

PRANATA HUKUM

Jurnal Ilmu Hukum

e-ISSN 2685-3213 | p-ISSN 1907-560X

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**MAGISTER HUKUM
UNIVERSITAS BANDAR LAMPUNG**

PRANATA HUKUM	Volume 16	Nomor 1	Halaman 1 - 98	Bandar Lampung Januari 2021
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p-ISSN 1907-560X
e-ISSN 2685-3213

PRANATA HUKUM

Journal of Law

Universitas Bandar Lampung

First Published, July 2006

Published Twice a Year, Every January and July

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ANALYSIS OF APPLICATION ARTICLE 88 REGULATION OF THE MINISTER OF HOME AFFAIRS NUMBER 120 OF 2018 CONCERNING AMENDMENT TO REGULATION OF THE MINISTER OF HOME AFFAIRS NUMBER 80 OF 2015 CONCERNING THE ESTABLISHMENT OF REGIONAL LEGAL PRODUCTS

Lintje Anna Marpaung¹, Herlina Ratna Sumbawa Ningrum², Erman Syarif³

Abstract

Enforcement of the concept of law facilitation of its implementation has not gone well, especially the implementation of the order Article 88 Regulation of the Minister of Home Affairs No. 80 of 2015 on the Establishment of Regional Law Products in conjunction with Minister of Home Affairs Regulation Number 120 Year 2018. The problem of how the legal consequences and obstacles in the application of Article 88 Minister of Home Affairs Regulation No. 120 of 2018 concerning Amendment to Regulation of the Minister of Home Affairs Number 80 Year 2015 concerning the Establishment of Regional Law Products against the preparation of regional legal products in Lampung Province. Research methods use normative and empirical juridical approaches. Norms must be stated in Article 88 paragraph (2) Regulation of the Minister of Home Affairs No. 120 of 2018 states that facilitation of draft local regulations and draft regulations of regional heads and / or draft regulations of the DPRD has the consequence that facilitation must be implemented, if there is no law on the draft regional regulations and draft regulations of regional heads and / or draft regulations of the DPRD flawed procedures both material (substantial) and formal (procedural) and can not be determined and delay in facilitation resulting in all the implementation process of the draft regional regulations and the draft regulation of regional heads and / or draft regulations of the DPRD. Advice to the Directorate General of Regional Law Products Otda of the Ministry of Home Affairs to prepare sop evaluation, facilitation of regional legal products, simplification of procedures,

keywords: *Application, Establishment, Regional Law Products, Lampung Province*

I. INTRODUCTION

The Unitary State of the Republic of Indonesia is a country that is in the form of a unitary state and in the form of a republic in which a national government is formed in the administration of the state which is under the Central Government. This is in accordance with the mandate of the 1945 Constitution of the Republic of

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Indonesia (UUD 1945) Article 1 paragraph (1) where in order to exercise the power of state government in all regions, regional governments are formed, which cannot be separated as a complete unit according to what mandated in Article 37 paragraph (5) of the 1945 Constitution that "The authority to regulate and manage all forms of public interest according to one's own initiative based on the aspirations of the community is a form of autonomy in the administration of regional government.⁴, as explained by Bagir Manan that autonomy is the independence to organize and manage one's own (household) affairs.⁵

Government is first defined as the entire environment of office in an organization. In state organizations, government as a working environment is a complement to the state, such as executive positions, legislative positions, judicial offices, and other supra-structural positions. These positions indicate a permanent work environment that contains certain authorities. A set of powers gives the power to do or not do something. Therefore, executive positions, legislative positions, judicative positions, etc. are often called executive power, legislative power, judicative power, and so on. The government stated above can be referred to as government in a general sense or in a broad sense.⁶

The implementation of regional government to carry out regional autonomy as the implementation of the principle of decentralization has been accepted as something that is universal⁷, then the 1945 Constitution has given the widest possible authority to the regions as stated in Article 18 of the 1945 Constitution which was later condemned in a law regulating regional governance. The promulgation of Law Number 23 of 2014 concerning Regional Government has implications for the repeal of Law Number 32 of 2004 concerning Regional Government and is declared no longer valid. One of the positive impacts of developing the idea of regional autonomy is the strengthening of the existence of Regional Regulations, as a regional law product that allows the development of all potential regional characteristics to receive a clear juridical umbrella.

