



The Urgency of the Establishment Peraturan Daerah of Gorontalo Regency Regional Regulation on the Use of Public Roads and Special Roads for Transportation of Mining and Plantation Products

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Abstract

Local regulation is one of the authorities of the local government as part of the division of authority into the spirit of reform in 1998. One of its functions is that the region can be independent in regulating its own region, but apart from that there are still many problems in the regions that need regional legislation, for example in Gorontalo Regency which requires regional regulations regarding the use of public roads and special roads for transportation of mining and plantation products. This is important because the effect of regional progress has implications in the use of increasingly congested roads. The disadvantage is that the intensity of transport vehicles makes many roads in Gorontalo Regency damaged. Therefore, further arrangements need to be structured in the management of mining and plantation products. The purpose of the study is to look at the problem of the urgency of the establishment of regional regulations on the use of public roads and special roads for transportation of mining and plantation products in Gorontalo Regency and the implications of the establishment of regional regulations on the use of public roads and special roads for transportation of mining and plantation products in Gorontalo Regency. The research method uses the type of normative research with the approach of legislation. The results showed that the data showed the intensity of the use of public roads has implications for road damage in Gorontalo Regency. In addition, the implications for the formation of this regional regulation is to create good governance of mining and plantation transportation.

Keywords: *Local Regulation; Road; Mining; Plantation*

A. Background

Article 10 paragraph (1) of Law No. 23 of 2014 on Local Government mentions six affairs that are not fully decentralized to local governments, including (1) foreign policy; (2) defense; (3) security;

(4) Justice; (5) national monetary and fiscal; and (6) religion. Regional autonomy is given to regions in good faith to provide opportunities for their parts to develop their regions.

The National Long-Term Development Plan (RPJPN) is an elaboration of the objectives of the establishment of the Indonesian state government as stated in the Preamble of the Constitution of the Republic of Indonesia (UUD NRI) in 1945. The purpose of national development is to protect the entire nation and the entire Spilled Blood of Indonesia, promote the general welfare, educate the life of the nation, and participate in implementing the world order based on independence, lasting peace, and social justice in the form of the formulation of the vision, mission, and direction of national development.

Transportation is a very important and strategic means in facilitating the economy, strengthening national unity and unity and affecting all aspects of life in the nation. This is reflected in the increasing need for transportation services for the mobility of people and goods from and to all corners of the country and even from and to abroad. In addition, transportation also plays a role as a support, driver and mover for the growth of potential but undeveloped areas as an effort to improve and equitable development and its results.

Realizing the role of land transportation through public roads, there must be an arrangement in an integrated national transportation system and able to realize the availability of transportation services that match the level of community needs. Likewise, in land transportation, especially through public roads, traffic and Road Transport must be arranged so that it is in accordance with the needs of traffic and transportation services that are orderly, safe, safe, comfortable, fast, precise, regular, smooth and affordable by people's purchasing power.

Based on Law No. 38 of 2004 on roads, it is stated that roads as one of the transportation infrastructure are an important element in the life of the nation, fostering national unity, and community functions as well as in advancing the general welfare. In addition, the road plays a role in realizing Development Goals such as equitable distribution of development and its results, economic growth, and the realization of social justice for all Indonesian people. Roads as part or subsystem of the transportation system, also have an important role in supporting economic, socio-cultural, environmental, political, and defense and security activities. From the economic aspect, the road as a social capital of society is a catalyst between the production process, the market, and the final consumer. From the socio-cultural aspect, the existence of roads opens the horizons of society that can be a vehicle for social change, build tolerance, and dilute cultural barriers. From an environmental aspect, the existence of roads is necessary to support sustainable development.

Furthermore, based on Law No. 22 of 2009 on road transport traffic, that in addition to roads, other subsystems that support the optimal role of roads as part of the transportation system are traffic and Road Transport. Law No. 22 of 2009 makes it clear that traffic and Road Transport have a strategic role in supporting national development and integration as part of efforts to promote public welfare. That as part of the National Transportation System, Traffic and Road Transport must be developed its potential and role to realize Security, Safety, Order, and smoothness of traffic and Road Transport in order to support economic development and regional development.

The role of roads and Road Transport Traffic that is so Strategic can sometimes not be implemented optimally due to community activities in the use of roads that actually interfere with the use of road functions. In fact, in accordance with the spirit of Law No. 38 of 2004 on roads, the existence of roads in the socio-cultural context is expected to open the horizons of society so that it can be a vehicle for social change, build tolerance, and dilute cultural barriers.

