Journal of Arts & Humanities

Volume 09, Issue 06, 2020: 12-27
Article Received: 13-04-2020
Accepted: 14-05-2020
Available Online: 13-06-2020
ISSN: 2167-9045 (Print), 2167-9053 (Online)
DOI: http://dx.doi.org/10.18533/journal.v9i6.1911

Legal Implications of Regulating Ministerial Regulation in Indonesia's Regulatory System

Hendra Kurnia Putra[1], Sudarsono[2], Istislam[3], Aan Eko Widiarto[4]

ABSTRACT

Ministerial Regulations in the hierarchy of Indonesian laws and regulations are still being debated by legal practitioners, this is related to the legal basis for their formation authority, material content, and harmonization procedures that still require a theoretical testing process. The purpose of this research is to analyze the legal implications of the regulation of Ministerial Regulations in Article 8 of Law 12 of 2011 concerning Formation of Legislation as amended by Law 15 of 2019 concerning Amendments to Law 12 of 2011 concerning Formation of Legislation on Government Administration. This research is a normative legal research with philosophical, conceptual, legal comparison, and historical approaches. The legal materials used are primary, secondary and tertiary legal materials. Primary sources are basic norms and regulations, secondary sources include new and current scientific knowledge which includes books, research reports, journals, magazines, while tertiary sources are black law dictionary, abstracts and other tertiary sources. Analysis of legal material is done with a descriptive perspective. The results showed that the legal implications of the regulation of the Ministerial Regulation in the Law on the Formation of Regulations and Regulations have not been followed by clear regulations that cause legal uncertainty in interpreting the Minister's authority in forming the legislation. Therefore need a comprehensive legal foundation and legal research in listing Ministerial. So, in the future there will be no more legal issues and theoretical debates related to the existence of Ministerial Regulations in the regulatory system in Indonesia.

Keywords: Ministerial Regulation, Legislation System, Legal Implications, Formation of Legislation.
JEL classification: K00, K23, K40, K42.

[1]Doctoral Candidate at Faculty of Law, Brawijaya University. Address: Faculty of Law, Brawijaya University, Veteran Street no. 1 Post code: 65125, Malang City, Indonesia. Phone Number +628112014100. email: hendra.fhub@gmail.com ORCID: https://orcid.org/0000-0003-4068-8498 . (correspondance Author)
[2] Professor at Faculty of Law, Brawijaya University, Exspert in Administrative Law. Address: Faculty of Law, Brawijaya University, Veteran Street no. 1 Post code: 65125, Malang City, Indonesia. sudarsono@ub.ac.id (Co-Author)
[3] Head of Doctorate of Law in Faculty of Law, Brawijaya University, Field study in Administrative Law and Environmental Law. Email: istislam@ub.ac.id (Co-Author)
Address: Faculty of Law, Brawijaya University, Veteran Street no. 1 Post code: 65125, Malang City, Indonesia .
[4] Head of Doctorate of Law in Faculty of Law, Brawijaya University, Filed Study in Constitutional Law and Drafting Laws and Regulation. Address: Faculty of Law, Brawijaya University, Veteran Street no. 1 Post code: 65125, Malang City, Indonesia. Email: widirto@ub.ac.id (Co-Author)

1. Introduction

The authority of Indonesian ministers in forming regulations has been regulated in Law Number 12 of 2011 concerning the Establishment of Regulations and Regulations of Laws Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning the Establishment of Regulations. These provisions are regulated in Article 8 (1) of the Law concerning the Formation of Regulations that regulate the types of laws and regulations determined by the Minister (hereinafter referred to as Ministerial Regulations). The existence of the Ministerial Regulation is not new but has been arranged since TAP MPRS No. XX / MPRS / 1966 until Law Number 10 of 2004 concerning the Establishment of Laws and Regulations, although the current regulation of Ministerial Regulations based on the Law on the Formation of Regulations of Laws and Regulations still presents several problems, both philosophically, juridically, and sociologically.

In philosophical problems, there is legal uncertainty in the regulation of Ministerial Regulation in the regulatory system, thus creating confusion in the practice of forming Ministerial Regulations. Juridical problems, There are Uncompletly of Norms - Regulation of the Minister of Regulations on authority, position, material content, and the process of organizing. Sociologically, Many Ministerial Regulations cause conflicts within the community and governance.

Based on the description of the above statement, it needs to be studied comprehensively regarding the regulation of the Minister of Defense in the regulatory system in Indonesia, so that the existence of the Ministerial Regulation in the legislation system can be effective and effective in providing for the benefit of the Minister of Law in Indonesia.

As long as the results of the literature search conducted by the author, have not found research that specifically discusses the Ministerial Regulation comprehensively, as for several studies that have similarities, but with different research objects, namely research conducted by Moh. Fadli (2012) and Fitriani A. Sjarief (2015). That is the scope of research in Moh. Fadli (2012) related to the Development of Delegation Regulations in Indonesia which has the same tangent with how the Ministerial Regulation should have been born from the legislation above it. But in current practice it is difficult to set limits on how legislation (Laws, PPs, or Perpres) should be able to delegate to Ministerial Regulations. While the scope of research by Fitri Syririf (2015) is all the form of delegation from the Regional Regulations in Indonesia. The research excludes the delegation of the right-hand delegation from the Law on Government Regulations. Although in the research of Fitri Ahlan Sjarif, it was also stated that many laws also delegate directly to Ministerial Regulations. Therefore, this research is a continuation or complete the research written by Moh. Fadli and Fitri, Sjarif, said that writing about how the ideal arrangement of Ministerial Regulation in the legal system, not only in the process of delegation but also included the content, position and hierarchy of future Ministerial Regulations, and the procedures for harmonizing the Ministerial Regulations and the approval of the regulation of the Minister of Regulations in the system of laws and regulations.

This research is a juridical normatif research (Marzuki, 2011) using the statutory approach (statue approach). The legal materials used are primary legal materials (basic norms and legislation, namely the 1945 Constitution, Law on the Establishment of PUU, Law 39 of 2008 concerning State Ministries, and Presidential Regulation Number 87 of 2014), secondary legal bhan new and up-to-date books, research reports, journals, magazines) and tertiary legal materials (black law dictionary, abstracts and other tertiary sources). The analysis of the law uses the prescriptive normative method, which is a method of analysis in research that is intended to obtain suggestions on how the concept of forming Ministerial Regulations and when Ministerial Regulations need to be formed. The reasoning used in this prescriptive research is the deductive-inductive inquiry to produce the concept as an answer from the research proposal. This study also uses several legal interpretations, namely grammatical interpretation is interpreting the words in the law in accordance with the rules of language and the rules of grammatical law (Abdlatif & Ali, 2010).

