



## POLICY DISHARMONY IN INDONESIA (DIALECTICS OF NATIONAL EDUCATION REFORM)

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### *Abstract*

**Purpose of Study:** Concentration fully reform the institutional aspects and teaching, still remaining implicates fundamental problem that has not gotten way out until today. The fundamental problem in question is still ongoing inconsistencies between the various national education policies. The disharmony generates serious impacts in the process of education reform in the country after the collapse of the New Order. Especially for education stakeholders, this disharmony makes their confusion, how education reform agenda should be executed. They are confronted with education policies that substantially contradict or at least overlap with one another. Worse yet, stakeholders of education in educational institutions is not only confused but also become a victim of unwanted effects (unintended impact) or wild effect (spillover impact) on the implementation of the policy. So whether the Islamic educational institutions and academic staff who manage this institution "forced" to accept other forms of discriminatory treatment as a result of the policy of disharmony.

**Methodology:** This study is library research, using a qualitative type with a factual historical model.

**Results:** The disharmony of education policy is still quite prominent since the presence of the reform era until now. Disharmony is very potential to develop institutions that involve Islamic education institutions or madrasahs in Indonesia.

**Implications/Applications:** The disharmony manifestation is the overlap between the policy of implementing religious affairs which have been the responsibility of the Ministry of Religion and the decentralization policy of education. The consequence of this disharmony, namely the Regional Government, has a reluctance to place madrasahs as part of their authority.

**Keywords:** *Indonesian politics, Policy, Disharmony, National Education Reform, Islamic education*

### INTRODUCTION

There is a wide opportunity to reform the system of educational organizations in Indonesia after the birth of democratic transition that failed to be utilized by education stakeholders, namely by conducting a comprehensive reform of the education system in the country. However, the reform of the education system that has been rolling is more focused on the settlement of institutional and learning problems. The birth of a decentralized education policy manifested into school autonomy, school-based management, and community participation based school can be cited as some achievement keys of institutional reform. Meanwhile, the most important outcome of the reform of learning is manifested by the release of the Competency-Based Curriculum (KBK) policy which is then changed into Education Unit Level Curriculum (KTSP), and the certification program of the education personnel. Of course, there are many achievements that have been generated by the education reform in our homeland.

Reformation fully concentrates on educational and institution, implicates the remaining basic problem that had no solution until today. The mentioned basic problem is that the continuity of disharmony between the varies national educational policy. Meanwhile, the policies had an important role in conducting a whole process and educational activity in the country in order to get the aims of education itself. It means that the educational policies functionally containing legal instruction, and also bounding all of the educational stakeholders in order to get the final purpose of education.

The disharmony has a serious impact on the reform process of education in the country after the collapse of the New Era. Especially for educational stakeholders, this disharmony makes them confused, how education reform agendas should be run. They are faced with substantially contradictory educational policies or at least, overlap with one another. To make worse, education stakeholders in educational institutions are not only confused but also victims of unintended impacts or the spillover impact of policy enforcement are. In particular, Islamic educational institutions and education personnel managing these institutions are "forced" to accept forms of discriminatory treatment resulting from the disharmony of the policy.

## EDUCATION POLICY AND ITS DISHARMONY OF DEMOCRATIC TRANSITION ERA

Education policy is not only related to the aspect of financing (budgeting), funding or finance of education institutions. Moreover, education policy is also in close contact with the evaluation of learning outcomes quality, curriculum, teaching-learning process (KBM), education personnel, students affairs, school climate management, school relations with specific communities, and so on. Besides, education policy is also closely related to the relationship of education with the country, the country ideology, population, social mobility, employment, economic growth, and others.

One understanding of educational policies can be found in Deer and Wilde's work, they stated that:

Public policy in education is concerned with the role of government in the formal provision, financing and/or regulation of educational service a range of different level. Broadly defined, it covers any part of the formal education process directly influenced by public decisions at the local or national level. Public policy in education is therefore concerned with issues of funding and implementation, access policy and evaluation procedures, curriculum and examinations, and teacher recruitment and training. (Deer and Wilde, 2004)

Deer and Wilde focusing educational policies on the government's role in managing education in formal schools. Collin and friends have a similar understanding of educational policies. In *The Greenwood Dictionary of Education*, he said, "a plan or course of action intended to influence and determine decisions, actions, and other matters of public education". (Collin and O'Brien, 2003)

Trowel also defines education policy in a broad sense. He pointed education policy as specification principles and actions pertaining to education issues and described will go toward the goals desired. (Paul, 2003) With this understanding, education policy is understood from two orientations at once, that is the orientation to the *problem-oriented* and *action-oriented*. Thus, the education policy demonstrates the preciseness of the principles in order to guide the planned and consistent formulation of acts in an attempt to solve educational problems.

