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THE ESSENCE OF STATE INSTITUTION REGULATIONS IN THE INDONESIAN LEGAL DAN REGULATORY SYSTEM

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Abstract

Law Number 12 of 2011 on the Establishment of Legislation (UUP3) in formulating the types and hierarchy of legislation has created legal uncertainty due to the inclusion of numerous types of legislation, including State Institution Regulations, whose positions are not stipulated in the legislative hierarchy nor is their content regulated in UUP3. This research is a normative legal study employing theories of the rule of law, legal system, legal certainty, authority, the hierarchy of legal norms, and legislation as analytical tools. The research approach utilizes legislative, philosophical, conceptual, historical, and comparative law approaches. This study uses primary, secondary, and tertiary legal materials through library research. The analysis method applied is juridical qualitative, critical, and systematic. Based on the research conducted, the findings indicate that the essence of State Institution Regulations is legislation enacted by authorized state institutions to implement higher legislation or regulations established based on generally binding authority. Essentially, State Institution Regulations are implementing regulations for executing laws that mandate their formation, either through direct or indirect delegation.

Keywords: Essence, Regulation, State Institution.

INTRODUCTION

The 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) explicitly outlines various types of legislation, including the UUD NRI 1945[1] itself, laws (UU)[2], government regulations in lieu of law (Perppu)[3], government regulations (PP), and regional regulations (Perda)[4]. According to Sri Soemantri M., the existence of various forms of legislation with different degrees of authority necessitates a hierarchy within the legislative framework.[6] Since Indonesia adheres to a hierarchical structure of legal norms, commonly referred to as a legislative hierarchy, Article 7, paragraph (1) of UUP3 specifies the types and hierarchy of legislation. The types and hierarchy are as follows:

1. 1945 Constitution of the Republic of Indonesia
2. Decrees of the People's Consultative Assembly (MPR)
3. Laws / Government Regulations in Lieu of Law
4. Government Regulations
5. Presidential Regulations
6. Provincial Regional Regulations
7. Regency/City Regional Regulations

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In accordance with Article 7, paragraph (2) of UUP3, the legal force of legislation is determined by its hierarchy, meaning that each type of legislation must not conflict with higher-order legislation. Article 8, paragraph (1) of UUP3 provides for additional forms of legislation beyond those listed in Article 7, paragraph (1). It covers:

"Regulations issued by the People's Consultative Assembly, the House of Representatives (DPR), the Regional Representative Council (DPD), the Supreme Court, the Constitutional Court, the Audit Board of Indonesia (BPK), the Judicial Commission, Bank Indonesia, ministers, and other agencies or commissions established by law or by the government under legal mandate. It also includes regulations from provincial and regional legislative councils, governors, regency/city legislative councils, regents/mayors, village heads, or equivalent officials."

From the provisions of Article 7, paragraph (1) and Article 8, paragraph (1) of UUP3, we can categorize legislation into two main types: legislation issued by central state institutions[7] and legislation issued by local governments.[8] Upon further examination of Article 8, paragraph (1) of UUP3, additional types of regulations emerge, created by bodies, institutions, and commissions established by law or by government mandate. Further, Article 8, paragraph (2) of UUP3 stipulates:

"Regulations as defined in paragraph (1) are recognized and have binding legal force as long as they are mandated by higher-order legislation or formed under delegated authority."

The explanation of Article 8, paragraph (2) specifies that "under delegated authority" refers to the administration of certain governmental functions in accordance with legal provisions. The recognition of additional types of legislation, as regulated in Article 8, paragraph (1), implies that legislation is not limited to the types outlined in Article 7, paragraph (1), but rather encompasses a broader range of legislative forms. In view of Article 8, paragraph (1) alongside Article 7, paragraph (1), there exists a diversity of legislation not incorporated into the formal legislative hierarchy. The presence of diverse legislative forms under Article 8, paragraph (1) of UUP3 reflects Indonesia's legislative reality, where various state institutions have the authority to issue state institution regulations[9] under statutory delegation, making such regulations a delegated form of legislation to implement laws.

Article 5, paragraph (2) of UUD NRI 1945 establishes that the President issues Government Regulations to implement laws as necessary, indicating that, constitutionally, the primary form of legislation for implementing laws is Government Regulations (PP). Other forms of implementing legislation are generally based on legislative delegation.