Basically, the main function of roads in accordance with Law No. 38 of 2004 on roads is intended for public traffic. Furthermore, based on Law No. 22 of 2009 on Road Transport Traffic, every person who uses the road must behave in an orderly manner; and/or prevent things that can hinder, hinder, or endanger the safety and safety of traffic and Road Transport.

Problems of order of Use and utilization of roads during this time has resulted in increasing traffic congestion and increasing the burden of freight costs more or travel costs. In addition, the safety aspect is a factor that needs attention, so that the quantity of accidents and accident fatalities can be minimized. That the use of roads as a means of transportation to traffic moving vehicles, people, and / or distribution of goods and services, as well as supporting the mobility of regional economic growth, should be encouraged for the realization of traffic and Road Transport Services that are safe, safe, orderly, and smooth.

The district/city government in accordance with its authority must play a maximum role in creating order, safety, and smooth traffic on the road. But on the other hand, the tradition that has been built in the activities of community activities so far by using public roads as a means, needs attention and is directed so as not to interfere with other public interests, especially road users for traffic. Therefore, the involvement of local governments is needed to direct community activities to be maintained and not interfere with the use for the benefit of other public communities.

That based on Government Regulation No. 34 of 2006 on roads (Article 4), the government and/or local governments as the organizers of public roads are obliged to seek that the roads can be used as much as possible for the prosperity of the people, especially to increase national economic growth, by seeking that the general cost of travel to be as low as possible. One of them is related to plantation and mining activities. Therefore, plantation and mining activities that use public facilities and infrastructure such as the use of roads require regulation of both roads that are the authority of the central government and roads that are the authority of the provincial, city/district government so that the authority limit does not overlap between the authority of the central government and the authority of local governments.

Taking into account the above issues, in an effort to optimize the use of roads according to their designation for traffic, the Gorontalo Regional Government as the organizer of roads according to its authority, needs to regulate, guide, and / or supervise the use of roads for plantation and mining activities in the area to realize order, safety, and smooth traffic and transportation Move.

In line with this, related to traffic (traffic management and engineering), then in accordance with Article 94 paragraph (2) and Article 95 paragraph (1) letter b Law Number 22 of 2009 concerning traffic and Road Transport, it is stated that to optimize the use of road networks and traffic movements in order to ensure security, safety, order, and smoothness of traffic and road transport, the government and local governments in accordance with their levels, are authorized to make arrangements including: a) determination of policies for the use of road networks and traffic movements; and b) provision of information to the public in the implementation of established policies. Related to the legal needs as described above, so it takes a solution to the problem of the use of the road outside its designation other than for traffic, especially in this case is the use of roads for plantation and mining activities through the instrument of regional regulation.

B. Identify The Problem

The limits of the problem formulated in the academic paper of this draft regional regulation are:

- a. What is the problem that needs to be established local regulations on the use of public roads and special roads for transportation of mining and plantation products in Gorontalo Regency ?
- b. What are the implications of the establishment of local regulations on the use of public roads and special roads for transportation of mining and plantation products in Kabupaten Gorontalo Regency?

C. *Research Methods*

This research is categorized into the type of legal research normatif if it is based on the issue and or theme raised as a research topic. The research approach used is philosophical and analytical, that is, research that focuses on pandangan rational, critical and philosophical analytical views, and ends with conclusions that aim to produce new findings as an answer to the main problem that has been established. And will be analyzed by descriptive analytical methods, namely by describing the applicable laws and regulations related to legal theory and positive law enforcement practices related to the problem.

D. *Discussion*

1. **Population conditions and regional poverty**

Based on data from the 2020 population census, the population of Gorontalo Regency amounted to 393,107 people. In the last decade (2010-2020), the population growth rate per year of Gorontalo Regency was 0.96. The population of Gorontalo is spread over 19 districts. Limboto district which is the capital of Gorontalo Regency became the district with the most population percentage of 12.67% of the total population of Gorontalo Regency as described in the following table:

Table I

<i>Subdistrict</i>	<i>Population (people)</i>	<i>Annual Population Growth Rate (%) 2010–2020</i>
(1)	(2)	(3)
Batudaa Pantai	11 886	0,86
Biluhu	8 267	0,82
Batudaa	14 330	1,01
Bongomeme	19 080	0,94
Tabongo	18 284	1,17
Dungaliyo 1	17 054	0,67
Tibawa	40 798	0,77
Pulubala	24 752	1,02
Boliyohuto	16 836	0,71
Mootilango	18 932	0,71
Tolangohula	22 728	0,61
Asparaga	13 070	0,58
Bilato 1	9 732	1,19
Limboto	49 796	0,85
Limboto Barat	25 353	0,75
Telaga	23 240	1,12
Telaga Biru	29 999	1,20
Tilango	16 345	2,34
Talaga Jaya	12 625	1,88
Gorontalo Regency	393 107	0,96