Some groups view that regional regulations are local wet, which have a prototype that is similar to the law (wet) at the central level, seen from the scope of the content, the way of formulation, formation and promulgation, its position in the order (hierarchical) order of the laws and regulations. (algemene verbindende

⁴ Iqbal Shalihin. 2018. *Pengalihan Kewenangan Pemberian Izin Usaha Pertambangan Mineral Batubara Oleh Pemerintah Provinsi Sumatera Barat Menurut Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah*, Tesis Magister Hukum Pascasarjana UNAD, Padang, p. 33

⁵ Bagir Manan. 1994. *Hubungan Antara Pusat Dan Daerah Menurut UUD 1945*. Pustaka Sinar harapan, Jakarta, p. 21

⁶ Lintje Anna Marpaung. 2020. *Politik Pemerintahan Daerah Kajian Hukum Otonomi Daerah Berbasis Kearifan Lokal*, Pustaka Media, Bandar Lampung. p. 4

⁷ Naskah Akademik RPJM Desentralisasi 2000-2014

voorschriften) and its validity as a legal norm⁸. Autonomy means independence to organize and manage one's own household affairs. The authority granted by the Central Government to the Regions is an opportunity to increase regional economic growth through the management of its economic potential, and other benefits that can be obtained through regional autonomy. In the context of managing affairs which fall under the authority of autonomy in government administration, regional governments have the right to determine regional legal products. Furthermore, the provisions of Article 18 paragraph (6) of the 1945 Constitution emphasize that "regional governments have the right to stipulate regional regulations and other regulations to implement autonomy and co-administration." This means that the stipulation of regional regulations and other regulations such as regional head regulations is a right for regions which are attributively granted by the constitution in the context of administering regional governments to implement regional autonomy.

Law Number 23 of 2014 concerning Regional Government in Article 243 paragraph (1) more explicitly regulates that "the draft regional regulations that have not received a register number as referred to in Article 242 paragraph (5) cannot yet be assigned a regional head and cannot be promulgated in regional sheet. " To further implement the provisions of regional regulations, Article 246 paragraph (1) of Law Number 23 of 2014 concerning Regional Government affirms that "in order to implement regional regulations or on the power of statutory regulations, the regional head stipulates a regional head regulation."⁹

The dynamics of the development of laws and regulations regarding regional legal products are stipulated by the Minister of Home Affairs Regulation Number 80 of 2015 concerning Regional Legal Products, as amended based on the Decision of the Constitutional Court (MK) Number 137 / PUU-XIII / 2015 and Constitutional Court Decision Number 56 / PUU-XIV / 2016 on the review of Article 251 paragraph (1), paragraph (2), paragraph (3), paragraph (4) and paragraph (8) of Law Number 23 of 2014 concerning Regional Government have implications for the development of regional legal products by the Minister of Home Affairs and the Governor, amended by Regulation of the Minister of Home Affairs Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Number 80 2015 concerning the Formation of Regional Legal Products, amended to follow the dynamic development of laws and regulations.¹⁰

⁸ Yeti Sri Wahyuni. 2018. *Pembatalan Produk Hukum Daerah Pasca Putusan MK Nomor 137/PUU-XIII/2015 tentang Pengujian UU Nomor 23 Tahun 2014*, Tesis Magister Ilmu Hukum Pascasarjana UII, p. 2.

⁹ Sudarti. 2016. *Evaluasi Pengaturan Dalam Pemungutan Retribusi Daerah Di Kabupaten Lampung Tengah*, Jurnal Fiat Justisia Volume 10 Issue 1, January-March , p. 96

¹⁰ I Gde Edi Budiputra. 2015. *Dualisme Pembatalan Peraturan Daerah Provinsi Dengan Peraturan Presiden Dan Peraturan Menteri Dalam Negeri*, Tesis, Universitas Udayana, Bali, p. 3

The provisions in Article 87 paragraph (2) of the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products emphasize that "guidance on the design of regional legal products in the form of regulations in the Regency / City is carried out by the Governor." Guidance on the design of regional legal products is carried out in the form of facilitation. In Article 88 paragraph (1) of the Regulation of the Minister of Home Affairs Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products, "guidance as referred to in Article 87 is carried out by facilitating the draft regional regulations, regional head regulations, and / or Draft Regulation of the Regional People's Representative Council", with the addition of confirmation in paragraph (2) that" the facilitation as referred to in paragraph (1) is mandatory.