2. Literature review

Based on Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution), Indonesia is a constitutional state, meaning that the Indonesian people will genuinely ground all activities of national and state life in the provisions of the

law there is. The concept of the rule of law used by Indonesia is more directed towards the tradition of continental European law (civil law) (Handoyo, 2008). This was influenced by the Dutch state which had colonized Indonesia for approximately 350 years. The tradition of continental European law (civil law) prioritizes written law, so countries that adhere to this system always try to arrange their laws in written regulations (Aditya & Winat, 2018).

The written regulations in the continental European system (civil law) are used as the basis for the government to carry out government administration. That is because written regulations are easier to implement and bind the public. Written rules are formed by the power to govern society. The tasks of government are carried out by the President as the highest authority that has the task and authority to carry out the administration of the country. Therefore, the government is given free space in carrying out government tasks (vrijbestuur) (Erliyna, 2005).

In exercising executive power, the President has a range of authority, including the scope of the outbreak, among other things: the implementation of the government, the implementation of the statutes, and the implementation of the government. Therefore, the President is assisted by state ministers (Article 17 paragraph (1) of the 1945 Constitution of the Republic of Indonesia). In assisting the President, ministers of state have the authority to make decisions in the form of regulation or beschikking (decisions) which have a determinative nature. In addition, state ministers also have the authority to make beleidsregel (policy regulations), this power has to do with the government's task to implement government regulations to implement regional regulations (Panjta & Suprin, 2008).

But the facts show that there are many Ministerial Regulations that cause turmoil in government or society even though in essence the objectives of the Ministerial Regulation are intended both for the administration of government, for example, the birth of Minister of Law and Human Rights Regulation Number 25 Year 2017 concerning the Notary Appointment Test, in the Ministerial Regulation adding mandatory requirements take the appointment test for the notary public, even though the substance is not listed in Law Number 30 of 2004 concerning the Position of Notary Public, and at the same time prohibits the notary candidate from applying for appointment as a notary before taking the notary appointment exam. This contradicts the principle that lower laws and regulations cannot contradict higher laws and regulations, while at the same time restrictions on community rights are not regulated in Ministerial Regulations, because they are subject to the content of laws which are elaborated by the Constitution NKRI 1945.

The existence of Ministerial Regulations indeed raises many problems in implementation in the community. Therefore, Director of the Center for Anti-Corruption Studies at Gadjah Mada University, Zainal A Mochtar (2016) believes "the problem of regulation or regulation in Indonesia lies in the number of Ministerial Regulations made and enforced. The term that is trying to be popularized about the reality of most of these regulations is "regulatory obesity." In addition, Ministerial Regulations also experienced very significant growth, in the data held by the Directorate General of Legislation and Regulations the growth of Ministerial Regulations is as follows: in 2012 it reached 1387, in 2013 it reached 1661, in 2014 it reached 2111, in 2015 it reached 2070, and in 2016 it reached 2170, in 2017 it reached 1984 (Data of Directorate of Enforcement, 2018). The very high growth of Ministerial Regulations certainly has an impact on over regulation and overlapping of Ministerial Regulations both vertically and horizontally which have an impact on legal uncertainty in the administration of government.

3. Results and discussion

3.1 Delegation of ministerial regulation governing authority

The practice of delegating authority to regulate Ministerial Regulations experiences quite complex legal problems both from the implementation, normative, and theoretical and philosophical aspects of the formation of legislation. In Article 8 paragraph (2) of the Law concerning the Formation of Legislation Regulations it states "Legislation as referred to in paragraph (1) is recognized and has binding legal force insofar as it is ordered by higher Regulations or formed based on authority", the provisions referred to explain the existence of a Ministerial Regulation can originate from 2 (two) sources, firstly "ordered by higher Regulations" and secondly it can be established "based on authority".

The model of the existence of Ministerial Regulation which is ordered by the higher Statutory Regulations, the author quotes in Law Number 28 of 2014 concerning Copyright which gives orders (delegation) directly into 2 (two) forms of Ministerial Regulation, namely:

a. Article 56 which reads "Further provisions concerning the implementation of closure of user content and/or access rights that violate Copyright and/or Related Rights in the electronic system or make the electronic system services as referred to in paragraph (1) stipulated by a joint regulation of the Minister and minister Duties and responsibilities in the field of communication and informatics; and

b. Article 93 which reads "Further provisions regarding the procedure for requesting and issuing operational licenses, as well as evaluating the Collective Management Institution shall be regulated by a Ministerial Regulation.

Regarding the delegation to the "Joint Ministerial Regulation" if it is related to Article 8 paragraph (1) of the Law on the Formation of Regulations, it is interesting to be examined in depth, because in Article 8 paragraph (1) it is explicitly not mentioned the type of joint regulation of the minister, only it is stated "Types of statutory regulations other than those referred to include regulations determined by the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, the Supreme Court, the Constitutional Court, the Supreme Audit Board, the Judicial Commission, Bank Indonesia, Ministers, bodies, institutions, or commissions at the same level as formed by Law or Government by order of Law, Provincial Regional Representative Council, Governor, Regency/City Regional Representative Council, Regent/Mayor, Village Head or equivalent".

The authority of the Minister in issuing a true regulation must not only be contained in the Law on the Formation of Regulations, but must also be seen in Law Number 39 of 2008 concerning State Ministries. This is confirmed in Article 7 of Law Number 39 Year 2008 concerning State Ministries, the ministry has the task of holding certain affairs in government to assist the President in organizing the government of the country. Then in Article 8 it is stated "Every Minister is in charge of certain affairs in government", further explained in carrying out his duties the ministry held the function of "the formulation, determination and implementation of policies in its field". The meaning "in the field" in government practice refers to the provisions in the Presidential Regulation governing the organization and work procedures of each ministry (Simamora, 2014).

In the Model of delegation of regulating authority which often creates confusion in the administration of government, namely delegation regulates from Ministerial Regulation to other Ministerial Regulations, for example in Minister of Administrative Reform and Bureaucratic Reform No. 6 of 2016 concerning Second Amendment to Decree of State Minister for Administrative Reform No. 41 /KEP/M.PAN 12/2000 concerning Functional Position of the Drafting Legislation and Credit Score delegate to the Minister of Law and Human Rights Regulation which reads: "Provisions regarding the appointment, conditions and procedures for adjusting the High Management Official or Administrative Officer as referred to in Article 21A shall be regulated by a Regulation of the Minister of Law and Human Rights".

In the context of over-regulation at the Ministerial Regulation level, it can be seen in the growth of Ministerial Regulations in 2018 of 1379 and in 2019 of 1241, the high growth of Ministerial Regulations in Indonesia has caused obstacles such as burdening business actors or hampering investment in Indonesia. Therefore, the President of the Republic of Indonesia made a policy by forming a law using the Omnibus Law method which aims to combine all material and substance in various laws in 1 (one) law. So that there will be no more substance conflict between one law and another. The improvement in the level of the law is expected to have an impact on the simplification of the amount at the level of Ministerial Regulation, especially in the field of licensing and investment in Indonesia. (Wicaksana, 2013).