In 2020 Gorontalo Regency itself has a fairly even distribution of age groups as described in the following table:

Table II

<i>Age group</i>	<i>Gender</i>		
	<i>Male</i>	<i>Female</i>	<i>Number</i>
(1)	(2)	(3)	(4)
0-4	16 103	15 333	31 436
5-9	15 429	14 901	30 330
10-14	17 885	17 252	35 137
15-19	18 170	17 281	35 451
20-24	18 570	18 022	36 592
25-29	17 481	16 768	34 249
30-34	15 869	15 035	30 904
35-39	14 905	14 557	29 462
40-44	13 985	13 819	27 804
45-49	12 561	12 731	25 292
50-54	11 056	11 202	22 258
55-59	8 924	9 332	18 256
60-64	6 616	6 932	13 548
65-69	4 677	5 120	9 797
70-74	2 958	3 402	6 360
75+	2 763	3 468	6 231
Gorontalo Regency	197 952	195 155	393 107

Sumber: BPS, Survei Sosial Ekonomi Nasional Maret/BPS-Statistics Indonesia, March National Socioeconomic Survey

Furthermore, in general, the number of poor people in Gorontalo Regency in the period 2016-2020 experienced a downward trend. In 2020, the poor population in Gorontalo Regency was 66.72 thousand people and in 2019 it was 68.31 thousand, but when compared to other regions, the hard work of the Gorontalo Regency government is still needed in terms of poverty alleviation. The amount of poverty in Gorontalo Regency can be described as follows:

Table III

<i>Year</i>	<i>Poverty Line (rupiah/capita/month)</i>	<i>Number of Poor People (thousand)</i>	<i>Percentage of Poor People</i>
(1)	(2)	(3)	(4)
2013	295 852	79,04	21,57
2014	323 578	77,66	21,05
2015	343 373	80,52	21,80
2016	368 863	78,36	21,03
2017	382 722	76,93	20,55
2018	409 179	74,69	19,84
2019	425 827	68,31	18,06
2020	475 102	66,72	17,56

Sumber: BPS, Survei Sosial Ekonomi Nasional Maret/BPS-Statistics Indonesia, March National Socioeconomic Survey

The poverty depth index and poverty severity index in Gorontalo Regency can be described in the following table:

Table IV

<i>Year</i>	<i>Poverty Gap Index</i>	<i>Poverty Severity Index</i>
(1)	(2)	(3)
2013	2,73	0,56
2014	3,45	0,90
2015	4,55	1,40
2016	4,37	1,50
2017	4,66	1,42
2018	2,67	0,52
2019	3,27	0,79
2020	3,95	1,17

1. Existing Conditions

Roads are a very strategic means of transportation in facilitating the economy, strengthening unity and unity and affecting all aspects of people's lives. The importance of road transport is reflected in the increasing need for services for the mobility of people and goods throughout the region. If you look at the length of the road in Gorontalo between 2016 and 2019 there is an increase in the length of the road described in the following table:

Table V

<i>Year</i>	<i>Regency Road</i>
(1)	(2)
2020	...
2019	1 578,91
2018	1 578,91
2017	1 578,91
2016	1 650,67

Source: Gorontalo District Public Works Office

The length of the road in gorontalo Regency can be reclassified with the length of the road according to the type of road surface in Gorontalo Regency described in the following table:

TABLE VI

<i>Type of Road Surface</i>		2018	2019	2020
	(1)	(2)	(3)	(4)
<i>Paved</i>		572,47	584,33	...
<i>Gravel</i>		249,47	246,84	...
Concrete		9,23	10,30	...
Land / Soil		747,74	737,44	...
Others	
Total		1 578,91	1 578,91	...

Source: Gorontalo District Public Works Office

In this regard, the road used to load plantation and mining products is very necessary to support economic growth because the better the quality of the road will greatly affect the mobility of plantation and mining products. The road conditions in gorontalo Regency can be described in the following table:

Table VII

<i>Condition of Roads</i>	2018	2019	2020
(1)	(2)	(3)	(4)
<i>Good</i>	523,81	545,70	...
<i>Moderate</i>	131,78	135,44	...
<i>Damage</i>	173,19	178,35	...
<i>Severely Damage</i>	750,13	719,43	...
Total	1 578,91	1 578,91	...