Facilitating the design of regional legal products is a coaching action in the form of providing technical guidelines and instructions, direction, technical guidance, supervision, assistance and cooperation as well as monitoring and evaluation carried out by the Minister of Home Affairs to the province as well as the Minister of Home Affairs and / or the Governor to the Regency / City the material for the design of regional legal products in the form of regulations before they are enacted in order to avoid cancellation. Thus, the legal concept of draft facilitation is a constructive and systematic concept used to understand the facilitation rules for draft regional regulations and regional head regulations. Thus it can be said that, the legal concept of facilitation of the design of regional legal products is a form of fostering the Central Government towards the Regions in forming regional legal products so that they do not conflict with higher laws and public interests. The implementation of the facilitation legal concept in its implementation is felt to be not going well, especially what is faced by the Lampung Province Regional Secretariat Law Bureau in carrying out the orders of Article 88 of the Minister of Home Affairs Regulation 80 of 2015 concerning the Formation of Regional Legal Products in conjunction with the Minister of Home Affairs Regulation Number 120 of 2018. Efforts made by the Lampung Provincial Government, namely by sending a letter to the Directorate of Regional Legal Product Facilitation of the Ministry of Home Affairs of the Republic of Indonesia.

Based on this background, to find out the application of the Regulation of the Minister of Home Affairs Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products, in particular the changes contained in Article 88, its implementation in the process of forming legal products in Lampung Province, the authors make research Analysis of Application of Article 88 Minister of Home Affairs Regulation Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the

Formation of Regional Legal Products, this study was carried out in Legal Bureau of the Regional Secretariat of Lampung Province.

Based on the description above, the issues that will be discussed are the consequences of the law of application Art 88 Regulation of the Minister of Home Affairs Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products for the preparation of regional legal products in Lampung Province and How barriers to implementation Art 88 Regulation of the Minister of Home Affairs Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products towards the formation of regional legal products in Lampung Province

II. DISCUSSION

Effects of Application Law Art 88 Regulation of the Minister of Home Affairs Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products

Based on the results of research at the Legal Bureau of the Regional Secretariat of Lampung Province, it is known that the implementation of the formation of regional legal products in the Province of Lampung is carried out by the Legal Bureau of the Regional Secretariat of the Province of Lampung through the Legislation Section, one of which is to submit requests for facilitation of the draft regional regulations and regional head regulations. Lampung Province which was submitted to the Directorate of Regional Autonomy of the Ministry of Home Affairs through the Directorate of Regional Legal Products.

The Governor of Lampung conveyed the request for facilitation for the draft Governor Regulation regarding Changes in Regional Levy Rates for Lampung Province through the Legal Bureau of the Regional Secretariat of Lampung Province with a letter from the Governor of Lampung Number 188.44 / 2030/03/2020 dated 3 September 2020 regarding a request for facilitation of the draft Lampung Governor Regulation concerning Changes in Regional Retribution Rates Lampung Province as stated in the attachment to the letter is addressed to the Directorate General of Regional Autonomy of the Ministry of Home Affairs through the Directorate of Regional Legal Products. Until more than 15 days the results of the facilitation of the draft Governor Regulation have not been signed by the Director General of Regional Autonomy of the Ministry of Home Affairs on the grounds that the facilitation of the draft Governor Regulation is still coordinated with the Directorate General of Regional Revenue, Directorate General of Youth Affairs, Ministry of Home Affairs.

Based on the results of the author's interview with Mrs. Rincih Rustiana as Head of Regional Legal Product Sub-directorate IB Directorate of Regional Legal Products. He explained that the Lampung Governor's Letter had been received by the Subdirectorate of Region I Directorate of Regional Legal Products on September 3, 2020, since the date of receipt of the letter by the Subdirectorate of Region I of the Regional Legal Products Directorate so far has exceeded 15 (days) as regulated in Article 89 paragraph (1) Regulation of the Minister of Home Affairs Number 80 of 2015 that facilitation by the Minister of Home Affairs is carried out no later than 15 (fifteen) days after receipt of the draft regional regulation, draft regional head regulation, draft Joint Regional Head Regulation and draft DPRD Regulation. then in Article 89 paragraph (2) it is stated that if within the time frame the Minister of Home Affairs does not provide facilitation, the draft regional head regulation will continue with the stipulation stage. However, in the Minister of Home Affairs Regulation Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products. The provisions of Article 89 paragraph (2) are deleted / omitted so that there is no further confirmation of the time limit for the facilitation process. As a result of removing the deadline for the facilitation process, there was a legal vacuum. However, in the Minister of Home Affairs Regulation Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products. The provisions of Article 89 paragraph (2) are deleted / omitted so that there is no further confirmation of time limits for the facilitation process. As a result of removing the deadline for the facilitation process, there was a legal vacuum. However, in the Minister of Home Affairs Regulation Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products. The provisions of Article 89 paragraph (2) are deleted / omitted so that there is no further confirmation of the time limit for the facilitation process. As a result of removing the deadline for the facilitation process, there was a legal vacuum.