The government has issued 2 (two) policies in order to reduce the amount of growth in Ministerial Regulations in Indonesia, including letters:

1. Minister of State Secretary Number B-1287/M.Sesneg/D-1/HK.05.02/11/2019 regarding Follow-Up on President's Policy Regarding Formation of Ministerial Regulation/Regulations of Head of Bodies/Regulations of the Agency addressed to Ministers/Heads of Non-Ministerial Government Institutions, in which the letter explains that the Minister/Head of Non-Ministerial Government Institutions in forming 1 (one) Ministerial Regulation/Regulation of the Head of the Agency/Regulations

of the new Agency and at the same time revoke 2 (two) Ministerial Regulations/Regulations of the Head of the Agency/Regulations of the Agency previously stipulated. Therefore, each Minister/Head of Non-Ministerial Government Institution submits a plan for the formation and revocation of Ministerial Regulation/Regulation of the Head of Agency/Agency Regulation to the President for approval; and

2. Cabinet Secretary Number R.123/DKK/11/2019 regarding the Follow-up to the Presidential Directive Regarding the Preparation of Ministerial Regulations (Permen) and Regulations of the Head of Non-Metallic Government Institutions (Perka) addressed to Coordinating Ministry Secretaries, Secretaries General, and Principal Secretaries of the Agency/Non-Ministerial Government Institutions, in which the letter states that Ministers and Heads of Non-Ministerial Government Institutions that will make Ministerial Regulations (Permen) and Regulations of Heads of Non-Ministerial Government Institutions (Perka) relating to people's lives or strategic nature must be discussed in cabinet meetings, meetings limited, as well as internal meetings chaired by the President to obtain approval and decisions then Permen and Perka made must refer to the minutes of the cabinet meeting, limited meetings, or internal meetings issued by the Cabinet Secretariat.

The existence of 2 (letters) referred to, gives a signal that the existence of Ministerial Regulation is already in an alarming stage, it is in line with the opinion of the President of the Republic of Indonesia in every speech he always reminded to do "Arrangement of the existence of legislation in Indonesia, over regulation of legislation in Indonesia has reached an alarming stage because many ministries, institutions, agencies, and commissions up to the regional governments that make laws and regulations which in substance are actually burdening business actors or hampering investment in Indonesia" (Pratiwi, 2018).

3.2 Limitation of the payload material of ministerial regulation

Independence of the ministries in the country compiling Ministerial Regulation by referring to Article 8 paragraph (2) which explains "Ministerial Regulation is recognized and has binding legal force insofar as it is ordered by higher statutory regulations or is formed based on authority" on the authority of the authorization. In the practice, the payload material which is administered by the Minister of Agriculture is in a position to be involved. Many wives of the Minister of Agriculture are involved because there are not many people who are related to the payload material of the Minister of Agriculture.

Unclear material content of the Ministerial Regulation, seen from the birth of a letter issued by the Cabinet Secretary Number B.0229/Seskab/Ekon/07/2019 regarding to revise the Ministerial/Institution Regulation as a Follow-Up to the Presidential Directive, addressed to 17 (seventeen) ministries/institutions, specifically for ministries there are 15 ministries that must be revised Ministerial Regulations include the Ministry of Finance, the Ministry of Trade, the Ministry of Industry, the Ministry of Environment and Forestry, the Ministry of Communication and Information, the Ministry of Agriculture and Spatial Planning, the Ministry of Agriculture, the Ministry of Manpower, the Ministry of Law and Human Rights, the Ministry of Tourism, the Ministry of Health, the Ministry of Transportation, the Ministry of Energy and Mineral Resources, the Ministry of Education and Culture, and the Ministry of Cooperatives and Small and Medium Enterprises (UKM). Many of the contents of the Ministerial Regulation impede many national work programs and achieve national priority targets, so that immediate revisions are made to provide legal certainty and/or ease of business in Indonesia. Following is an example table of some Ministerial Regulations and reasons for revision ca be seen in Table 1.

Payload of the regulatory instruments of the agreement into a critical factor for the negotiation of the regulatory framework. PWC Akkermans was originally cited by Bayu Dwi Angggono (2018) in his research, confirming 5 (five) were to be followed in the formation of legislation. These five include (Main, 2007):

1. authority factor, which is meant to be that is structured to be authorized as a constitution;
2. the substantive factor, what is meant by the payload of the material of the product is in accordance with the scope of authority that is intended;
3. heuristic factors, what is meant by legal products, has accommodated the development of societal and social psychology aspects;

4. constitutional factors, which are intended as material payload, or the product does not deviate from the hierarchy of the regulatory framework; and

5. procedure procedure, what is meant in the formation of legal products has already been fulfilled according to the procedure of legal payment.

In these five factors, there are two factors that are related to the material payload, namely the substantive factors and the constitutional factors. The payload of regulatory material of the legislation actually also correlates with the authority to shape it. Material payload that is not in accordance with the type of legislation that is formed indicates that the contract is actually a form of inheritance. The position of the material payload is very important, so it is necessary to enforce the material payload for the regulation, in this day in the Minister. The establishment of the wife of the Minister of Industry is needed for the Ministerial Regulation which is the delegation of higher statutory regulations and even the Ministerial Regulation which is formed based on the authority of the Minister.

Table 1.

Ministerial regulations that need to be revised.

No.	Name of Ministerial Regulation	Ministerial/Substance Regulation	Consideration
1.	Regulation of the Minister of Finance Number 21/PMK.06/2017 concerning Procedures for Funding Land Acquisition for National Strategic Projects and Management of Asset Results of Land Acquisition by the State Asset Management Institute	Article 25 paragraph (2): Disbursement of land acquisition compensation funds as referred to in paragraph (1) is used for payment of compensation for land acquisition, in accordance with the list of priority funding for national procurement for annual national strategic projects and a list of contents for the implementation of the relevant fiscal year budget. 45 paragraph (4) letters a to letter e	Inhibiting the flexibility of the BLU LMAN budget, where the remaining budget that was not used in the previous year cannot be used for the following year. The bailout refund process takes a long time, so the flow of bailout funds is hampered
2.	Minister of Finance Regulation Number 150 Year 2018 governing Tax Holiday	Tax Holiday can currently be provided for economic infrastructure	These facilities are only for concessions under KBLI 35101, while geothermal is not included.
3.	Regulation of the Minister of Agrarian Affairs and Spatial Planning Number 24 Year 2016 regarding Service Standards and Arrangement of Agrarian Affairs, Spatial Planning, and Land for Special Economic Zones	Ease of Land Procurement	1. The issue of Land Freezing is actually a problem in general land acquisition, so there are those who argue that the issue of Land Freezing can be contained in Law 12 of 2012 or in Amendment to Presidential Regulation Number 71 of 2012 concerning Implementation of Land Procurement for Development in the Public Interest. 2. ATR Amendment/BPN amendment is needed to clarify arrangements related to land facilities and facilities in SEZ 3. Amendment to ATR/BPN Regulation 24 of 2016, including regulating: a. *Land Freezing* b. Utilization of space in SEZs is stipulated in the SEZ masterplan by

