitution are the basis for the formation of regional regulations in implementing the archipelagic principle through the content of regional regulations. In the Regional Regulation in East Java Province concerning tobacco, it does not explicitly mention the archipelagic principle, but through article analysis, it can be found that the application of the archipelagic principle is in the Regional Regulation of East Java Province Number 8 of 2024 concerning the Development and Protection of Tobacco.

Implementation of the Archipelagic Principle in the Content of Regional Regulations on the Protection and Empowerment of Farmers and the Tobacco Industry in the Form of Regulations in East Java

Regional Regulation of East Java Province Number 8 of 2024 concerning the Development and Protection of Tobacco does not explicitly mention the principle of archipelago, the provisions regarding the Principles in this Regional Regulation are regulated in the provisions of Article 2, the principles mentioned include benefit, sustainability, integration, mutual cooperation, justice, harmony, alignment and balance, environmental sustainability and local wisdom, decentralization; deliberation; diversity and independence and protection.

East Java Provincial Regulation Number 8 of 2024 concerning the Development and Protection of Tobacco focuses on natural products of tobacco and clove plants, in accordance with the original mandate of Article 33 paragraph 3 of the 1945 Constitution which stipulates that "the land, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people." Tobacco and clove plants through this Regional Regulation are natural products intended for the welfare of the people.

Bagir Manan stated that Article 33 of the 1945 Constitution constitutes a moral and cultural message in the Republic of Indonesia's constitution regarding economic life. This article not only provides guidance on the structure of the economy and the state's authority to regulate economic activities, but also reflects an ideal, a belief that is firmly held and fought for.

Consistently implemented by government leaders. The Indonesian leaders who drafted the 1945 Constitution believed that the ideal of social justice in the economic sector could achieve equitable prosperity, namely social justice for all Indonesian people. Therefore, Article 33 of the 1945 Constitution, Chapter XIV, entitled "Social Welfare," was established.

The first application of the archipelagic principle in the Regional Regulation of East Java Province Number 8 of 2024 concerning the Development and Protection of Tobacco is contained in Article 3 which explains the purpose of establishing this regional regulation, including:

- a. creating a tobacco business climate that is capable of providing strong and sustainable development and protection of tobacco businesses in East Java from upstream to downstream in an effort to improve community welfare;
- b. ensure the availability of IHT raw materials;
- c. maintaining the wealth of East Java's unique tobacco germplasm; and
- d. maintaining the sustainability of Kretek as a national heritage.

Tobacco business climate that is able to provide strong and sustainable development and protection of tobacco businesses in East Java from upstream to downstream in an effort to improve community welfare in accordance with the mandate of Article 27 paragraph 2 of the 1945 Constitution from the perspective of improving the welfare of farmers as people who

manage tobacco products and Article 33 paragraphs (3) and (4) from the perspective of development and protection of tobacco businesses in East Java from upstream to downstream.

Furthermore, the availability of IHT raw materials, maintaining the wealth of East Java's unique tobacco germplasm and maintaining the sustainability of Kretek as a national heritage in accordance with the provisions of Article 32 paragraph (1) and Article 33 paragraph (3) of the 1945 Constitution, IHT raw materials in East Java are very important because East Java is the province that is the highest supplier of the tobacco industry in Indonesia. In 2021, the output of the tobacco industry (IHT) ranked second largest of the total manufacturing industry output in East Java. Its contribution was 23.65 percent of the East Java processing industry's GRDP. East Java IHT also generated tobacco excise of IDR 115.10 trillion or 61 percent of the total national tobacco excise revenue of IDR 188.80 trillion. Furthermore, germplasm (tobacco genetic sources) is also protected according to the mandate of Article 33 paragraph (3) of the 1945 Constitution and Kretek as a cultural heritage is also protected according to the mandate of Article 32 paragraph (1) of the 1945 Constitution.

Tobacco business climate that is able to provide strong and sustainable development and protection of tobacco businesses in East Java from upstream to downstream in an effort to improve community welfare in accordance with the mandate of Article 27 paragraph 2 of the 1945 Constitution from the perspective of improving the welfare of farmers as people who manage tobacco products and Article 33 paragraphs (3) and (4) from the perspective of development and protection of tobacco businesses in East Java from upstream to downstream.

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The application of the Archipelagic Principle for the protection and empowerment of tobacco farmers is reflected in the provisions of Article 22 of the Regional Regulation of East Java Province Number 8 of 2024 concerning the Development and Protection of Tobacco which states "The Provincial Government carries out the protection and empowerment of Farmers", the provisions of Article 22 are in accordance with the provisions of Article 33 paragraph (4) of the 1945 Constitution which states that the national economy is organized based on economic democracy. With the principles of togetherness, efficiency-justice, sustainability, environmental awareness, independence, and by maintaining the balance of progress and unity of the national economy.

The East Java Provincial Government wants to ensure the welfare of tobacco farmers through Article 22 by improving the quality of Tobacco Farmer resources, strengthening Farmer institutions, establishing Farmer financing institutions, partnerships between Farmers and IHT and/or Purchasing/Warehouse Companies and developing agricultural infrastructure. Arif Firmansyah stated that Indonesian economic democracy should not be fully interpreted as the absolute implementation of the principle of "equal treatment". Indonesian democracy aspires to realize social justice for all Indonesian people (social justice, fairness, equity, equality) so that it carries partiality (partialism, special favor) towards the weak, poor and underdeveloped to receive special attention and treatment towards empowerment.