Meanwhile, Haddad has a different understatement with the rest experts. He believes that educational policies are a single *explicit or implicit decision or group decisions* that are the function as an instruction for the upcoming decision (*future decision*), and also conducting or not for the initial if action, even as instruction in the previous application (guide implementation of previous decisions. (Haddad, 1995) With its status as a guide, the policy covers a considerable field. In addition to issues related to education that are specific (issue specific), the policy also includes strategy, multi-program, and policy programs. The policy strategy is formulated and ratified as a guide for stakeholders on how the resource allocation mechanism, so that the desired goals can be achieved effectively and efficiently. As for the meaning of Strategy, for example, contains formulas to answer questions "how can we provide basic education at a reasonable cost to meet equity and efficiency objectives?". While multi-policy programs are understood as various programs for different regions are planned based on their priority scale. This multi-program formulation, for example, is used to answer questions, "should recourses be allocated to primary education or to rural training centres?". And the program deals with the design of the program that is destined for certain areas (particular areas). In this context, the program is directed to answer, for example, the question "how should the training center be designed and provided across the country?". While specific issues relate to real day-to-day issues that are felt and occurring in the field. This specific issue, for example, appears in answer to the question "should graduates of rural centers be allowed to go into intermediate schools?".

The variety of definitions above, as a big line has a basic weakness. Besides not being firm, government's role as the key actor, many understanding concentrating in conducting orientation purpose, that is the existence of whole policies that owned the purpose to solve problems that appear in the educational world. This conclusion also to firming that, educational policies not only as legal decisions from the ministry, like kemendikbud, kemenag, and any other institution that still under the two mentioned institution above. But, the whole policies product can be named as educational policies as long as having a correlation with purposes in education.

In the era of democratic transition, the disharmony of policy is a serious problem not only related to the education sector but also in many other public sectors. (Depkumham and Bappenas, 2005) In the context of policies, laws or legislation, disharmony is used to refer to "overlapping, contradictory or inconsistent" each other policies and legislation. (Ibid, 15.)

In inauguration speech of law's professor, L.M. Lopian Gandhi who has contextualized at least eight disharmonies of the manifest. First, the differences between the constitution and the law of the constitution. These differences cause most of the by there are a lot of laws of the constitution, so it is difficult for knowing or recognizing its substantial bodily. Other important things are most of the decision that was taken. It did not have further knowledge about all of the constitutions

that still occur. Second, the contradiction between the constitution and implementation rules. (Bappenas, 2005; Zare and Rajaeepur, 2013) Third, the differences between the law of constitution within station policy of the government. In the tradition of state administration, it is known as operational guidelines that are the opposite clues with implemented constitution's law. Fourth, the differences between the law's constitution and jurisprudence and circular of the supreme court. Fifth, central government policies that contradictories. Sixth, the differences between central and local policies. Seventh, the differences between legal provisions with a certain definition of definition. And the eighth, the clash between the authority of government agencies as a result of the unclear and systematic division of authority. (Ibid., 62-63.)

While the special team of system synchronization, coastal management law from the Ministry of National Development Planning (Bappenas), Ministry of Fisheries and Marine Affairs (DKP), Department of Law and Human Rights (Depkumham), and Coastal Resources Management Project, concluded Disharmony can manifest into one of five forms of inconsistency. First, the vertical inconsistency in terms of the regulatory format is lower legislation in conflict with higher regulations, such as between government regulation and the Act. Second, the vertical inconsistency in terms of time, are some of the rules that are hierarchically aligned (eg fellow Act), but the former one applies from the other. Third, horizontal inconsistency in terms of regulatory substance, are some of the rules that are hierarchically aligned (like fellow Act), but one regulatory substance is more common than other regulatory substances. Fourth, inconsistency horizontally in terms of substance in the same regulation, meaning only different Provisions, such as Article 1 are contradictory to Article 15 of the same Act. Fifth, inconsistencies between different formal sources of law, as occurs between the Act and the judge's decision or between the Act and the custom. (Ibid., 17.)

The Department of Law and Human Rights (Depkumham) and the National Planning Agency (Bappenas) called plurality in the legal system in Indonesia to be one of the main reasons for the disharmony. The multiplicity of the legal system which results in the emergence of so many types of legislation opens the wide potential for disharmony. In many cases, legislation issued by different agencies or countries is not coordinating well with each other. Similarly, the existing hierarchy or rule of law is not strictly adhered to and even has a tendency to be ignored. (Bappenas, Neustroev et al. 2016).