			business entities. c. in order to support the SEZ masterplan, the regional government established RDTR areas around the SEZ.
4.	Regulation of the Minister of trade No. 22 of 2016 concerning General Provisions on the Distribution of Goods	Article 19 Settings that: Distributors, subdistributors, wholesalers, wholesalers, agents, and sub-agents are prohibited from distributing goods coolly to consumers b. large and medium scale producers and importers are prohibited from distributing goods to retailers	Prohibition for large and medium scale business producers to distribute goods directly to consumers will increase production cost lines and have a direct impact on prices at the consumer level Based on the previous arrangement, producers can directly distribute goods through retailers, namely hypermarkets and supermarkets. The distributed goods will later enter the retailer's warehouse before being distributed
5.	Regulation of the Minister of Communication and Information Technology Number 16 of 2018 concerning Operational Provisions for the Certification of Telecommunication Equipment and/or Equipment	Bluetooth Test Settings	1. Regulation of the Minister of Communication and Information Technology regulates several Devices that use the Bluetooth feature, including EDC terminals, Audio Amplifiers, sound or image players, TV receivers (other than cathode ray tube types) 2. need further explanation on the part of the device that uses the Bluetooth feature, so that the tests can be more efficient (not overall) and do not overlap with SNI testing. 3. Decree of the Director General of Post and Telecommunications Number 09/DIRJEN/2004 concerning Bluetooth Technical Requirements has been revoked by Minister of Communication and Information Minister Regulation No. 1 of 2019 concerning Use of Radio Frequency Spectrum Based on Class Permits. 4. Regulation of the Minister of Communication and Information Technology Number 16 Year 2018 is scheduled to be reviewed in 2020. The content of material to be changed in the Regulation of the Minister of Communication and Information Technology needs to be supported with data on business actors who have been harmed by a policy of testing all of the overall equipment.
6.	Minister of Forestry Regulation Number P.84/Menhut-II/2014 dated	Procedure for Determination of Disturbed Areas and	1. In Law 9 of 2018 concerning Non-Tax State Revenue, it is stipulated that the PNBP management agency is required

	29 September 2014 concerning Amendment to Minister of Forestry Regulation Number P.56/Menhut-II/2008	Reclamation and Revegetation Areas for the Calculation of PNBP-PKH where in this ministerial regulation the verification of PNBP acceptance involves BPKP	to verify PNBP 2. In addition, the Act also stipulates that the implementation of verification can be facilitated by the relevant ministries. The task of the BPKP is as a supervisory agency that carries out PNBP checks on PNBP managing agencies, is obliged to pay, and/or partners of PNBP managing agencies. Verification of PNBP is carried out by PNBP recipient agencies (related ministries)
7.	Minister of Environment Regulation No. 5 of 2012 concerning Types of Business Plans and/or activities that are required to have an Environmental Impact Analysis	AMDAL for Geothermal Working Areas (WKP)	In the attachment to LHK Regulation Number 5 of 2012, WKP greater than 200 ha are required to use AMDAL while there are some WKP with land area of less than 200 ha which need to be further studied.
8.	Regulation of the Minister of Manpower and Transmigration number 19 of 2012 concerning Conditions of Submission of Part of the Work Implementation to Other Companies	Conditions for the partial surrender of work to other companies. A worker/labor service provider company is a company in the form of a limited liability company (PT) that meets the requirements to carry out supporting services for the employer. Cooperatives find it difficult to do business in the field of providing worker/labor services	In Law 13 of 2003 concerning Manpower (Article 4 and Article 66), opening opportunities for cooperatives as a form of business which is a legal entity to carry out activities of providing workers/labor services. But the Minister of Manpower and Transmigration Regulation No. 19 of 2012 actually limits that companies providing workers/laborers 'suits must be limited liability companies, so that other forms of business other than PT (including cooperatives) cannot provide workers/laborers' services.
9.	Minister of Law and Human Rights Regulation Number regarding immigration facilities and facilities in Special Economic Zones (SEZ)	Immigration facilities and facilities	1. *Smartcard is a way/tools in addressing issues related to the visit insvestor, making it easier for investors out of the SEZ on Indonesian territory without constrained by the immigration queue and the number of sheets of passport with a quantity of investor visits.* 2. *Smartcard to be issued has the same period with a limited stay permit period (KITAS) owned by foreigners* 3. The Directorate General of Immigration Kemenkumham has conducted an equipment auction process to support the operation of Smartcard 4. The Government Regulation on PNBP has been passed by the President (PP 28 of 2019 concerning PNBP that applies to the Ministry of Law and Human Rights

			5. with the legalization of PP PNBP in kemenkumham, the plan to use Smartcard in the SEZ region and free trade areas and free ports can be realized immediately, besides that, Smartcard auctions should be accelerated so that the implementation of immigration especially for Singapore investors can run well.
10.	Regulation of the Minister of Industry Number 65/M-IND/PER/7/2016 concerning Provisions and Procedures for Calculating Domestic Component Level Values of Cellular Phone Products, Handheld Computers, and Tablet Computers	There is a regulation on domestic component level obligations (TKDN) which is one form of trade protectionism (non-terif barrier) that is not in accordance with international agreements	Kewajiban TKDN tidak diimbangi dengan pemberian insentif.
11.	Regulation of the Minister of Transportation Number 92 Year 2018 concerning Procedures and Requirements for Granting Approval for the Use of Foreign Vessels for Other Activities Excluding Transporting Passengers and/or Goods in Domestic Sea Transportation Activities	Licensing Issuance	Transportation needs to be considered by Indonesian freighter vessels to be able to transport Crude in large volumes and needs further review of SOP issuance of licenses so as to enable licensing in a faster time
12.	Minister of Tourism Regulation No. 10 of 2018 concerning Electornically Licensed Business Licensing Services for the Tourism Sector	Sample: Tourism Business Certificate Article 27 Tourism Business Certificate is issued directly by LSU in the Field of Tourism Article 29 Tourism Business Certificate is valid for 3 (three) years from the date of issuance.	Needs to be adjusted with PP Number 24 Year 2018 regarding OSS (Licensing Simplification)

Source: Results of research analysis

3.3 Ministerial regulation in the hierarchy of Indonesian legisation

The position of Ministerial Regulation in the hierarchy of laws and regulations in Indonesia based on Law 10 of 2004 concerning the Formation of Legislation Regulations does indeed cause problems in its implementation. Therefore, when the Act 10 of 2004 was changed, the topic of the existence of Ministerial Regulations in the hierarchy of laws and regulations became one of the important discussions to be completed, in the context of an improvement in the legislation system in Indonesia going forward. The discussion on the Ministerial Regulation contained in the Academic Paper Amendment to Law 10 of 2004 concerning the Formation of Legislation Regulations made by the

National Legal Development Agency, stated "Ministerial Regulation is not a Legislation because it is not in the hierarchy, so it does not need to be followed" (National Legal Development Agency).