The application of the Archipelagic Principle for the protection and empowerment of the tobacco industry is reflected in the provisions of Article 26 paragraph (1) of the Regional Regulation of East Java Province Number 8 of 2024 concerning the Development and Protection of Tobacco which states "The Provincial Government carries out the protection and empowerment of IHT."

IHT protection as referred to in paragraph (1) is carried out by providing guarantees:

- a. legal certainty;
- b. ease of business licensing;
- c. certainty of doing business;
- d. availability of raw materials;
- e. market access and information; and

f. healthy business competition.

Empowerment of IHT as referred to in paragraph (1) is carried out through:

- a. improving the quality of IHT workforce;
- b. provision of access to capital and technology;
- c. provision of balanced information;
- d. establishment of IHT centers and/or areas;
- e. coaching and improving IHT resources;
- f. strengthening IHT institutions;
- g. strengthening and expanding market networks;
- h. developing the diversified tobacco product industry; and
- i. improving product standards and quality.

The provisions above are an effort by the East Java Provincial Government to protect and empower IHT in line with the spirit of Article 33 paragraph (3) of the 1945 Constitution so that IHT is controlled by the State and used for the greatest prosperity of the people.

State control of natural resources, as stipulated in the 1945 Constitution, cannot be separated from the purpose of such control, namely to achieve the greatest possible prosperity for the people. According to Bagir Manan, the link between state control and the people's prosperity will fulfill the state's obligations in the following areas:

- a. All forms of utilization (of land and water) and the results obtained (natural resources) must significantly increase the prosperity and welfare of the community;
- b. protect and guarantee all the people's rights in or on the earth, water and certain natural resources which can be produced directly or enjoyed directly by the people;
- c. prevent all actions from any party that will cause the people to not have the opportunity or lose their rights to enjoy natural resources.

Based on the above, it can be said that the government holds power over natural resources, including land, water, and the wealth contained therein. In this case, the East Java Provincial Government has the authority to regulate and oversee the use and utilization of natural resources managed by the community or a specific agency.

Regional Regulation of East Java Province Number 8 of 2024 concerning the Development and Protection of Tobacco is a manifestation of Regional Autonomy by the East Java Provincial Government, Article 18 paragraph (2) and paragraph (5) of the 1945 Constitution of the Republic of Indonesia states that Regional Governments are authorized to regulate and manage their own Government Affairs according to the Principles of Autonomy and Assistance Tasks and are given the broadest possible autonomy. The granting of the broadest possible autonomy to Regions is directed to accelerate the realization of community welfare through improving services, empowerment, and community participation. In addition, through broad autonomy, in the strategic environment of globalization, Regions are expected to be able to increase competitiveness by paying attention to the principles of democracy, equality, justice, privileges and specialties as well as the potential and diversity of Regions within the Unitary State of the Republic of Indonesia.

The granting of the broadest possible autonomy to regions is implemented based on the principle of a unitary state. In a unitary state, sovereignty rests solely with the national government, and there is no sovereignty in the regions. Therefore, regardless of the extent of autonomy granted to regions, the final responsibility for the implementation of regional governance will remain with the central government. Therefore, regional governments in a unitary state are integral to the national government. Accordingly, policies created and implemented by regions are an integral part of national policy. The difference lies in how they utilize regional wisdom, potential, innovation, competitiveness, and creativity to achieve national goals at the local level, which in turn will support the achievement of national goals as a whole. The granting of the broadest possible autonomy to regions is implemented based on the principle of a unitary state, which is an application of the archipelagic principle in the process of establishing East Java Provincial Regulation Number 8 of 2024 concerning Tobacco Development and Protection.

Regions as a legal community unit that has autonomy are authorized to regulate and manage their Regions according to the aspirations and interests of their communities as long as they do not conflict with the national legal order and the public interest. In order to provide broader

space for Regions to regulate and manage the lives of their citizens, the Central Government in forming policies must pay attention to local wisdom and conversely, Regions when forming Regional policies, whether in the form of Regional Regulations or other policies, should also pay attention to national interests. Thus, a balance will be created between synergistic national interests and still pay attention to conditions, uniqueness, and local wisdom in the overall administration of government.

In essence, Regional Autonomy is given to the people as a single legal community unit which is given the authority to regulate and manage its own Government Affairs which are given by the Central Government to the Regions and in its implementation is carried out by the regional head and the DPRD with the assistance of the Regional Apparatus.

In implementing the provisions of this Regional Regulation, the East Java Provincial Government requires a Governor's Regulation as the basis for implementing this Regional Regulation, in accordance with the provisions of Article 49 of the Regional Regulation on Tobacco Protection and Empowerment that the Governor's Regulation must be stipulated no later than 6 (six) months since this Regional Regulation is promulgated so that the Governor's Regulation concerning the implementation of the Regional Regulation of East Java Province Number 8 of 2024 concerning Tobacco Development and Protection must be issued immediately by the East Java Provincial Government.

Conclusion

The content of the Protection and Empowerment of Farmers and the Tobacco Industry in the form of regulations in East Java Province includes Planning and Determination, Research, Development of Tobacco Cultivation, IHT and Marketing, Utilization, Guidance and Supervision, Control, Information Systems, Protection and Empowerment of Farmers and IHT, Partnerships, Financing, Tobacco Forums, Community Participation and Prohibitions which are regulated in the Regional Regulation of East Java Province Number 8 of 2024 concerning the Development and Protection of Tobacco

The Implementation of the Archipelagic Principle in the Content of the Regional Regulation on the Protection and Empowerment of Farmers and the Tobacco Industry in the Form of Regulations in East Java is reflected in the provisions of the articles in the Regional Regulation of East Java Province Number 8 of 2024 concerning the Development and Protection of

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