Analysis of the formation of laws and regulations in the Indonesian legislation hierarchy

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ABSTRACT

This study aims to determine the types of laws and regulations that are recognized according to Article 8 paragraph (1) of Law no. 12 of 2011 and the concept of Good Regulatory Practices (GRP). This research is normative juridical research with statutory, conceptual, and case approaches. Legal materials were collected through literature study and analyzed using analytical descriptive analysis techniques. The results of this study indicate that the types of laws and regulations that are recognized according to Article 8 paragraph (1) of Law no. 12 of 2011 only includes Bank Indonesia Regulations, Ministerial Regulations, and Regional Head Regulations; and the concept of Good Regulatory Practices (GRP) basically includes internal coordination of rule-making activities, regulatory impact assessments, and public consultations which have been accommodated in Articles 5 and 6 of Law no. 12 of 2011 concerning Principles of Formation of Legislation.

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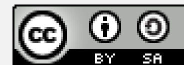

1. Introduction

Laws and regulations are written laws that contain legally binding norms in general and are formed or determined by state institutions or authorized officials through procedures regulated in laws and regulations (Article 1 point 2 of Law Number 12 of 2011 concerning Formation of Legislation) (H. K. Putra, sudarsono, Istislam, & Widiarto, 2020). The types of laws and regulations that are recognized as part of the hierarchy of laws and regulations in Indonesia are contained in Article 7 Paragraph (1) of Law Number 12 of 2011 concerning Formation of Legislation (Law Number 12 of 2011) consisting of (1) Types and hierarchy of laws and regulations consisting of the 1945 Constitution of the Republic of Indonesia; Decrees of the People's Consultative Assembly, Laws/Government Regulations in Lieu of Laws, Government Regulations, Presidential Regulations, Regional Regulations, and Regency/City Regional Regulations; and (2) The legal force of laws and regulations follows the hierarchy as referred to in paragraph (1).

This hierarchy of laws and regulations means describing superior legal regulations are the legal basis for forming subordinate legal regulations; subordinate legal regulations are the implementation of superior legal regulations; therefore, they are in a lower position, and their contents may not conflict; and In the case of two regulations with content governing the same material and with the same status, the new statutory regulations shall apply (Hamid, 2021). In addition to the types of laws and regulations mentioned in Article 7, Article 8 paragraph (1) of Law No. 12 of 2011 also recognizes the existence of laws and regulations other than those mentioned in Article 7 paragraph (1). Other types of laws and regulations that are recognized include regulations stipulated by the People's Consultative Assembly, the People's Legislative Council, the Regional Representatives Council, the Supreme Court, the Constitutional Court, the Supreme Audit Board, the Judicial Commission, Bank Indonesia, Ministers, Agencies, Institutions or commissions with equivalent level established by law or the Government by order of law, Provincial Regional People's Legislative Council, Governor, Regency/City Regional People's Legislative Assembly, Regent/Mayor, Village Head or equivalent (Utami, 2020).

Furthermore, Article 8 paragraph (2) of Law No.12 of 2011 confirms that all laws and regulations mentioned in Article 8 paragraph (1) of Law No.12 of 2011 have binding legal force if they are ordered by higher laws and regulations. or formed based on authority. Strictly speaking Article 8 paragraph (2) of Law No.12 of 2011 has limited the applicability of statutory regulations in Article 8 paragraph (1) of Law No.12 of 2011 is only binding if its establishment is ordered by a higher statutory regulation or is formed based on authority. The existence of Article 8 paragraph (1) of Law No. 12 of 2011 is considered to provide fresh air for several state agencies/institutions. This is due to the non-recognition of the authority of several state agencies/institutions to issue regulations that are binding externally. Most of the regulations issued by state agencies/institutions are internal regulations (beleidregels) or only applied internally to the said state agency/institution (Aji, Helmi, & Yunus, 2020). By recognizing the regulations of state agencies/institutions as part of legislation (wettelijk regeling), these state agencies/institutions have the authority to issue regulations that apply externally.

Even though it is considered to have brought about a change, it does not mean that the existence of Article 8 paragraph (1) of Law No. 12 of 2011 is not problematic. In practice, the existence of Article 8 paragraph (1) of Law No. 12 of 2011 creates new problems. This is because Article 8 paragraph (1) of Law No. 12 of 2011 equates the nature or characteristics of legislation while not all types of regulations formed by state institutions or officials can be categorized as legislation (Gustama, Al-Fatih, & Sarita, 2022). More specifically, Article 8 paragraph (1) of Law No. 12 of 2011 does not correctly sort out the authority possessed by which state institutions have the right to issue regulations that fall into the category of legislation.

Article 8 paragraph (1) of Law No. 12 of 2011 obscures the principle of position and hierarchy of applicable legislation (Aji et al., 2020). Hierarchical levels of legislation indicate the high or low level of norms of the legislation in question. The levels of norms legislation formed based on the hierarchy of legal norms (stufentheory) put forward by Hans Kelsen. In this regard, Hans Kelsen argues that the legal norms are tiered and layered in a hierarchy (organization) in the sense that a lower norm applies, originates from, and is based on a higher norm, a higher norm applies, originates, and is based on higher norms, and so on until they reach a norm that cannot be traced further and is hypothetical and fictitious in nature, namely the basic norm (Grundnorm) (Zeldi et al., 2019).