After the enactment of the Law on Formation of Legislation in lieu of Law 10 of 2004 concerning Formation of Legislation, the position of Ministerial Regulation has not been clearly stated in the hierarchy of laws and regulations, only in Article 8 paragraph (1) it states "Types of Legislation legislation other than as referred to in Article 7 paragraph (1) includes regulations stipulated by the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, the Supreme Court, the Constitutional Court, the Supreme Audit Board, the Judicial Commission, Bank Indonesia, Ministers, agencies, institutions, or commissions of the same level formed by Law or Government on the orders of the Law, Provincial Regional Representative Council, Governor, Regency/City Regional Representative Council, Regent/Mayor, Village Head or equivalent".

The arrangement of the hierarchy of laws and regulations based on Article 7 paragraph (1) and Article 8 paragraph (1) of the Law concerning the Formation of Regulations is very difficult to determine which legislation is higher or lower than the others. The unclear position of Ministerial Regulation in the hierarchy of laws and regulations raises legal issues, when Ministerial Regulation is faced with Regional Regulations both Provincial and district/city. In the hierarchy of statutory regulations there is no mention and no Ministerial Regulation is included in the hierarchy of statutory regulations, whereas Provincial and Regency/City Regional Regulations are included in the hierarchy of statutory regulations, so that when viewed from the standpoint of binding power and binding force it becomes the dilemma, whether the position of the Ministerial Regulation is higher than the Regional Regulation or the Regional Regulation is higher than the Ministerial Regulation (Indrati, 2002).

Ministerial Regulations if related to other laws and regulations such as the People's Consultative Assembly (MPR) Regulations, the House of Representatives (DPR), the Regional Representative Council (DPD), the Supreme Court (MA), the Constitutional Court (MK), the Supreme Audit Board (BPK)), The Judicial Commission (KY) also caused legal trouble. These institutions based on the 1945 Constitution have a higher position than the ministry, but the existence of these regulations are grouped in Article 8 paragraph (1) of the Law on the Formation of Legislation. Therefore, the legal question arises whether the statutory regulation has a higher hierarchical position when compared to the Ministerial Regulation.

Based on these problems, the obscurity of the position of Ministerial Regulation in the hierarchy of statutory regulations in Indonesia causes obstacles in the administration of government. The concept of legislative hierarchy as regulated in the Law concerning the Formation of Regulations, will be used as a guideline in resolving problems in the field of law so as to create justice and legal certainty. The existence of a hierarchy of laws and regulations in the life of Indonesian constitution is a system to maintain the consistency and observance of principles in positive law in Indonesia. Prohibition of conflict between one norm and another norm, merely to provide legal certainty to the public. The meaning of order or hierarchy or level in the legal system/laws and regulations is (Saraswati, 2009):

1. Superior legal regulations are the legal basis for the formation of subordinate legal regulations;
2. Subordinate legal regulations are the implementation of superiors' legal regulations, therefore their position is lower and material payload must not be in conflict; and
3. When there are two laws and regulations with material payloads governing the same material and with the same position, new legislation applies.

In addition, the formation of legislation becomes one of the efforts in the development of national law. The realization of the formation of legislation that is comprehensive and meets the principles and does not overlap, can realize the establishment of legal authority in the development of law in Indonesia.

3.4 The process of harmonising ministerial reguation

In the Law concerning the Formation of Legislation, the process of harmonizing the formation of all types of laws and regulations in Article 7 paragraph (1) is comprehensively regulated. Unlike the process of harmonizing the formation of Ministerial Regulations, which are not regulated in the Law on the Formation of Regulations and Presidential Regulation Number 87 of 2014 concerning Regulations for Implementing Law Number 12 of 2011. Even in Article 42 of the Law concerning the Formation of

Regulations only explicitly stated "Planning for the preparation of other laws and regulations (other than Laws, Government Regulations, Presidential Regulations, and/or Regional Regulations) as referred to in Article 8 paragraph (1) is an authority and adjusted to the needs of institutions, commissions or agencies each.

Not regulating the process of harmonizing the formation of Ministerial Regulations, causing each ministry to form internally according to their respective scope of authority. For example, the Ministry of Foreign Affairs through Minister of Foreign Affairs Regulation No. 1 of 2018 regulates the Guidelines for the Establishment of Ministerial Regulations, Ministerial Decrees, and Decree of Echelon I Leaders in the Ministry of Foreign Affairs, the Ministry of Industry also regulates guidelines for the preparation of Ministerial Regulations in their environment through Minister of Industry Regulations Number 40/M-IND/PER/11/2017 concerning Guidelines for the Preparation of Legislation in the Ministry of Industry and Ministry of Finance through the Minister of Finance Regulation Number 123/PMK.01/2012 also regulates similar matters.

Not regulating provisions regarding harmonization of Ministerial Regulations in various laws and regulations both at the central level and at the level of each ministry, often causes Ministerial Regulations to conflict with higher regulations and overlap both vertically and horizontally with other laws and regulations, especially Ministerial Regulations established based on "authority" (attribution). This problem arises because there is no legal basis that explicitly instructs harmonization of Ministerial Regulations. Even Ministerial Regulations formed through delegation, are still in conflict with the laws and regulations that delegate them due to the absence of a harmonizing mechanism.

In the absence of a harmonization process in the formation of Ministerial Regulation, resulting in disharmonies between a Ministerial Regulation and higher statutory regulations. For example, Minister of Law and Human Rights Regulation Number 1 of 2018 concerning Paralegals in Providing Legal Aid (hereinafter abbreviated Permenkumham 1/2018) which was formed based on "authority" contrary to Law Number 18 of 2003 concerning Advocates (hereinafter abbreviated to Law 18/2003), based on the Supreme Court Decree Number 22 P/HUM/2018 Minister of Law and Human Rights Regulation No. 1 of 2018 giving space and authority to Paralegals not only accompanying or assisting lawyers to be able to have a trial during the trial examination process in court. These provisions can be interpreted that the Paralegal not only accompanies or assists advocates, but also can carry out the trial examination process in court. This certainly contradicts the provisions in Law 18/2003 which states that only lawyers who have sworn an open court hearing of the High Court can proceed in the trial hearing process in court.