Not just hierarchy, the legal principles that have been applied in the legal system in the country also tend to be ignored by decision makers. The neglect also increases the disharmony or at least the inconsistencies among the policies (see table).

Especially in the early era of the democratic transition, the potential of policy disharmony is enormous. Most of the public officials involved in policy-making are new people who have the blessings of "reform". Although it is not as a whole, many are encountered from those who do not have the proper capacity as part of the decision maker. Furthermore, alongside the new reform rolling, the country condition has not been completely normal. In addition to the acute economic crisis that plagued, the country has also just experienced the process of the highest leadership turnover due to "forced down" by a massive wave of mass action. (Makmuri Sekarno, Tatik Handayani and Soewartoyo, Regional Autonomy and Local Plurality, Identification of Concepts and Regional Policies in Towards Autonomous Education, Jakarta: Competitive Research Development Project of Indonesian, 2004)

In the context of education, the disharmony of the policy is not the only potential but also actually has occurred. This disharmony, for example, is seen in policies on regional autonomy. On the other hand, decentralization of education manifested into the enforcement of education autonomy and school-based management (SBS) policies. Interestingly, this disharmony has implications for the emergence of different treatment or discrimination of local government (regency/city) against Islamic educational institutions in various levels and units.

## DECENTRALIZATION OF EDUCATION AND POLICY DISHARMONY PROBLEMS

One of the important policies generated at the beginning of the reforms is the release of regional autonomy policies or more precisely, the Regency / City autonomy. This is marked by the release of three packages of Law (Act) on Local Government, namely Law no. 22 of 1999 on Regional Government, Law no. 25 of 1999 on Central and Regional Financial Balance. In addition to these two laws, regional autonomy is also reinforced by other policies, including Government Regulation (PP) No. 25 of 2000 on the Authority of the Government and Provinces as Autonomous Regions.

The substance of the above policy package is basically to give greater authority to the Regional Government. This authority will not be fulfilled if the rules on the Regional Government imposed by the New Order regime are not immediately changed. The basic character of Suharto era government policy, which is constructed in Law no. 5 of 1974 on the New Era Principles is so thick with the centralization of power. Centralized power certainly does not allow an opportunity for the Regional Government to have greater authority to regulate itself. Therefore, the law should be changed, and the outcome

**Table 1:** Abandonment of Legal Principles and Policy Inconsistencies

No	Causes of Disharmony	Legal Principle	Definition of Law Principles
1	There is a vertical inconsistency in terms of the regulatory format, e.g. lower legislation in conflict with higher regulations, e.g. between government regulations and the Act.	<i>Lex superior derogate lege inferior</i>	A higher level of regulation would rule out lower regulations.
2	There is vertical inconsistency in terms of time, some of the rules that are hierarchically aligned (e.g. both same laws), but the first one applied earlier than the other.	<i>Lex posterior derogate lege priori</i>	More recent rules would rule out previous rules.
3	There is horizontal inconsistency in terms of regulatory substance, e.g. some of the rules are hierarchically aligned (e.g. both same laws), but the substance of the rule one more common than other regulatory substances.	<i>Lex specialise derogate lege generally.</i>	More specific rules will override the more general rules.
4	There is horizontal inconsistency in terms of substance in the same regulations, in the sense that only different provisions (e.g. Article 1 are contradictory to Article 15 of the same Law)	<i>Lex posterior derogate lege priori.</i>	More recent rule would rule out previous rules.
5	There is an inconsistency between the different formal sources of law, as occurs between the law and the judgment.	<i>Res judicata pro veritate habetur.</i>	The judge's verdict should be considered true (even against the law, until there is another judge's decision to correct it).
6	There is an inconsistency between the different formal sources of law, between the law of force and habit.	<i>Lex dura, sed tamen scripta</i>	The law cannot be contested. Article 15 AB ( <i>Algemene Bepalingen van Wetgeving voor Indonesië</i> ).
7	There is an inconsistency between the different formal sources of law, between regulatory and customary laws.	<i>Die Normatieve Kraft des Faktischen</i>	Repeated actions will give normative force.

of the change is manifested by the release of new policy packages on the Regional Government above.