Source: Data From The Gorontalo Regency Statistics Center

The above Data shows that heavily damaged roads in Gorontalo Regency have a higher percentage of good road conditions, meaning that of the total road length of 1,577,191 KM, almost half are severely damaged. This is one of the obstacles to road transport, especially plantations and mining in mobilizing which has an impact on the efficiency of a longer time to get to the destination.

In this regard, the pattern of distribution of plantations and mining in Gorontalo Regency is quite extensive consisting of coconut, coffee, cocoa, sugar cane, kapok, cloves, cashew and palm and mining consisting of metals such as gold and silver, Non-metals such as limestone granite, toseki, felspar and andesite and energy, namely: geothermal which certainly requires a high moilitas for the distribution of plantation and mining. The distribution pattern of plantations and mining in Gorontalo Regency can be described in the following table:

Table VIII

District	Acreage Of Plantation Crops (Hectares)										
	Coconut	Rubber	Coffee	Cocoa	Sugar Cane	Tea	Tobacco	Kapok	Cloves	Cashew	Aren
	2019	2019	2019	2019	2019	2019	2019	2019	2019	2019	2019
Batudaa Pantai	401,25	-	2,50	22,00	-	-	-	-	451,57	16,10	12,00
Biluhu	998,00	-	13,50	119,76	-	-	-	-	575,05	44,90	3,00
Batudaa	946,25	-	1,80	80,00	-	-	-	-	126,50	From 9.00 To	Result In 31.20
Bongomeme	4471,00	-	95,35	168,00	-	-	-	21,10	227,55	171,70	25,33
Tabongo	982,88	-	-	45,00	-	-	-	-	36,00	-	-
Dungaliyo	279,68	-	-	-	-	-	-	-	144,50	-	-
Tibawa	2834,42	-	From 13.00	42,00	-	-	-	2,00	123,70	132,00	19,47
Pulubala	3449,62	-	24,30	222,10	56,36	-	-	-	75,00	27,00	23,50
Boliyohuto	801,73	-	18,50	65,70	145,03	-	-	47,00	24,50	165,70	-
Mootilango	1097,10	-	11,00	125,00	206,40	-	-	-	142,00	194,00	-
Tolanghula	849,25	-	2,00	190,00	198,90	-	-	-	128,00	158,60	-
Asparaga	1242,80	-	-	194,00	33,31	-	-	-	186,00	-	-
Bilato	577,00	-	-	35,00	-	-	-	-	184,00	-	-
Limboto	949,80	-	30,80	76,32	-	-	-	20,00	277,30	47,00	22,75
Limboto Barat	1261,90	-	5,40	77,42	-	-	-	19,90	-	96,00	18,50
Lake	264,54	-	31,85	137,00 Neighbourhood	-	-	-	-	913,50	42,00	42,25
Blue Lake	432,13	-	18,00	100,70	-	-	-	11,00	1030,33	84,00	66,00
Tilango	144,83	-	-	-	-	-	-	-	-	-	-
Telaga Jaya	106,83	-	-	-	-	-	-	-	-	-	-
Kabupaten Gorontalo	22091,01	-	268,00 Lb	1700,00	640,00	-	-	121,00 The	4645,50	1188,00	264,00

In addition to plantations Gorontalo Regency itself has a fairly broad mining potential which can be described in the following table:

Table IX

Shape	Types of goods	Location	Reserve Amount
Metal Minerals	Gold and Copper	Booliyohutuo	(Gold) 528.29 tons dan (Copper) 3.978.390 m ³
Non Metal	Granite	Telaga Biru dan Batudaa Pantai	470.000.000 m ³
	Limestone	Tibawa, Limboto, Batudaa	2.414.500 m ³
		Limboto Barat, Bongomeme, Batudaa Pantai	
	Toseki	Tibawa dan Boliyohuto	6.000.000 m ³
	Felspar	Batudaa Pantai	
Andesite	Batudaa Pantai Boliyohuto dan Tibawa	1.050.000 m ³	
Energy	Geothermal	Telaga Biru dan Mootilango.	-

Source: Office of investment, EMR and Transmigration Gorontalo province¹

If you see the potential of mining in Gorontalo Regency is large and spread evenly in all districts, it is appropriate that the government has a set of laws that regulate specifically regarding the mobility of plantation and mining transportation. In this case the availability of special roads.