From the example of Ministerial Regulation above, it can be concluded that disharmonious laws and regulations, particularly Ministerial Regulations can occur due to the absence of standard rules in regulating the procedures or stages of formation of Ministerial Regulations specifically the obligation regarding harmonization of Ministerial Regulations, then related to the need to coordinate with relevant ministries or institutions, experts, or other stakeholders in harmonizing the draft Ministerial Regulation established. The logical consequence of the absence of the obligation to harmonize with the involvement of relevant parties is that the Ministerial Regulation established will have the potential to be disharmonious.

In the formation of a statutory regulation, there are various things that need to be considered, including paying attention to the hierarchy of laws and regulations, the principles of the formation of laws and regulations, the material payload, and other legal principles so that the laws and regulations to be formed are not in conflict with each other or not overlapping arrangements with other laws and regulations occur. In other words it is necessary to do a harmonization in the formation of a statutory regulation.

Harmonization of laws and regulations can be interpreted as a process of harmonizing or harmonizing the laws and regulations that are to be or are being drafted, so that the laws and regulations produced are in accordance with the principles of law and good legislation (Rochim, 2014). Harmonization has a function to prevent and overcome disharmony in the legislation. Harmonization can also guarantee the process of establishing draft laws and regulations that adhere to principles for legal certainty. From this understanding it can be said that the harmonization of laws and regulations is the process of harmonizing and harmonizing between laws and regulations as an integral part or sub-system of the legal system in order to achieve legal objectives.

3.5 Implementation of judicial review of ministerial regulations as a product of legislation in the supreme court

Testing of statutory regulations (judicial review) is one of the tools of control in the rule of law on the application of legislation. The mechanism for Testing Legislation (juidicial review) functions to prevent the authorities from acting arbitrarily to their people through legal instruments of legislation. Because in the legislation there are norms that can oblige or forbid people to do something or not do something.

In the Indonesian justice system the judicial review of legislation under laws that contradict the law, the trial is conducted by the Supreme Court (Flores, 2009). Judicial review by the Supreme Court is carried out in order to test the validity of legal norms contained in lower laws and regulations with the legal norms contained in higher laws and regulations. Different from the judicial review conducted by the Constitutional Court in the context of examining the constitutionality of a law against the 1945 Constitution of the Republic of Indonesia.

Identification of the legal position (hierarchy) of laws and regulations in force in Indonesia is very important, because basically the "objects" and "test stones" or benchmarks for testing the laws and regulations (judicial review) are nothing but regulations the law itself. In Law 10 of 2004 concerning Formation of Regulations, Ministerial Regulations are included in the types of laws and regulations, namely Ministerial Regulations which are formed based on the order of higher regulations (delegations). In addition, decisions or policies issued by ministers outside the order of higher statutory regulations (delegations) fall into the type of policy regulations (beleidsregel), making it easy to identify which Ministerial Regulations fall into the category of legislation and not regulations legislation. However, in contrast to the regulation of Ministerial Regulations based on the Law on Formation of Regulations, in Article 8 paragraph (2) of Law on Formation of Regulations, the existence of Ministerial Regulations can come from 2 (two) sources. First, based on orders from the higher laws (delegation), secondly, it is formed based on authority. This condition, in practice the formation of legislation raises legal problems. Are all Ministerial Regulations formed by the Minister included in the category of statutory of regulation. According to Van Wijk and Willem Konijnenbelt as quoted by Widodo Ekatjhajana (2007) states: "The decision of state institutions or public authorities (algemene) is divided into 2 (two). First, it is abstract (abstracte) second, it is individual (concrete). Therefore, the basic elements in the legal concept of laws and regulations consist of at least elements of written decisions or regulations, are formed by state institutions or authorized officials, and are generally binding.

Written decisions or regulations refer to the form of legal regulations in the form of written form. In English it is called written law, and in Dutch it is called geschreven recht, which is confronted with unwritten law or ongeschreven recht, ie unwritten law. Written decisions or regulations to be called statutory regulations must also contain elements, "formed by state institutions or authorized state officials". So there are 2 (two) written regulations that are formed: (1) state power and (2) authorized state officials.

In addition, binding in general (algemeen bindende voorschirfen) is a written regulation established by a state institution or an authorized state official that must be generally accepted (algemeenheid). According to Bagir Manan is not limited to laws, various state administrative decisions that are alarming such as Government Regulations, Presidential Regulations, or Ministerial Regulations also apply in general. Understanding generally accepted (algemeenheid) which applies to everyone, applies at all times, all places and in all facts.

If seen from the elements mentioned above, not all Ministerial Regulations fulfill the elements as statutory regulations because in reality there are Ministerial Regulations that do not regulate, but rather are policy (beleidsregel) or decision (beshicking). Unclear Ministerial Regulation which can be categorized as a statutory regulation, then the position of the Ministerial Regulation in the hierarchy of statutory regulations, as well as the pattern of the relationship of the Ministerial Regulation with other legislation in the order of the applicable laws and regulations becomes an obstacle in the judicial process review) of the Ministerial Regulation.

Judicial review of laws and regulations (including Ministerial Regulations) on laws in the Supreme Court also has legal problems. The authority of the Supreme Court examines the laws and regulations under the law (including Ministerial Regulations) the judicial review is mandated by the 1945

Constitution. Article 24A paragraph (1) of the 1945 Constitution which is the result of the third amendment states, the Supreme Court has the authority to adjudicate at the cassation level, testing the statutory provisions under the law against the law, have other authorities granted by law.

From these provisions it is clear that the 1945 Constitution gives 3 (three) authorities to the Supreme Court, namely (1) adjudicating at the cassation level, (2) testing the statutory regulations under the law against the law, and (3) other authorities provided by law. Specifically the third provision, the 1945 Constitution stipulates that the authority of the Supreme Court is open, which means that the authority of the Supreme Court allows it to be added as long as it puts the additional authority arrangements into or by law.

The provisions of Article 24A of the 1945 Constitution were subsequently derivated into Law Number 4 of 2004 concerning Judicial Power (Law 4/2004). Article 11 paragraph (2) of the Act states that the Supreme Court has the authority, (a) to adjudicate at the level of appeal against decisions made at the final level by all courts in all judicial environments under the Supreme Court, (b) test the legislation invitation under the law to the law, and (c) other authorities granted by law.

After knowing the authority of the Supreme Court, the writer identifies the authority of the Supreme Court to conduct a judicial review. In jurisprudence, the term judicial review is a concept to refer to the testing of certain statutory regulations by judges (judicial). This means that the right or authority to test (toetsingsrecht) is owned by the judge. The test is carried out on a statutory provision against higher laws or the constitution as the highest law. That is, judicial review works on the basis of the existence of legal norms or regulations that are arranged hierarchically. Without this hierarchy, it is impossible to do judicial review.