Delegated or implementing regulations issued by state institutions serve the purpose of carrying out statutory mandates, meaning they are based on delegated legislative authority. According to Bagir Manan and Kuntana Magnar, the concepts of attribution and delegation arise due to:

1. Legislative bodies, being collegial and generally composed of generalists, are often unable to act swiftly or regulate matters at a detailed level.

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2. The execution of a welfare state concept requires the government to serve public needs promptly while ensuring all services are grounded in specific legal provisions.
3. The diverse conditions and needs of society often necessitate varied regulations based on regional, need-based, or other distinctions.[10]

Based on Bagir Manan and Kuntana Magnar's insights, the delegation of authority serves as a solution to the legislative body's limitations in regulating all aspects of life due to constraints in knowledge, time, population diversity, geographical scope, and varying societal needs. Thus, the existence of delegated regulations, such as state institution regulations, provides an alternative solution to address Indonesia's complex regulatory needs.

The issues discussed in this article are as follows: (1) What is the essence of State Institution Regulations within Indonesia's legislative system? (2) What is the function of State Institution Regulations within Indonesia's legislative system?

METHOD

To address the research questions, this study employs normative legal research, using the theories of the rule of law, legal system theory, legal certainty theory, authority theory, legal norm hierarchy theory, and legislative theory as analytical tools. The research approach incorporates legislative, philosophical, conceptual, historical, and comparative law perspectives. This study utilizes primary, secondary, and tertiary legal materials through a library research method. The analysis applied in this research is qualitative, juridical, critical, and systematic analysis.

RESULTS AND DISCUSSION

1. Definition of State Institution Regulations

State Institution Regulations, as part of legislative regulations, are inseparable from the general concept of legislative regulations. "Regulation" derives from the root word "to regulate." In the *Indonesian Dictionary*, regulation refers to guidelines (rules, norms, stipulations) designed to govern, whereas "regulation" (pengaturan) refers to the process, method, or act of organizing; hence, regulation is a product of organization. According to Twining and Mears, rules have four aspects:

1. Rules guide or establish standards of behavior.
2. Rules are normative, prescribing (or proscribing) desirable (or undesirable) conduct, which is valid, good, or lawful.
3. Rules are not optional but imperative, requiring compliance expressed as a person must/must not, shall/shall not, ought or ought not to conduct oneself in a specific way.
4. Rules provide justification for a decision or course of action, and their source can compel or persuade a person to obey.[12]

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Researcher's Free Translation:

Rules have four aspects:

1. Rules guide or set behavioral standards.
2. Rules are normative, mandating (or prohibiting) desired (or undesired) behaviors, which are lawful, proper, or appropriate.
3. Rules are compulsory, requiring compliance in terms indicating that a person must/must not, may/may not, or should or should not act in a certain manner.
4. Rules justify decisions or actions, and their source can compel adherence.

Jimly Asshiddiqie defines legislative regulations, in a specific sense, as "the complete hierarchical structure of legislative regulations that extend from laws downwards—all legal products involving the roles of representative bodies alongside the government, or involving the role of the government within its political position, to implement legislative products established by representative bodies and the government at each level." Additionally, Asshiddiqie states that "included in the definition of legislative regulations are all regulatory instruments lower than laws, intended to implement provisions contained in higher-level regulations."[13]

According to Maria Farida Indrati Soeprapto, "legislative regulations are rules that directly bind all individuals."[14] Bagir Manan and Kuntana Magnar define legislative regulations as any written decision made, established, and issued by institutions and/or officials with legislative functions, following applicable procedures.[15]

Meanwhile, A. Hamid S. Attamimi states, "legislative regulations are state regulations at both central and regional levels, established by legislative authority, whether attributional or delegated." Attamimi also notes that "legislative regulations encompass all legal rules created by institutions at all levels, in a specific format, with specific procedures, typically accompanied by sanctions, and applicable generally to all citizens."[16] Solly Lubis uses the term "State Regulations" for legislative regulations, defined as "written rules issued by official agencies, whether defined as institutions or specific officials."[17]

Article 1, point 2, of Law No. 5 of 1986 concerning State Administrative Courts, last amended by Law No. 51 of 2009, defines legislative regulations as all universally binding regulations issued by representative bodies alongside the government, both at the central and regional levels, as well as all universally binding decisions by state administrative bodies or officials, both at the central and regional levels. Meanwhile, Article 1, point (2) of the UUP3 states, "Legislative Regulations are written regulations containing general, legally binding norms, established or issued by authorized state institutions or officials through procedures stipulated by legislative regulations."