The legal norm hierarchy initiated by Hans Kelsen above underlies the hierarchical concept of legislation contained in Article 7 paragraph (1) Law No. 12 of 2011 but is not specifically described to emphasize the position of other legislation mentioned in Article 8 paragraph (1) Law No. 12 of 2011. The importance of clarity on the placement of legal norms in the hierarchy of statutory legislation aims to provide legal certainty for the community. The legal consequence of enacting an order of legal norms is the enactment of a judicial review mechanism, namely testing lower legal norms against higher legal norms. Testing is enabled to cancel legal norms that are contrary to higher legal norms. Unfortunately, judicial review of other types of legislation in Article 8 paragraph (1) of Law No. 12 of 2011 is not strictly regulated. This is due to the unclear hierarchical position of legal norms in Article 8 Paragraph (1) of Law No.12 of 2011 against Article 7 paragraph (1) of Law No.12 of 2011.

2. Method

2.1. Types of Research

This research uses normative juridical legal research, namely legal research that examines and examines the legal norms contained in the provisions of laws and regulations (Asyhadie, SH, & Rahmawati Kusuma, 2019; Indriati & Nugroho, 2022). The approach used in this study is the statutory and conceptual approach. The legal material used is Article 8 paragraph (1) of Law no. 12 of 2011 and the concept of Good Regulatory Practices (GRP). Legal material processing techniques are carried out with library techniques (Indriati & Nugroho, 2022; A. K. Putra, Najwan, Rahmalia, & Daud, 2021). Library techniques are carried out by recording and understanding the contents of each information obtained from existing legal materials. The legal material analysis technique used in this study is a descriptive technique, namely a technique used to analyze a problem that must be used in a study.

3. Results and Discussion

3.1. Legal Review Article 8 Paragraph (1) of Law No.12 of 2011 on Formation of Legislation

Laws and regulations other than Article 7 paragraph (1) of Law No.12 of 2011 are delegated legislation. (Jimmly Asshiddiqie, 2004) Delegated legislation is the authority of the Government to regulate the Indonesian people based on related rulemaking orders by law. Concerning the juridical basis for forming delegation regulations, it should be noted that not every law can be used as a legal basis for forming a law. In this case, only legislation whose position is equal or higher can delegate its norms for follow-up regulated by lower legislation (H. K. Putra et al., 2020).

In this regard, regulation can be categorized as a statutory regulation if it meets three elements, namely: legal norms (rechtnorm), applicable to the outside (naar buiten werken), and generally in a broad sense (algemeenheid in ruime zin). The element of legal norms means that the norms outlined in the regulation can take the form of orders, prohibitions, permits, and exemptions. The aspect of norms applying outwards means that the enactment of legal norms aims to control the relationship between people and between the people and the Government. Finally, a norm of a general nature means (Ruiter in Maria Farida Indrati, 2007) that the address to which the norm is aimed at each person and organizes an abstract event (Faizin & Anoraga, 2022).

The formulation of Article 8 paragraph (1) of Law No.12 of 2011 is an explanatory formulation of Article 7 paragraph (1) of Law Number 10 of 2004 concerning the Establishment of Laws and Regulations as repealed by Law No.12 of 2011. The academic manuscript of the amendment of the law of the Formation of Legislation of 2010, which has been revoked by Law No. 12 of 2011, shows that several other laws and regulations have weaknesses. The weaknesses in question include those related to the position of Ministerial Regulations (Permen) in the hierarchy, the legislative authority of the Regional Representative Council (DPD), the role of the DPRD in the formation of Regional Regulations, the position of laws and regulations stipulated by State Institutions / Government Institutions / other institutions, and other weaknesses in the law on the Establishment of Laws and Regulations of 2010 (Siagian, 2021).

The 2004 Law did not resolve these weaknesses on the Formation of Legislation amendment and the law on the Formation of Legislation of 2011. Even in the academic manuscript text, the amendment to the law on the Establishment of Laws and Regulations still mentions the weaknesses in Article 8

paragraph (1). The Review Team for the Law Amendment Plan for the Establishment of Laws and Regulations assessed that there should be several types of laws and regulations issued from the class of laws and regulations. It is because not all State Institutions/Government Institutions, as referred to in Article 8 paragraph (1), have the authority to issue binding regulations to the outside. The regulations that should be issued from Article 8 paragraph (1) include (Asnawi, 2021):

3.1.1 Rules of the Supreme Court and Rules of the Constitutional Court

The nature of the regulations issued by the Constitutional Court and the Supreme Court is a regulation whose nature is binding internally within the institution because it relates to the regulation of procedures for the procedure. According to binding the internal affairs of the Supreme Court and the Constitutional Court, the substance of the regulation is generally binding on a limited basis to the parties who wish to pursue procedures both in the Supreme Court and in the Constitutional Court. Supreme Court Regulations on Mechanisms for judicial review of statutory regulations under laws against laws. For example, is ordered by Article 31 paragraph (10) of Law Number 3 of 2009 on the Second Amendment to Law Number 14 of 1985 on the Supreme Court which states that "the provisions regarding the procedure for testing laws and regulations under the law are regulated by the Supreme Court Rules.