In the Indonesian context, a hierarchy of legal norms also applies. At present, the hierarchy of statutory regulations is regulated in Article 7 of the Law concerning the Formation of Legislation. The provision states, the type and hierarchy of the legislation consists of The 1945 Constitution of the Republic of Indonesia, the People's Consultative Assembly Decree, Government Acts/Regulations in lieu of Laws, Government Regulations, Presidential Regulations, Provincial Regulations, and Regency/City Regulations.

In accordance with Article 7 paragraph (2) of the Law concerning the Formation of Regulations, the legal force of laws and regulations is in accordance with the hierarchy. Thus, the 1945 Constitution occupies a position at the top of the hierarchy with the highest degree of legal power (the supreme law of the land). Subsequently, it was followed sequentially under the Decree of the People's Consultative Assembly, Government Acts/Regulations in lieu of Laws, Government Regulations, Presidential Regulations, Provincial Regulations, and Regency/City Regulations. In addition, according to Article 8 of Law 12/2011, other types of legislation are also recognized that include regulations established by the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, the Supreme Court, the Constitutional Court, the Agency, the Financial Examiner, the Judicial Commission, Bank Indonesia, Ministers, bodies, institutions, or commissions of the same level formed by Law or Government by order of Law, Provincial Regional Representative Council, Governor, Regency/City Regional Representative Council, Regent/Mayor, Village Head or the same level. These laws and regulations are recognized and have binding legal force insofar as they are ordered by higher statutory regulations or are formed based on authority.

Based on the hierarchy of the laws and regulations, Article 9 of the Law concerning the Formation of Laws and Regulations states that in the event that a Law is alleged to be contrary to the 1945 Constitution, the examination is carried out by the Constitutional Court. Meanwhile, in the case of a statutory regulation under the Act allegedly contrary to the Act, the examination is carried out by the Supreme Court. Supreme Court Regulation Number 1 of 2011 concerning Material Judicial Rights (Perma 1/2011), there are several legal problems in judicial practice. The procedural law for judicial review rights in the Supreme Court is considered not to fulfill justice for the judicial review applicants. Because the Supreme Court Regulations (PERMA) 1/2011 have not fully accommodated the legal principles of procedural judicial review, including:

1. ius curia novit (judges must not reject a case under the pretext that there is no law),
2. the trial is open to the public,
3. independent and impartial,
4. quick, simple, low-cost justice;

5. audi et alteram partem (equal hearing rights);
6. active judge in the trial;
7. presumtio iustae causa (presumption of validity)

Referring to the principles of procedural law testing the laws and regulations, and especially when compared to the procedural law reviewing law in the Constitutional Court, the following are weaknesses in the implementation of PERMA 1/2011. For this reason, the author compares the mechanism for testing the Law in the Constitutional Court based on Law Number 24 of 2003 concerning the Constitutional Court as amended by Law Number 8 of 2011 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court. In the process, justice in the Constitutional Court is fairer and more transparent. So, even if the Constitutional Court's Decision is not as expected, especially by the judicial review applicants, the judicial review applicant will be able to accept it elegantly and legally because a truly fair and open judicial process has been carried out. Research in various countries shows that perceptions of justice seekers are more influenced by the treatment received and whether the process at the judiciary seems fair compared to whether they obtain favorable or unfavorable outcomes (decisions).

The parties involved will be more able to accept the decision of the Constitutional Court, because the judicial process is transparent, more accountable, and especially provides balanced opportunities for litigants to be heard. For this reason, the practice of judicial review in the Constitutional Court can be said to have fulfilled the principles of judicial procedural law, although of course there are still records to further improve the judicial process in the Constitutional Court.

Regarding the authority of the Supreme Court to examine the statutory provisions under the law against the law, it can be said is an attempt to examine legality (legal review). The testing conducted by the Supreme Court is clearly different from the constitutional review conducted by the Constitutional Court. First, the object being tested is only limited to legislation under the law (judicial review of regulation). While the judicial review of law is tested by the Constitutional Court.

The mechanism of the Right to Judge Material in the Supreme Court is different from the legal procedure for judicial review in the Constitutional Court. In testing the Act at the Constitutional Court, in essence the testing process is carried out through a series of trials that are open to the public. This is normatively regulated in Article 40 paragraph (1) of the Constitutional Court Law (MK Law) which states: "The Constitutional Court Session is open to the public, except for deliberations of judges" (Assiddiqie, 2006).

In testing the statutory provisions under the Act, the Supreme Court does not hold hearings that are open to the public. The judicial process in the Supreme Court in the case of judicial review of laws and regulations under the Act is more closed and one-sided. After the application file was submitted, the Supreme Court closed the judicial proceedings. The parties cannot find out to what extent the files were examined. There is not a single provision in Perma 1/2011 stating the necessity to hold a hearing openly. In Article 5 paragraph (2) states, the Panel of Justices examines and decides an objection request regarding the Right to Judge Material by applying the legal provisions applicable to the petition case in the shortest possible time, in accordance with the principle of justice which is simple, fast, and low cost. So, without an open trial, the Judge will immediately apply the legal provisions that apply to the petition case.

As such, judicial review petitioners do not have the opportunity to present experts and witnesses to hear their statements at the hearing to strengthen the arguments of the petition. In fact, it would be very good if in the trial process of the material test, in addition to being open to the public, the Supreme Court Judge also invited the parties to the dispute, related parties, including witnesses or experts as well as in the hearing at the Constitutional Court. Thus, misunderstanding or wrong implementation of law can be avoided. Such matter is actually a disadvantage for the Panel of Judges who are handling cases, because they do not get input in the form of perspectives or other perspectives on the case law issues being handled. In fact, however the Supreme Court Judge must be seen to be able to adjudicate cases with any legal issues, but accepting input in the form of a perspective or other perspective is not a prohibition, on the contrary, it will be very positive in order to strengthen the legal arguments and beliefs when deciding later.

4. Conclusion

The implications of the regulation of Ministerial Regulation in the Law on the Formation of Legislation are not followed by clear regulations concerning the meaning of the Minister's authority in forming legislation, the position of Ministerial Regulation in the hierarchy of laws and regulations, the wife of the Ministerial Regulation, and the process of harmonizing Ministerial Regulations. so as to create legal uncertainty in interpreting the authority of the Minister in forming legislation that impacts overlapping Ministerial Regulations as well as the growth of Ministerial Regulations that are significant, the legal force of the Ministerial Regulations with other laws and regulations in the legal system, the wife of the Ministerial Regulation can implement any substance, the process of not harmonizing the Ministerial Regulations properly, and the unclear testing process (judicial review) of the Ministerial Regulations in the Supreme Court so that these conditions led to lack of legal.