Legislative regulations are a form of written law that applies within a society. The norms within legislative regulations possess specific characteristics that distinguish them from other written legal norms.

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The characteristics of legislative regulatory norms are as follows:

1. The norms are general, meaning they apply to many individuals.
2. The norms are abstract, meaning the regulated actions are indefinite and uncertain.
3. They are continuously applicable, with validity not limited by time and in effect until revoked.
4. They contain norms that bind the behavior of legal subjects, including commands, prohibitions, and allowances, with sanctions for non-compliance.
5. Structurally, they consist of chapters, articles, and clauses containing imperative (commands and prohibitions) and facultative (permissions) legal norms.
6. They are enacted to possess binding authority.

From these various definitions, the unique characteristics of legislative regulations are evident: they are in written form, established by authorized officials, bodies, or institutions, and are generally binding. Based on these definitions, State Institution Regulations are legislative regulations established by authorized state institutions, either in a delegated or autonomous capacity, that are generally binding to enforce legislative regulations of a higher or equal level or formed based on authority.

The elements of State Institution Regulations are:

a. They are written. b. They are established by an authorized state institution. c. They are either delegated or autonomous regulations. d. They are generally binding. e. They are established to enforce higher-level legislative regulations or those of equal level, or based on authority.

According to P.J.P. Tak, as quoted by Bagir Manan, "general binding" means they do not identify specific individuals, thus applying to every legal subject that meets the elements contained in the behavioral provisions.[18] Bagir Manan notes that legislative regulations, such as laws,[19] may apply to specific groups, objects, regions, or timeframes. Therefore, "general binding" now simply indicates that legislative regulations do not apply to specific individuals or events,[20] as Suko Wiyono states, but rather to legislative regulations that do not apply to specific events or individuals.[21]

2. Types of Regulations by State Institutions

The types of regulations by state institutions discussed here relate to the regulations established by central-level state institutions, specifically those issued by the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, the Supreme Audit Agency, the Supreme Court, the Constitutional Court, the Judicial Commission, and Bank Indonesia.

From the various authorities held by these state institutions, as outlined in the 1945 Constitution of the Republic of Indonesia, it is evident that these institutions do not have the inherent authority to create institutional regulations independently. Instead, their authority to create such regulations is based on statutory law, as recognized by the Law on the Establishment of

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Legislation (UUP3). This legislative authority is delegated through statutory provisions, enabling state institutions to issue regulations to implement legislation.

Thus, institutional regulations function as implementing rules that execute statutes requiring their formation. This raises the question of whether a state institution can issue regulations without a delegation of authority from statutory law. According to the doctrine of authority in legislative formation, which includes attribution and delegation, state institutions cannot issue regulations without legislative delegation. However, Article 8(2) of UUP3 states, "Legislation as referred to in paragraph (1) is recognized and has binding legal force insofar as it is mandated by higher legislation or based on authority," suggesting that state institutions may establish regulations based on inherent authority rather than delegation alone.

The phrase "mandated by higher legislation" implies that institutional regulations are delegated rules intended to implement statutes. Meanwhile, "based on authority" indicates regulations established independently of direct legislative delegation.

3. Functions of Institutional Regulations

As a state committed to the welfare of its people, Indonesia, like many nations, actively intervenes to ensure citizens' well-being. As a legal state (Rechtsstaat), the formation of legal regulations is essential for organizing public welfare. In the legislative sphere, the government has the duty to shape the national character, steering and molding it in specific directions.[22] Legislation must be written to guarantee legal certainty, a fundamental requirement in Continental European legal systems (Civil Law) like Indonesia's.[23]

Since the 18th century, statutory law has been developed to address the needs of emerging democratic nation-states in the West, aimed at guaranteeing citizens' rights.[24] This concept of positive statutory law is an adaptive response, maintaining the law's relevance in a dynamic society.[25] In other words, statutory law results from conceptual and structural reform to meet contemporary demands.[26]