Based on a written interview with Mr. Zulfikar, Head of the Legal Bureau of the Regional Secretariat of Lampung Province, the cause of the legal vacuum was, among others, in the preparation of regional legal products in the form of draft regional regulations and draft regional head regulations implemented by the executive or regional government in fact it took a long time at the time Regional law products are declared valid so the things or conditions that the regional law products want to regulate do not yet exist. In addition, legal vacuum can occur because things or circumstances that occur cannot be regulated in a regional law product, or even if it has been regulated in a regional law product, it is unclear or even incomplete.

The Head of the Legal Bureau of the Regional Secretariat of Lampung Province also mentioned from the example of the Facilitation case against the draft

of the Lampung Governor's Regulation concerning Changes in Regional Retribution Rates for Lampung Province, the legal vacuum in terms of normalizing regional legal products in the form of draft regional head regulations has an impact on the implementation of regional government in terms of receiving Regional Original Revenue. (PAD) which is not really achieved is that it is very important or urgent to include provisions governing the grace period for the facilitation process and the legal consequences of exceeding the facilitation grace period.

He also added that from the above case example, the protracted process of facilitating the draft of the Governor of Lampung Regulation concerning Changes in Regional Retribution Rates had an impact on disrupting the implementation of regional government administration in Lampung Province, namely the failure to achieve the target of receiving Regional Original Revenue from the regional retribution sector. Therefore, it is very important to include a time limit for the facilitation process of regional legal products carried out by the Ministry of Home Affairs in order to create legal certainty.

Based on the results of an interview with the Head of the Legal Bureau of the Secretariat General of the Ministry of Home Affairs, Mr. R. Gani Muhammad, it can be seen that the facilitation of the draft regional regulation that is not through facilitation cannot be given a register number of the draft regional regulation and cannot be stipulated and promulgated in the Regional Gazette. and likewise the facilitation of the draft regional head regulation cannot be stipulated by the regional head and cannot be promulgated by the provincial regional secretary in the regional news. contrary to higher laws and regulations and public interest, and can be enforced and disseminated.

Hans Kelsen's theory is a hierarchy of legal norms and a chain of validity that forms a legal pyramid (*stufentheorie*). One of the figures who developed this theory was Hans Kelsen's student, Hans Nawiasky. The Nawiaky theory is called the *theorie von stufenaufbau der rechtsordnung*. The arrangement of norms according to the theory is: Fundamental norms of the state (*Staatsfundamentalnorm*); Basic state rules (*Staatsgrundgesetz*); Formal statutes (*Formell Gesetz*); and Implementing regulations and autonomous regulations (*Verordnung En Autonome Satzung*).

If linked to this theory, the structure of the Indonesian legal system in the preparation of regional legal products is:

1. *Staatsfundamentalnorm*: Pancasila.
2. *Staatsgrundgesetz*: The 1945 Constitution.
3. *Formell gesetz*: Law Number 12 Year 2011 concerning Formulation of Legislation, Law Number 23 Year 2014 concerning Regional Government and Law Number 30 Year 2014 concerning Government Administration.
4. *Verordnung en Autonome Satzung*: Minister of Home Affairs Regulation Number 80 of 2015 concerning Formation of Regional Legal Products in conjunction with Regulation of the Minister of Home Affairs Number 120 of 2018.

Based on the above-mentioned theory, which is related to Harmonizing, Rounding and Consolidating the Conception of Legislation in Indonesia, actually it is not a new concept, but has been running or implemented for a long time by policy makers (drafters of laws and regulations / law makers). , that is, it had existed before the amendment / amendment to the 1945 Constitution of the Republic of Indonesia.

The policy regarding the harmonization of statutory regulations has actually been regulated since the issuance of Presidential Instruction Number 15 of 1970 concerning Preparing Draft Laws and Draft Regulations of the Government of the Republic of Indonesia, but the regulation is not explicit and detailed. Stricter arrangements related to harmonization are then regulated based on Presidential Decree No. 188 of 1998 on Procedures for Preparing a Draft Law, which is a substitute for Presidential Instruction No. 15 of 1970. The harmonization policy based on Presidential Decree Number 188 of 1998 was later amended by Law Number 10 of 2004 concerning the Formation of Legislation. This is in line with the mandate of Article 22A of the 1945 Constitution.