Giving greater authority to the government is closely related to decentralization. Article 1 of Law no. 22 of 1999 affirms that decentralization is understood as "the transfer of government authority by the government to the autonomous regions within the framework of the Unitary State of the Republic of Indonesia". With decentralization, many of the authorities that were previously central authorities shifted to local government rights. Consequently, the authority of the Regional Government at the time of reform is much more complete than in the New Order era.

Various authorities of the Regional Government can be traced in Article 7 of Law no. 22 of 1999. That,

Regional Authority includes authority in all areas of government, except for authority in the field of foreign policy, defense of security, judiciary, monetary and fiscal, religious and other fields of authority (Article 1). The competence of other fields, as referred to in paragraph (1), includes policies on national planning and national development courts on a macro basis, balancing funds, state administration system and state economic institutions, human resource development and empowerment, efficient utilization of natural resources and high technology, National conversion and standardization (Paragraph 2) From the above explanation, it is quite clear that education is one of the decentralized Central Government authorities. In this context, the decentralization of education refers to the transfer of "the emphasis of the formerly centralized education into an education based on the interests of society or region". The point of implementation of educational

activities also prioritizes regional interests. In contrast, the Central Government, represented by the Ministry of National Education (MoNE), becomes the organizing body "with an interest in national education." (Ameen et al., 2018; Videla et al., 2018).

If we take a look deeper, the center government authority is still big enough in the educational field. (This delegation can be made possible by referring to the Elucidation of Article 7 Paragraph (1) which affirms 2011) It is similar with a role with the same authority that owned by provinces government. (Budi Winarno, *Kebijakan Publik, Teori dan Proses*, Yogyakarta: Mediapressindo, (2007).) But, still it can not put it aside from that local government has new authority in the educational field, that can not be owned by them in the new order period. (Sarah Maddison and Richard Denniss, *An Introduction to Australian Public Policy*, New York, Cambridge University Press, (2009).) As well as schools in every stage which also has a significant authority. (Parvizian et al., 2015)

The current problem still occurs; significant local government authority in the field of education, at the same time includes serious and unsolved problems. MoRA schools are "discriminatory" from the local government compared to schools under the Ministry of Education and Culture (MoD). Discriminatory treatment, for example, is indicated by the closure or at least, the inhibition of accessing finance assistance and other forms of assistance.

If it is analyzed in depth, the discrimination experienced by MoRA schools is the result of the existing policy disharmony. Disharmony is manifested by the overlapping policy package between the policy on religious affairs and education decentralization. On the one hand, based on Law no. 22 of 1999 affirmed the religious affair is the authority of the Central Government where its implementation becomes the responsibility and authority of the Ministry of Religious Affairs. At the same time, decentralization of education mandated by Law no. 20 of 2003 on the National Education System (Sisdiknas) becomes the authority of the Regional Government.

Since the status of Islamic educational institutions is part of religious affairs and under the auspices of the Ministry of Religious Affairs, its presence is not as a part of decentralized affairs. In other languages, only schools run by the Department of Education and Culture are the responsibility of the Regional Government. Consequently, the Local Government realized not to have the authority and responsibility to participate in the administration of the schools under the auspices of the Ministry of Religion, unless mandated by the central government deconcentration, delegation, or devolution. (Maddison and Denniss, 2009)

In the history of the journey of reformers in the country, the problem of disharmony is exacerbated by the unequal way of view between the Ministry or the Department. Ministry of Home Affairs (Kemendagri), for example, issued Circular Letter (SE), Minister of Home Affairs, no. 903/2429 / SJ on Guidelines for the Preparation of Regional Revenue and Expenditure Budget (APBD) of 2006 issued on September 21, 2005. In the Circular Letter stressed, "APBD budget allocation intended to assist vertical institutions in carrying out their duties and functions in regions are not allowed". The exit of SE is the same as prohibiting the Local Government from allocating its budget to the interests of *madrasah* because of its status as a religious education institution that is vertically related to the Ministry of Religious Affairs. Due to wide public protests, the Circular Letter was finally revoked by the Minister of Home Affairs. However, the revocation has not solved the problem completely, as long as the disharmony of educational policy is not comprehensively synchronized because the same policy may arise in the future. (Parvizian et al., 2015)

## CONCLUSION AND POLICY RECOMMENDATIONS

Based on previous exposure, there are two conclusions in this short article. First, the disharmony of educational policy is still quite prominent since the presence of reformers till nowadays. Disharmony is very potential to create discriminatory practices involving Islamic educational institutions or *madrasah* scattered throughout the country. Second, one of the disharmonies manifests is the overlapping among the policies of religious affairs which has become the responsibility of the Ministry of Religious Affairs with the decentralization policy of education. The consequence of this disharmony, namely the Regional Government has a reluctance to place *madrasah* as part of its authority.