With the transition from a classical legal state to a welfare state, the government's role has expanded beyond merely maintaining order to include active participation in various aspects of public life. Lawmakers must relinquish part of their authority to the government or other state apparatus to ensure fair order, acknowledging that they cannot foresee all future legal needs.[27]

The role of law has evolved in parallel with the expansion of state activities, necessitating measures to limit governmental powers, even as the principle of legality remains central.[28] As Soetandiyo Wignjosoebroto explains, legislation must protect freedoms and rights, clearly distinguishing between legitimate authority and abuse of power.[29]

For Indonesia, a state founded on Pancasila and the 1945 Constitution, all facets of society, nationhood, and governance, including administration, must operate under the law. Legal order in regulation formation is essential for a functioning legal state. As Peter Badura states, the rule of law principle (gesetzmassigkeit der verwaltung) mandates that the law be the foundation and limit for government activities, ensuring predictability and legal certainty.30

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Peter Badura, as cited by A. Hamid S. Attamimi, argues that one of the principles of a legal state that directly generates legislative principles is the rule that governance should be conducted by or based on law (*gesetzmassigkeit der verwaltung*). According to Badura, law (*gesetz*) serves as both the foundation and boundary for government actions, guaranteeing the demands of a state based on law, which requires predictability in the effects of a legal rule and certainty in law.

In modern society, the general rules that embody these protections are established by law.[32] State regulations must be in written form, which is customary and essential to ensuring legal certainty and justice.

I Gde Pantja Astawa and Supri Na'a argue that in the current era of globalization, where national borders have become blurred, written law (*jus scriptum*), particularly in legislation, has become a basic human need in pursuing justice, peace, and legal certainty. This need arises because contemporary human relationships require regulation through modern laws.[33]

From this perspective, one of the elements of a legal state is the principle of legality, manifested in the existence of legislation. Thus, the existence of legislation is critical to realizing the concept of a legal state. In a legal state, all state and governmental activities must be based on law. This means that state power is limited and defined by law, and state institutions (including the government) must derive their authority from and be rooted in law. [34]

The embodiment of the concept of a legal state is further reflected in the commands of the legislature. John Austin's view of analytical positive law defines law as *a command of the lawgiver*[35] or *command of the sovereign* in the form of legislation. In this view, there is no law outside the statutes or regulations issued by authorities. [36] In positivist terms, law is seen as written legislation created by the state to enforce its will. [37]

According to Edgar Bodenheimer, Austin did not narrowly define "command of the sovereign" as limited solely to laws or statutes. Austin's "command of the sovereign" includes not only the formal legislature but also administrative bodies authorized by the sovereign to issue regulations, as well as judicial bodies whose rulings (judge-made law) have binding authority as mandated by the state.[38]

Bagir Manan and Kelsen further elaborate that the creation of law is not only the work of legislators or regulators. According to Kelsen, law can take the form of "general norms" applicable to everyone or "individual norms" that apply to specific persons, such as court rulings that carry binding authority.

Rukmana Amanwinata states that a legal state arose from the struggle of individuals to free themselves from the arbitrary rule of the sovereign. Consequently, the state or government cannot act arbitrarily against individuals and must be restricted by law, a principle known as the legality principle in a legal state. To ensure this principle of legality, various legal regulations, including statutes, must be enacted to limit power and prevent arbitrary actions.[39]

To ensure the certainty of upholding the principle of legality, various legal regulations, including legislation, must be established. Through the creation of these legal instruments,

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particularly legislative regulations, restrictions and prevention of unlimited power (absolutism) and arbitrary actions can be avoided.[40]

Bagir Manan highlights the increasing role of legislation as written law due to several factors: (1) legislation provides legal norms that are easy to identify, locate, and trace; (2) legislation offers a higher degree of legal certainty; (3) legislation's structure and systematics are clear, enabling formal and substantive review; and (4) legislation formation can be planned, which is vital for developing countries building new legal systems in response to societal needs and developments.[41]

Bagir Manan and Kuntana Magnar distinguish two main functions of legislation: internal and external functions:

1. Internal Function: Legislation serves as a subsystem within the legal system, covering functions such as: (a) law creation; (b) legal reform; (c) integrating pluralistic legal systems; and (d) providing higher legal certainty than customary or case law.
2. External Function: Legislation connects with the social environment, covering functions such as: (a) social change; (b) societal stability; and (c) facilitation by providing incentives, tax relief, and simplified licensing procedures.[42]

Made Nurmawati and I Gde Marhaendra Wija Atmaja further expand on the functions outlined by Bagir Manan, emphasizing that:

1. Internal Function: Legislation is the primary means of law creation in Indonesia, serving as a pillar of the national legal system. Legislation also plays a critical role in legal reform and the integration of various legal systems in Indonesia (continental, customary, religious, and national law), reinforcing the certainty of written laws over customary laws.
2. External Function: Legislation serves as a social engineering tool to promote change, maintain stability, and facilitate administrative and regulatory processes.[43]

Natabaya views the function of legislation as a means to serve society by addressing issues within a regulatory framework to provide solutions for societal problems.[44]

The function of State Institution Regulations under Article 8, Paragraph 2 of UUP3 is to implement higher legislation or exercise authority, acting as: a) an implementing regulation of higher legislation mandating its creation; or b) an implementing regulation of higher legislation based on authority.

As implementing regulations, either through direct or indirect delegation, State Institution Regulations must not conflict with higher legislation, particularly the legislation mandating their creation or serving as their basis.

An exception can be seen in the regulations issued by the Supreme Court, which adjusted certain Criminal Code provisions in the Supreme Court Regulation No. 02 of 2012. While the Supreme Court's adjustments might serve pressing needs, any conflicting legislation is typically resolved by judicial rulings or proposals to amend the relevant statutes, emphasizing adherence to legal hierarchy.

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From the discussion above, State Institution Regulations are implementing regulations issued by state institutions to enforce higher legislation or exercise authority. These regulations perform two key functions: a) As an implementing regulation mandated by higher legislation. b) As an implementing regulation based on delegated authority, even without explicit direction for further regulation within the statute.

CONCLUSION

The essence of State Institution Regulations is legislation established by an authorized state institution to implement higher-level legislation or is determined based on its authority. State Institution Regulations constitute legislation that may apply internally and/or externally. The authority of a State Institution to establish State Institution Regulations is based on a delegation of legislative authority granted by the lawmaker. Essentially, when viewed from its content, State Institution Regulations serve as implementing regulations to enact laws that mandate their formation, whether through direct or indirect delegation. The functions of State Institution Regulations include: (a) serving as implementing regulations for higher-level legislation that mandates their formation (delegated regulations), and (b) serving as implementing regulations for higher-level legislation established based on authority.

Footnote

1) Seperti yang tertuang dalam Pembukaan UUD NRI 1945 alenia keempat, Pasal 1 ayat (2), Pasal 3 ayat (1) dan ayat (3), Pasal 4 ayat (1), Pasal 9 ayat (1), Pasal 20A ayat (2) dan ayat (3), Pasal 24C ayat (1) dan ayat (2), Pasal 37 ayat (1), ayat (2), ayat (3), dan ayat (4), Pasal I dan Pasal II Aturan Peralihan, dan Pasal II Aturan Tambahan UUD NRI 1945.
2) Pasal 2 ayat (1), Pasal 5 ayat (1) dan ayat (2), Pasal 6A ayat (5),), Pasal 9 ayat (1),), Pasal 11 ayat (2) dan ayat (3),), Pasal 12,), Pasal 15, Pasal 16,), Pasal 18 ayat (1), ayat (5) dan ayat (7), Pasal 18A, Pasal 18B, Pasal 19 ayat (2), Pasal 20, Pasal 20A ayat (3) dan ayat (4), Pasal 21, Pasal 22 ayat (1), Pasal 22A, Pasal 22B,), Pasal 22C ayat (4),), Pasal 22D,), Pasal 22E ayat (6),), Pasal 23 ayat (1) dan ayat (2),), Pasal 23A, Pasal 23B, Pasal 23C, Pasal 23D, Pasal 23E ayat (3), Pasal 23G ayat (2), Pasal 24 ayat (3), Pasal 24A ayat (1) dan ayat (5), Pasal 24B ayat (4), Pasal 24C ayat (1), Pasal 25, Pasal 25A, Pasal 26 ayat (1), Pasal 28, Pasal 28I ayat (5), Pasal 28J ayat (2), Pasal 30 ayat (5), Pasal 31 ayat (3), Pasal 33 ayat (5), Pasal 34 ayat (4), dan Pasal 36C UUD NRI 1945.
3) Pasal 22 ayat (1) UUD NRI 1945.
4) Pasal 5 ayat (2) UUD NRI 1945.
5) Pasal 18 ayat (6) UUD NRI 1945.
6) Sri Soemantri M., *Ketetapan MPR (S) Sebagai Salah Satu Sumber Hukum Tata Negara*, (Bandung: Remadja Karya, 1985), hlm. 38.
7) Jenis Peraturan Perundang-undangan yang dibuat oleh Pemerintahan di tingkat pusat yaitu UUD NRI 1945, Tap. MPR, UU, Perppu, PP, Perpres, Peraturan MPR, Peraturan Dewan Perwakilan Rakyat, Peraturan Dewan Perwakilan Daerah, Peraturan Mahkamah Agung, Peraturan Mahkamah Konstitusi, Peraturan Badan Pemeriksa Keuangan, Peraturan Komisi Yudisial, Peraturan Bank Indonesia, Peraturan Menteri, Peraturan badan, lembaga, atau komisi yang setingkat.