To establish an orderly manner in the regulatory system of legislation, a regulation of the Minister is required, a process of harmonizing the Ministerial Regulation, which includes aspects of the Minister's authority in forming legislation, the position of the Ministerial Regulation in the hierarchy of laws and regulations, the regulation of the Minister of the Republic of Indonesia, the process of harmonizing the Ministerial Regulation, covering the aspects of the Minister's authority in forming the laws and regulations, the position of the Ministerial Regulation and judicial review of Ministerial Regulations in the Supreme Court in the framework of supporting the improvement of the regulatory system in Indonesia so that there is no mistaking of the existence of Ministerial Regulations in the Indonesian legal system.

References

Abdlatif & Ali, H. (2010). Perihal Kaedah Hukum. Bandung. Citra Aditya Bakti.

Aditya, Zaka Firma & Winat, M. Reza. (2018). Rekonstruksi Hierarki Peraturan Perundang-Undangan Di Indonesia, State Journal of Law, 9(1): 79-100. https://doi.org/10.22212/jnh.v9i1.976.

Anggono, Bayu Dwi. (2018). Tertib jenis, hierarki, dan materi muatan peraturan Perundang-undangan: permasalahan dan solusinya, Jurnal Masalah-Masalah Hukum, 47(1): 1-9. https://doi.org/10.14710/mmh.47.1.2018.1-9

Asshiddiqie, Jimmy & Safa'at, M.A. (2006). Teori Hans Kelsen Tentang Hukum, Jakarta: Konstitusi Press.

Data from the Directorate of Enforcement, Publication and Cooperation, Directorate General of Legislation, was presented at the Focus Group Discussion on the Formulation of a National Strategy for Appreciation Paper at the Coordinating Ministry for Politics, Law and Security, 2018.

Ekatjahjana, Widodo. (2007). Pengujian Peraturan Perundang-undangan Menurut UUD 1945 (The Review Of Legislation According To The Constitution Of 1945), Bandung,Unversitas Padjadjaran.

Erliyana, Anna. (2005). Keputusan Presiden, Analisis Keppres RI 1987-1998, Jakarta: Postgraduate Program Faculty of Law, University of Indonesia.

Fadly, M. (2012). Perkembangan Peraturan Delegasi di Indonesia (The Development Of Delehated Legislation In Indonesia. Bandung, Universitas Padjadjaran.

Flores, Imer B. (2009). Legisprudence, The Role and Rationality of Legislators-Vis a Vis Judges-Towards The Realization of Justice", Mexican Law Review, 1(2): 91-109. DOI: http://dx.doi.org/10.22201/iij.24485306e.2020.2

Handoyo, Hestu Cipto. (2008). Prinsip-Prinsip Legal Drafting dan Desain Naskah Akademik, Yogyakarta: Universitas Atma Jaya Yogyakarta.

Indrati, Maria Farida. (2002). Kedudukan dan Materi Muatan Peraturan Pemerintah Pengganti Undang-Undang, Peraturan Pemerintah dan Keputusan Presiden dalam Penyelenggaraan Pemerintahan Negara di Republik Indonesia, Jakarta: Universitas Indonesia.

Marzuki, Peter Mahmud. (2011). Penelitian Hukum, Jakarta, Kencana Prenada Media.

Mochtar, Zainal Arifin. (2016). Pengaturan Peraturan di Indonesia. paper presented at the National Constitutional Law Conference forum, in Jember, East Java on 16-17 September 2016.

National Legal Development Agency, Academic Paper Amending Law Number 10 of 2004 concerning Formation of Regulations.

Pantja, I. G. & Suprin, Na. (2008). Dinamika Hukum dan ilmu perundang-undangan di Indonesia, Bandung: Alumni.

Pratiwi, Leni. (2018). Harmonisasi dan Sinkronisasi Hukum terhadap Perbedaan Pengaturan Barang Impor dalam Keadaan Baru, Journal of Law Ius Quia Iustum, 25(1): 69-91. https://doi.org/10.20885/iustum.vol25.iss1.art4

Rochim, Risky Dian Novita Rahayu. (2014). Harmonisasi Norma-Norma Dalam Peraturan Perundang-undangan tentang Kebebasan Hakim. Jurnal Ilmiah, Malang: Universitas Brawijaya.

Saraswati, Retno. (2009). Perkembangan Pengaturan Sumber Hukum dan Tata Urutan Peraturan Perundang-undangan di Indonesia", Media Hukum, 9(2): 48-59. Available at http://eprints.undip.ac.id/5886/

Simamora, Janpatar. (2014). Tafsir Makna Negara Hukum Dalam Perspektif Undang-Undang Dasar Negara Republlik Indonesia Tahun 1945, Jurnal Dinamika Hukum, 14(3): 547-561. DOI: http://dx.doi.org/10.20884/1.jdh.2014.14.3.318

Sjarief, F.A. (2015). Pembentukan Peraturan Delegasi Dari Undang-Undang Pada Kurun Waktu 1999 – 2012. Jakarta, Universitas Indonesia.

Utama, I Made Arya. (2007). Hukum Lingkungan; Sistem Perizinan Berwawasan Lingkungan, Bandung, Pustaka Sutra.

Wicaksana, Dian Agung. (2013). Implikasi Re-Eksistensi Tap MPR dalam Hierarki Peraturan Perundang-Undangan Terhadap Jaminan Atas Kepastian Hukum yang Adil di Indonesia, Jurnal Konstitusi, 10(1): 144-178.

Laws And Regulations

Indonesia, Regulation of the Minister of Administrative Reform and Bureaucratic Reform No. 6 of 2016 concerning Second Amendment to the Decree of the Minister of State Administrative Reform No. 41 / KEP / M.PAN / 12/2000 concerning Functional Position of Drafting Legislation and Credit Numbers.

Indonesia, Minister of Foreign Affairs Regulation No. 1 of 2018 concerning Guidelines for Formation of Ministerial Regulations, Ministerial Decrees, and Decree of Echelon I Leaders within the Ministry of Foreign Affairs.

Indonesia, Minister of Law and Human Rights Regulation No. 58 of 2016 concerning Gratification Control.

Indonesia, Minister of Law and Human Rights Regulation No. 23 of 2018 concerning Harmonization of Ministerial Draft Regulations, Draft Regulations of Non-Ministerial Government Institutions, or Draft Non-Structural Institution Regulations by Draft Regulators.

Indonesia, Minister of Law and Human Rights Regulation No. 25 of 2017 concerning the Notary Appointment Test.

Indonesia, Supreme Court Decision Number 22 P / HUM / 2018, p. 27

Indonesia, Law Number 10 of 2004 concerning Formation of Regulations.

Indonesia, the 1945 Constitution of the Republic of Indonesia

Indonesia, Law Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning Formation of Regulations.

Indonesia, Law Number 28 Year 2014 concerning Copyrights.

Indonesia, Law Number 13 Year 2016 regarding Patents.

Indonesia, Law Number 39 Year 2008 concerning State Ministries.