Regulations related to the harmonization, unification and consolidation of the conception of statutory regulations in Law Number 12 Year 2011 concerning the Formation of Legislation are more complete than previous policies. In Law Number 12 of 2011 regulates the harmonization, unification and consolidation of the conception of the Draft Law, both from the Government and from the House of Representatives. Apart from that, it also regulates the harmonization, unification and consolidation of the conception of all draft laws and regulations, from the Bill, RPP, Presidential Decree, to regional draft regulations, both Provincial and Regency / City Regional Regulations.

As a derivative of Law Number 12 of 2011, the Minister of Home Affairs Regulation Number 80 of 2015 concerning the Formation of Regional Legal Products Jo Regulation of the Minister of Home Affairs Number 120 of 2018 is issued in relation to the legal consequences of implementing Article 88 of the Regulation of the Minister of Home Affairs Number 120 of 2018 Regarding Amendments to the Regulation of the Minister of Home Affairs Number 120 of 2018, the author can explain the legal consequences of Hans Kelsen's hierarchical legal norms, namely the implementation of the facilitation of the draft regional regulation and the draft of the provincial head regulation as follows. Based on Article 58 of Law Number 30 of 2014 concerning Government Administration, it is stated that:

- (1) each Decision must include a time limit for the start and end of the decision, unless otherwise stipulated in the statutory regulation;
- (2) The deadline for a decision to take effect is contained in the provisions of laws and regulations which form the basis of the decision and / or the decision itself.

Based on the description above, according to the author's analysis, with reference to the provisions of Article 58 of Law Number 30 of 2014 concerning Government

Administration, Article 88 Minister of Home Affairs Regulation Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Number 80 of 2015 contrary to higher regulations. With the elimination of the provisions regulating time limits in the process of regional legal products carried out by the Directorate General of Regional Autonomy, the Ministry of Home Affairs has no legal certainty.

Barriers to Application Art 88 Minister of Home Affairs Regulation Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products in Lampung Province

Based on the author's interview with Mrs. Rincih Rustiana Kasie, Subdirector of Region IB, Directorate General of Otda, Ministry of Home Affairs, that according to the provisions in Article 522 of the Minister of Home Affairs Regulation Number 43 of 2015 concerning Organization and Work Procedures of the Ministry of Home Affairs in conjunction with Regulation of the Minister of Home Affairs Number 8 of 2018, the Organization affirms and Work Procedures of the Directorate of Regional Legal Products, the Directorate General of Otda of the Ministry of Home Affairs consists of:

- a. Subdirector of Region I;
- b. Subdirector of Region II;
- c. Subdirector of Region III;
- d. Subdirector of Region IV;
- e. Subdirector of harmonizing policies; and
- f. Administration Subdivision.

The implementation of the duties of the Sub-directorate for Region I is regulated in the provisions of Article 523, namely carrying out the preparation of formulation, policies, implementation of policies and coordination, general guidance, provision of technical guidance and supervision, and implementation of monitoring, evaluation and reporting in the field of guidance for the preparation of regional legal products, facilitation, assessment and evaluation. regional legal products in the Sumatra region.

The functions of the Subdirector of Region I are regulated in Article 524, namely:

- a. Prepare materials for formulating policies in the field of guidance for the preparation of regional legal products, facilitation, study and evaluation of regional legal products;
- b. Prepare materials for implementing policies and coordination in the field of fostering the preparation of regional legal products, facilitation, assessment and evaluation of regional legal products;

- c. Prepare materials for the implementation of general guidance in the field of guidance for the preparation of regional legal products, facilitation, study and evaluation of regional legal products;
- d. Preparing materials for providing technical guidance and policy supervision in the field of development of regional legal products, facilitation, study and evaluation of regional legal products;
- e. Prepare materials for the implementation of monitoring, evaluation and reporting in the field of guidance for the preparation of regional legal products, facilitation, study and evaluation of regional legal products; and
- f. Preparation of materials for the preparation of an information system for regional legal products.

In implementing the facilitation of regional legal products, both the draft Provincial Regulations and the Regional Head Regulations of the Province of Lampung coordinate with the Subdirectorate for Region IB as referred to in Article 526 of the Minister of Home Affairs Regulation Number 43 of 2015 concerning Organization and Work Procedures of the Ministry of Home Affairs in conjunction with the Minister of Home Affairs Regulation Number 8 In 2018, the IB Region Section has the task of carrying out the preparation of policy formulation, implementing policies and coordination, general guidance, providing technical guidance and supervision, and implementing monitoring, evaluation and reporting in the field of fostering the preparation of regional legal products, facilitation, assessment and evaluation of regional legal products covering Jambi, South Sumatra, Bangka Belitung Islands, Bengkulu and Lampung Provinces.