2. Study of the Implications of the Application of Local Regulations on Aspects of Community Life

Regional regulations are laws and regulations established by the DPRD with the mutual consent of the regional Pemindah (compare the general provisions of Law Number 12 of 2011 on the establishment of laws and regulations). Regional regulations (provincial and District/City) as part of the legislation in the national legal system established by the regional government in the framework of the implementation of regional autonomy, co-operation and accommodate the special conditions of the region as well as further elaboration of higher legislation.

Given the important role of local regulations in the implementation of regional autonomy, the preparation needs to be programmed, so that various legal tools needed in order to organize regional

¹ Tabel dibuat berdasarkan data deskriptif di Dinas Penanaman Modal, ESDM dan Transmigrasi Provinsi Gorontalo.

autonomy can be formed systematically, directed and planned based on a clear priority scale. In the local government law related to the formation of local regulations, states “the formation of local regulations includes the stages of planning, drafting, discussion, determination and promulgation based on the provisions of laws and regulations”.

One of the urgent regional regulation programs to be implemented in Gorontalo Regency is the arrangement of special roads for plantation mobilization and development. The practice of organizing special roads is mostly intended as residential roads and mining roads. In addition, there are also special roads for industrial areas, ports, Forestry, and plantations. The problem is related to mining roads and plantation roads traversed by heavy vehicles with loads that may often *overload* to save transportation costs. Currently, there are still many public roads that are used as special roads for plantations and mining so that the roads are quickly damaged and cause many accidents.

Therefore, the regulation on the use of roads for plantation and mining activities in this regional regulation, among other things, is aimed at:

1. For the use of roads and the implementation of traffic and Road Transport that is safe, safe, orderly, and smooth in order to ensure legal certainty and the public interest;
2. The realization of the use of roads for plantation and mining activities in an orderly, responsible, balanced between rights and obligations, and does not conflict with the provisions of laws and regulations.
3. Transportation mobility of plantations and mines can be more smoothly, orderly and safe and responsible. This is in order to balance the benefits that can be obtained by plantation and mining owners with the public interest.

In this regard, this regional regulation is also intended to improve supervision and control of road functions in order to prevent things that can hinder, endanger the security and safety of traffic and Road Transport, and/or disruption of road functions and road damage.

The implications of local regulations on people's lives are as follows:

1. Legal impact

Legal impact when this regional regulation is established, the Gorontalo Regional Government has a legal basis and guidelines in regulating, supervising, fostering, and disciplining road transport, especially plantations and mining for mobilization that uses roads outside its function. In addition, the Government of K Gorontalo has a legal basis to regulate and establish local regulations on the use of roads for plantation and mining activities at the lower level of government, especially on district/city roads and village roads or environmental roads.

2. Social Impact

Social impact if the regional regulation on the use of roads for plantation and mining transportation is enacted, it will be able to create changes in the behavior of the mobilization of plantation and mining transportation in the use of roads. So that this regional regulation is expected to function as a social order towards road transport of plantations and mines in an orderly and orderly manner.

Administrative Procedural Road Use

In this procedural aspect, the presence of local regulations to be established is expected to bring changes in the mechanism of road use without procedural. This regional regulation will regulate the obligation of making special roads for plantation and mining businesses, in addition this regional regulation will regulate the matter of licensing and mechanisms/terms of use of public roads for the mobilization of plantation and mining activities.

Based on this, the planning, especially the arrangement of public and special roads, must be adjusted to the usual load (the actual load value, not based on the ideal load according to the standard). Mining roads and plantation roads could also pass into state ownership. Its delivery after the agreed period, depending on the magnitude of the increase made by the developer. After being handed over to the state, the developer is still responsible for managing while still taking advantage of the mining/plantation operations it manages.

Conclusion

Roads as one of the transportation infrastructure and distribution of goods and services is the lifeblood of the community, the nation, and the state which has an important role, especially in supporting the economic, social and cultural, as well as the environment, one of which is for transportation of mining and plantations. The urgency of the establishment of Gorontalo Regency regional regulation on the use of public roads and special roads for transportation of mining and plantation products is to realize Security, Welfare, traffic order and Road Transport in order to support economic development and the development of Science and technology, regional autonomy, and accountability. Meanwhile, the sociological basis of the use of roads by transportation of mining and plantation products has the potential to cause horizontal conflict with the community as a result of road damage and accident-prone. Furthermore, the juridical basis is various laws and regulations relating to the use of public roads and special roads for transportation of mining and plantation products.

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