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8) Jenis Peraturan Perundang-undangan yang dibuat oleh Pemerintahan di tingkat daerah yaitu Peraturan Daerah Provinsi, Peraturan Gubernur, Peraturan Dewan Perwakilan Rakyat Daerah Provinsi, Peraturan Daerah Kabupaten/Kota, Peraturan Dewan Perwakilan Rakyat Daerah Kabupaten/Kota, Peraturan Bupati/Walikota, Peraturan Desa atau yang setingkat, Peraturan Kepala Desa atau yang setingkat dan Peraturan Bersama Kepala Desa.

9) Peraturan Lembaga Negara yang dimaksud dalam penelitian ini adalah Peraturan Lembaga Negara yang ditetapkan oleh Majelis Permusyawaratan Rakyat, Dewan Perwakilan Rakyat, Dewan Perwakilan Daerah, Mahkamah Agung, Mahkamah Konstitusi, Badan Pemeriksa Keuangan, Komisi Yudisial, Bank Indonesia.

10) Bagir Manan dan Kuntana Magnar, *Beberapa Masalah Hukum Tata Negara Indonesia,* Edisi Kedua, Cetakan Pertama, (Bandung: Alumni, 1997), hlm. 210.

11) Kamus Besar Bahasa Indonesia, Edisi Ketiga, Departemen Pendidikan Nasional, Balai Pustaka, Jakarta, 2007, hlm. 76.

12) Mary Collins, *As Level Law*, 3rd Editions, (London: Cavendish Pulishing Limited, 2000), hlm. 5.

13) Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, Jakarta, Konstitusi Press, 2006, hlm. 326-327.

14) Maria Farida IS., Ilmu *Perundang-Undangan, Dasar-dasar dan Pembentukannya*, Yogyakarta, Kanisius, 2006, hlm. 31.

15) Bagir Manan dan Kuntana Magnar, *Peranan Peraturan Perundang-undangan Dalam Pembinaan Hukum Nasional*, Bandung, Armico, 1987, hlm. 13.

16) A. Hamid S. Attamimi, *Peranan Keputusan Presiden Republik Indonesia Dalam Penyelenggaraan Pemerintahan Negara, Suatu Studi Analisis Mengenai Keputusan Presiden Yang Berfungsi Pengaturan Dalam Kurun Waktu Pelita I – Pelita IV*, Disertasi, Jakarta UI, 1990, hlm. 161.

17) Solly Lubis, *Landasan dan Teknik Perundang-Undangan,* Cetakan Ke IV, Bandung, Mandar Maju, 1995, hlm. 1-2.

18) Bagir Manan, *Dasar-dasar Hukum Tata Negara Indonesia*, Edisi Kedua, Cetakan Pertama, Bandung, Alumni, 1997, hlm. 24.