Based on the results of the author's interview with Mrs. Rincih Rustiana Kasie, Regional IB Sub-directorate Directorate General of Otda, Ministry of Home Affairs, it was explained that in carrying out the duties and functions of the IB Region Sub-directorate, there were 7 (seven) PNS, namely the Head of Region I Sub-directorate, Mr. Rony Saragih, Head of Region IB Sub-Directorate Mrs. Rincih Rustiana along with 5 (five) Staff / Implementers of the IB Region Sub-directorate, including Raja Sianturi, Arief Fibrianto, Evena Dalmunthe, Rio Megawe and Baren Rudi Tambunan. Where the facilitation function carried out by the Ministry of Home Affairs is the process of reviewing the draft regional regulations and draft regional head regulations from the aspects of content, related regulations, authority, legal drafting, Pancasila values and human rights.

Based on the results of the author's interview with Mr. Zulfikar, Head of the Legal Bureau of the Regional Secretariat of Lampung Province, it was said that the process of drafting a regional head regulation was as follows:

1. The Draft Regional Head Regulation originating from the initiating regional apparatus is submitted to the Legal Bureau of the Regional Secretariat of Lampung Province, then a discussion is carried out by involving the initiating regional apparatus, related regional apparatus, academic elements from Higher

Education and drafters of Legislative Regulations from the Regional Office of the Ministry of Law and Ham. The discussion covered all aspects, namely the arrangement of the manuscript, substance and material of the draft of the regional head regulation.

2. After a joint discussion was carried out on the draft of the Regional Head Regulation, it was revised and submitted back to the Legal Bureau of the Regional Secretariat of Lampung Province through the Provincial Legislation Section.
3. The Provincial Legislation Section prepares a letter of introduction to the application for facilitation which is signed by the Regional Secretary on behalf of the Governor and submitted to the Minister of Home Affairs through the Directorate General of Regional Autonomy of the Ministry of Home Affairs, equipped with: (a) documents on draft regional regulations and draft regional head regulations in the form of hardcopy and softcopy (in pdf format); and (b) minutes of level I talks for facilitation of the draft Provincial Regulation.
4. Furthermore, the Ministry of Home Affairs, through the Directorate of Regional Legal Products, carries out a facilitation process which is then conveyed back to the Governor through a facilitation letter signed by the Director General of Regional Autonomy of the Ministry of Home Affairs.

Based on the results of the author's interview with Mrs. Rincih Rustiana Kasie, Sub-Directorate for Regional IB, Directorate of Regional Legal Products, Directorate General of Otda, Ministry of Home Affairs, it was stated that in the process of facilitating the draft regional regulations and draft regulations the regional head often encountered obstacles and obstacles, as for the obstacles and obstacles mentioned above are as follows:

1. The application letter for the facilitation of the draft regional regulation and provincial regional head regulation must be coordinated with the Ministries / Agencies related to the process at the Ministry / Agency which often takes a long time;
2. Limited human resources who handle the facilitation of draft regional regulations and draft provincial head regulations. Based on existing civil servant data, it is only implemented by 5 (five) staff who handle almost the entire province in Sumatra;
3. Discussions on the draft regional regulations and the draft provincial regional head regulations that will be facilitated always involve ministries / agencies and the problem is not necessarily that ministries / agencies will be present so that in this condition the Subdirector Region IB Directorate of Regional Legal Products Directorate General of Regional Autonomy of the Ministry of Home Affairs is not maximal in carrying out this facilitation;
4. The existence of sectoral Ministries / Institutions that make new laws and regulations such as the delegated Laws to compile Government Regulations, and

Government Regulations drafting Ministerial Regulations, and delegated Ministerial Regulations to compile regional regulations so that the Subdirectorate of Region IB Directorate of Regional Legal Products Directorate General of Otda of the Ministry of Home Affairs it is necessary to study and understand the laws and regulations;

5. The bureaucracy that is very long and takes a long time in issuing a letter of the results of the facilitation of the draft regional regulation and draft regional head regulation because it requires approval and initial coordination from the officials involved in determining the facilitation letter; and
6. Budget limitations implemented by the Subdirectorate of Region IB, Directorate of Regional Legal Products, Directorate General of Regional Autonomy, Ministry of Home Affairs in carrying out facilitation to cover the facilitation of draft regional regulations and draft regulations of regional heads from all Provinces in Sumatra Region.