## NOTES

There are 10 (ten) authorities possessed by the Central Government in the field of education management in the country. First, the determination of the standard of competence of students and citizens of learning and curriculum arrangement of national curriculum and assessment of learning outcomes nationally, as well as guidelines implementation. Second, the standard setting of the subject matter. Third, the determination of the requirements for the acquisition and use of an aca-

democratic degree. Fourth, stipulating guidelines for financing the implementation of education. Fifth, determination of admission, transfer, student certification, study and student requirements. Sixth, the determination of the requirements of demand, search, utilization, transfer, procurement, security systems and ownership of cultural heritage objects and the requirements of archaeological research. Seventh, the use of national archaeological research and the management of national museums, national galleries, the use of manuscript archive sources, and monuments that are internationally recognized. Eighth, the establishment of an educational calendar and the number of hours of effective learning each year for primary, secondary, and out-of-school education. Ninth, setting up and developing higher education, distance education, as well as international school settings. And tenth, the development and development of Indonesian language and literature. Sri Hargiono, "Regional Autonomy and Decentralization of Education", in Soewartoyo et al, Perception, Public Concern on Decentralization of Education in the Region, Manado City: A Democracy Trend, Jakarta: Population Research Center-Indonesian Institute of Sciences / PKP-LIPI, 16-17 (2002); Makmuri Sekarno, Tatik Handayani and Soewartoyo, Regional Autonomy and Local Plurality, Identification of Concepts and Regional Policies in Towards Autonomous Education, Jakarta: Competitive Research Development Project of Indonesian Institute of Sciences / PKP-LIPI, 21 (2004).

There are 6 (six) provincial government authorities in the field of Education. First, the adoption of policies on admission of students and students from minority, underdeveloped, and or incapable communities. Secondly, provision of assistance for procurement of basic textbooks / education modules for kindergartens, primary education, secondary education, and out-of-school education. Third, support or assist the implementation of higher education in addition to curriculum arrangement, accreditation and appointment of academic staff. Fourth, consideration of university opening and closing. Fifth, the organization of extraordinary schools and training centers and / or teacher upgrading. And Sixth, the organization of provincial museums, asylum relics, archeology, historical studies and traditional values and the development of regional languages and cultures. Sri Hargiono, "Regional Autonomy", 17. And Sekarno, Handayani and Soewartoyo, Regional Autonomy, 22-23.

Since the enactment of the decentralization policy of education, the local government has ten powers. First, establish the local curriculum content SD, SLTP, SMU and SMK based on the curriculum set by the government. Second, implement the national curriculum based on the guidelines set by the government. Third, hold the main textbooks and other books that are necessary Kindergarten / SMU / SMK based on the guidelines set by the government. Fourth, implementing the transfer of kindergartens, elementary, junior high, high school and vocational school based on the guidelines set by the government. Fifth, carry out the development and career development of educational personnel kindergarten, elementary, junior, high school and vocational school based on the guidelines set by the government. Sixth, appointment, transfer of dismissal, pension setting, salary, allowances and employee welfare as well as education and training according to regional needs and capabilities based on legislation. Seventh, establish awards / marks of service and welfare of education personnel at the district / city level and propose award of national employee level service marks. Eighth, stipulate or propose the discharge and retirement of education personnel in the Regency / City. Ninth, establishing guidelines for the implementation of education financing and preparing the allocation of tuition fees in order to get priority based on guidelines established by the government. And tenth, planning the needs, procurement and placement of educational personnel ranging from kindergarten to high school / vocational school. Sekarno, Handayani and Soewartoyo, Regional Autonomy, 23-24.

While the authority of each school includes: 1. Teaching and learning process; 2. Planning and evaluation of school programs; 3. Management of curriculum; 4. Manpower management; 5. Equipment and equipment management; 6. Financial management; 7. Management of student activities; 8. Management of school relationships with the community; And 9. Management of school work climate or culture. Sekarno, Handayani and Soewartoyo, Regional Autonomy, 24.

This delegation can be made possible by referring to the Elucidation of Article 7 Paragraph (1) which affirms "Particularly in the field of religious activity may be assigned by the Government to the Region as an effort to increase the participation of the Region in the growth of religious life". Leo Agustino, The Dark Side of Regional Autonomy; The Dark Side of Decentralization in Indonesia Versus The Era of Centralization, Bandung: Widya Padjadjaran, 6 (2011).

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