19) Bagir Manan juga mempertanyakan, benarkah semua Peraturan Pemerintah secara material (materi muatan) adalah peraturan perundang-undangan? Misalnya Peraturan Pemerintah tentang Penyertaan Modal dalam Persero tertentu. Peraturan Pemerintah ini tidak berlaku secara umum, malahan mengatur sesuatu obyek yang kongkrit yaitu jumlah modal tertentu dan subyek (*persoon*) tertentu yaitu persero tertentu. *Ibid*., hlm. 56.

20) *Ibid*., hlm. 24.

21) Mahendra Putra Kurnia, dkk., *Pedoman Naskah Akademik Perda Partisipatif (Urgensi, Strategi, dan Proses Bagi Pembentukan Perda Yang Baik),* (Yogyakarta: Kreasi Total Media, 2007), hlm. 6.

22) Sumantoro, *Hukum Ekonom*i, (Jakarta: UI Press, 1986), hlm. 256.

23) Sukesti Iriani, *Membentuk Peraturan Perundang-undangan yang implementatif,* Himpunan karya tulis bidang hukum tahun 2005, (Jakarta: BPHN Departemen Hukum dan HAM RI, 2005) hlm. 231.

24) Soetandiyo Wignjosoebroto, *Hukum Paradigma, Metode dan Dinamika Masalahnya*, (Jakarta: Huma Elsam, 2002), hlm. 416.

25) *Ibid*.

26) *Ibid*.

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27) Deddi Ismatullah, *HUKUM TATA NEGARA: Refleksi Kehidupan Ketatanegaraan Di Negara Republik Indonesia,* (Bandung: Pustaka Setia, 2009), hlm. 71.

28) *Ibid*., hlm. 70.

29) Soetandiyo Wignjosoebroto, *Op. Cit*., hlm. 416.

30) Bernard Arief Sidharta, *Refleksi Tentang Struktur Ilmu Hukum*, Bandung, Mandar Maju, 2000, hlm. 78

31) A. Hamid S. Attamimi, *Op. Cit*., hlm. 334.

32) Peter Mahmud Marzuki, *Penelitian Hukum, Edisi Revisi,* Jakarta, Kencana, 2005, hlm. 157.

33) I Gde Pantja Astawa dan Supri Na'a, *Dinamika Hukum dan Ilmu Perundang-Undangan di Indonesia*, Bandung, Alumni, 2008, hlm. 1.

34) Rukmana Amanwinata, *Pengaturan dan Batas Implementasi Kemerdekaan Berserikat dan Berkumpul Dalam Pasal 28 UUD NRI 1945, Disertasi,* Bandung, Unpad, 1996, hlm. 125.

35) Lili Rasjidi dan Ira Thania Rasjidi, *Pengantar Filsafat Hukum*, Bandung, Mandar Maju, 2002, hlm. 56.

36) Bagir Manan, *Dasar-dasar …*, *Op. Cit*., hlm. 2.

37) Suprin Na'a, *Kedudukan dan Fungsi Peraturan Daerah Sebagai Instrumen Penyelenggaraan Otonomi Daerah Dalam Kerangka Sistem Perundang-undangan di Indonesia*, Ringkasan Disertasi, Bandung, Program Pascasarjana, Universitas Padjadjaran, 2009, hlm. 22-23.

38) Bagir Manan, *Dasar-dasar …*, *Op. Cit*., hlm. 2-3.

39) Rukmana Amanwinata, *Op. Cit*., hlm. 122-123.

40) Bagir Manan dan Kuntana Magnar, *Beberapa Masalah…*, *Op. Cit*., hlm. 104-105.

41) Bagir Manan, *Dasar-dasar …*, *Op. Cit*., hlm. 7-8.

42) Bagir Manan dan Kuntana Magnar, *Beberapa Masalah…*, *Op. Cit*., hlm. 138-144.

43) Made Nurmawati dan I Gde Marhaendra Wija Atmaja, *Jenis, Fungsi Dan Materi Muatan Peraturan Perundang-Undangan*, (Denpasar:Fakultas Hukum Universitas Udayana, 2017), hlm. 29.

44) H.A.S. Natabaya, *Sistem Peraturan Perundang-undangan Indonesia,* Jakarta, Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi RI, 2006, hlm. 155.

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