Lawrence M. Friedman's theory about the effectiveness of law enforcement in a sociological perspective suggests that the effectiveness and success of law enforcement depends on three elements:

a. Legal structure

"To begin with, the legal system has the structure of a legal system consist of elements of this kind: the number and size of courts; their jurisdiction. Structure also means how the legislature is organized what procedures the police department follow, Andsoon. Structure, in way, is a kind of crosss section of the legal system a kind of still photograph, with freezes the action. " Legal structure in law enforcement is law enforcement agencies in government, which are given the tasks and authorities that are regulated and protected by law.

b. Legal substance

"Another aspect of the legal system is its substance. By this is meant the actual rules, norm, and behavioral patterns of people inside the system... the stress here is on living law, not just rules in law books. " Pactual rules, norms, and patterns of attitudes of people within the system. The emphasis here is on the laws of life, not just the rules contained in books about law.

c. Legal culture

"The third component of legal system, of legal culture. Bythiswemean people's attitudes toward lawandlegalsystemtheir belief... inotherword, is the climinate of social thought and social forcewichdetermineshowlaw is used, avoid, or abused." Legal culture emphasizes the interests of society and pressure on society which determines how laws are obeyed, violated, or misused.

Based on the theory of Lawrence M. Friedman mentioned above, as a basis for knowing the inhibiting factor in application Art 88 Regulation of the Minister of Home Affairs Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of

Regional Legal Products in Lampung Province can be divided into three elements, namely:

1. Legal structure

Based on the description above related to obstacles application Art 88 Regulation of the Minister of Home Affairs Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products The authors can analyze that the implementation of the facilitation of the draft regional regulations and the draft provincial regional head regulations require coordination and synergy of the Legal Bureau and the Directorate of Regional Legal Products, the Directorate General of Regional Autonomy of the Ministry of Home Affairs so that in the formation of good and correct regional legal products in accordance with the provisions of the laws and regulations . However, with the existence of sectoral Ministries / Institutions that compile new laws and regulations such as the delegated Laws to compile Government Regulations, and Government Regulations drafting Ministerial Regulations, and delegated Ministerial Regulations to compile regional Regulations thus making the Regional Subdirectorate IB Directorate of Regional Legal Products Directorate General Otda of the Ministry of Home Affairs needs to study and understand these laws and regulations.

2. Legal substance

In the legal norms regulated in the Regulation of the Minister of Home Affairs Number 80 of 2015 Article 89 paragraph (1) The facilitation carried out by the Minister of Home Affairs through the Directorate General of Otda of the Ministry of Home Affairs is carried out no later than 15 (fifteen days after receipt of the draft regional regulation, draft regional head regulation, The draft DPRD Regulation further in Article 89 paragraph (2) If the grace period referred to by the Minister of Home Affairs does not provide facilitation, the draft regional regulation is followed up with the stages of joint approval between the Regional Head and DPRD, the draft Regional Head Regulation, the draft Joint Regional Head Regulation and the draft Regional Regulation. DPRD continued with the stipulation stage.

However, in the Minister of Home Affairs Regulation Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products, the provisions which state the legal consequences of exceeding the facilitation grace period are removed as follows:

- a. facilitation of the draft regional regulation and the draft regional head regulation shall be facilitated based on Regulation of the Minister of Home Affairs Number 120 of 2018, meaning "mandatory" norms must be implemented so that if not implemented due to the law, the draft regional regulation and the draft regional head regulation are defective in good procedures material (substantial) and formal (procedural) and cannot be stipulated and promulgated.

- b. Eliminate the provisions governing the confirmation of time limits and legal consequences if the 15 (fifteen) day facilitation deadline is passed as regulated in Article 89 paragraph (2) of the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Establishment of Regional Legal Products resulting in legal vacuum and creating legal uncertainty.
- c. From the delay in providing facilitation for the draft regional regulation and draft regional head regulation due to the law that all the process of implementing levy collection activities that will be carried out by regional apparatus is disrupted due to the absence of a regulation / legal basis in carrying out the activity of collecting regional levies for development in Lampung Province.

3. Legal Culture

Legal culture in the formation of regional legal products that often occurs, namely bureaucracy that is very long and takes a long time in issuing a letter of the results of the facilitation of the draft regional regulation and draft regional head regulation because it requires approval and initial coordination from the officials involved in determining the facilitation letter. This occurs because there is a legal vacuum and creates legal uncertainty due to the elimination of provisions governing the confirmation of time limits and legal consequences if the 15 (fifteen) day facilitation time limit is passed as regulated in Article 89 paragraph (2) of the Regulation of the Minister of Home Affairs Number 80 of the year 2015 concerning the Formation of Regional Legal Products.

Limited Human Resources is also the reason that occurs in the Regional Legal Product Sub-Directorate which handles the facilitation of draft regional regulations and draft regional head regulations and / or draft DPRD regulations, is not proportional to the number of draft regional regulations and draft regional head regulations and / or draft DPRD regulations that are must be facilitated. In addition, in discussing the facilitation of draft regional regulations and draft regional head regulations and / or draft DPRD regulations, the Ministry of Home Affairs always involves the relevant ministries / agencies, but often these ministries / agencies are not present, so the implementation of facilitation discussions is not optimal.

Based on the description above, it can be analyzed that the inhibiting factor Application realms Art 88 Minister of Home Affairs Regulation Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products in Lampung Province using Lawrence M. Friedman's theory of the effectiveness of law enforcement in a sociological perspective into 3 elements, namely legal structure, legal substance, and legal culture. From the legal structure, the authors analyze that the implementation of the facilitation of the draft regional regulations and the draft provincial regional heads requires coordination and synergy of the Legal Bureau and the Directorate of Regional Legal Products, the Directorate General of Regional Autonomy, the Ministry of Home Affairs so that in the formation of good and

correct regional legal products in accordance with the provisions of the Regulation Legislation. From the substance of the law, The author analyzes that the elimination of the provisions governing the confirmation of time limits and legal consequences if the 15 (fifteen) day facilitation deadline is passed as regulated in Article 89 paragraph (2) of the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products resulting in vacancies law and creates legal uncertainty which results in delays in the process of drafting regulations in the regions. From the legal culture, the authors analyze that limited human resources in the implementation of facilitation of regional legal products are the reasons for work units within the Ministry of Home Affairs, as well as discussion of facilitation of draft regional regulations and draft regional head regulations and / or draft DPRD regulations, Ministry of Home Affairs. always involves the relevant ministries / agencies, but often these ministries / agencies are not present, so the implementation of facilitation discussions is not optimal.

From these three elements, it is clear that there are obstacles that occur in the application of Article 88 Regulation of the Minister of Home Affairs Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products. The author concludes that if the three elements that become obstacles according to Lawrence M. Friedman's theory can be overcome, then the application of the article can be implemented effectively, so as to create efficiency in terms of time in the preparation of regional legal products and the quality of the substance of these legal products can be in accordance with higher laws and regulations and do not conflict with the public interest. For the author, the preparation of effective and efficient legal products can support the implementation of quality and dignified local government.

III. CONCLUSION

Based on the results of discussion and research on the problem, it can be concluded as follows: Legal Consequences in the Application of Article 88 of the Minister of Home Affairs Regulation Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs regarding the Formation of Regional Legal Products is the facilitation of the draft Regional Regulation and the draft Regional Head Regulation and / or draft DPRD regulations are mandatory, by deleting them. provisions governing the confirmation of time limits and legal consequences if the 15 (fifteen) day facilitation time limit is met as stipulated in Article 89 paragraph (2) of the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products resulting in legal vacuum and creates uncertainty law, so it happened delay in all processes of facilitating the draft Regional Regulation and draft Regional Head Regulation and / or draft DPRD regulations. Barriers to Application Art 88 Regulation of the Minister

of Home Affairs Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products in Lampung Province are the limited human resources that exist in the Sub Directorate of Regional IB for Regional Legal Products, the Directorate General of Regional Autonomy of the Ministry of Home Affairs which handles facilitation, the Directorate of Legal Products, the Directorate General of Autonomy of the Ministry of Home Affairs always involves the relevant ministries / agencies, but often these ministries / agencies are not present, so the implementation of facilitation discussions is not optimal, sectoral ministries / agencies that compile new laws and regulations such as laws that are delegated to formulate government regulations, and government regulations formulate ministerial regulations, and ministerial regulations are delegated to formulate regional regulations so it is necessary to study and understand regulations these laws, as well as the budget constraints implemented by the Subdirector of the Region IB Directorate of Regional Legal Products, the Directorate General of Otda of the Ministry of Home Affairs in carrying out facilitation to cover the facilitation of draft regional regulations and draft regional head regulations.

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