In addition, according to Article 79 of Law Number 14 of 1985 on the Supreme Court which regulates orders to the Supreme Court to regulate further matters to fill legal vacancies for judicial organizers. The existence of Supreme Court Regulation (PERMA) is functioned to assist justice seekers in trying to overcome all obstacles and obstacles to achieve a simple, fast, and low-cost judiciary (Article 4 paragraph (2) of Law Number 48 of 2009 concerning Judicial Power). Thus, the existence of PERMA fills the legal void does not mean creating new legal norms in a law that applies bindingly to the public such as the Criminal Code and the Criminal Code (Ramadani, Danil, Sabri, & Zurnetti, 2021).

Not much different from the preparation of PERMA, the Constitutional Court Regulation is issued to regulate legal norms that are binding on the internal nature of the Constitutional Court. For example, Article 4 paragraph (5) of Law Number 8 of 2011 on Amendments to Law Number 24 of 2003 on the Constitutional Court states that further provisions regarding the procedures for selecting the Chairman and Deputy Chairman are regulated in the Constitutional Court Regulations. In addition, Article 27A paragraph (7) of the Constitutional Court Law also states that the existence of the Constitutional Court Regulation is functioned to further regulate the provisions regarding the composition, organization, and procedure of the proceedings of the Honorary Assembly of the Constitutional Court. The two Constitutional Court Regulations delegated by the Constitutional Court Law contain organizational norms that cannot be said that the norms of the Constitutional Court Regulations are generally applicable or binding outwards. Therefore, according to the author, the Constitutional Court Regulation is not included as a statutory regulation so it must be excluded from other types of laws and regulations in Article 8 paragraph (1) of the Law Number 12 of 2011.

3.1.2 Regulations of the Regional Representative Council, Regulations of the House of Representatives, Regulations of the People's Consultative Assembly

The MPR, DPR, and DPD are state institutions that occupy legislative power. Unlike other state institutions and government agencies, the three state institutions have the authority to issue regulations. However, the regulations intended by Law Number 17 of 2014 on the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and the Regional People's Representative Council (Law No.17 of 2004) only direct the state institution to draft regulations that are binding on the internal nature of the institution.

First, regarding the MPR, for example, as stipulated in Article 8 paragraph (3) states that further provisions regarding the procedures for pronouncing oaths/promises as referred to in paragraphs (1) and (2) are regulated in the MPR Regulations regarding the rules of conduct. In addition, Article 15 paragraph (1) of Law No. 17 of 2004 also regulates the issuance of MPR regulations to regulate the procedures for selecting MPR leaders, procedures for carrying out the duties of MPR leaders (Article 16 paragraph (2)), procedures for dismissing and replacing MPR leaders (Article 19), procedures for forming the composition and duties of ad hoc committees MPR (Article 23), procedures for making decisions on the proposed amendment of the 1945 NRI Constitution (Article 32), procedures for verifying the completeness and correctness of administrative documents for the spouses of presidential and vice presidential candidates (Article 51 paragraph (6)), procedures for exercising the rights of

MPR members (Article 60), procedures for proceedings (Article 62), and procedures for making decisions on MPR sessions (Article 65) Law No.17 of 2004 . From the entire type of regulatory content ordered by Law No.17 of 2004 above, it can be concluded that the regulation is a regulation that is internally binding on members of the MPR (organizational norms).

If examined according to its duties and functions, the authority of the MPR according to the 1945 NRI Constitution includes: a) amending and enacting the Constitution (Article 3 paragraph (1)); b) appoint the president and/or vice president (Article 3 paragraph (2)); and c) dismiss the president and/or vice president according to the Constitution (Article 3 paragraph (3)). Of the three powers attributed by the 1945 NRI Constitution, it does not indicate a single authority that refers to the general regulation by the MPR. The three authorities apply specifically to members of the MPR and the president and/or vice president so that it can be concluded that the MPR does not have the authority to issue regulations that are binding on the outside.

Second, regarding the House. The authority of the House of Representatives according to the 1945 NRI Constitution includes, among others: a) Giving consideration in terms of the appointment of ambassadors (Article 13 paragraph (2)); b) give consideration to the acceptance of ambassadors of other countries (Article 13 paragraph (3)); c) give consideration to the president regarding the granting of amnesty and abolition (Article 14 paragraph (3)); d) establishing laws (Article 20 paragraph (1)); e) Submit a proposed draft law (Article 21); f) give approval to the president in relation to the establishment of government regulation in lieu of law (Perppu) (Article 22 paragraph (2)); g) Together with the president discuss the draft state budget law (Article 23 paragraph (2)); h) Elect members of the CPC (Article 23F paragraph (1)); i) Give approval to the proposed supreme court justice candidate proposed by the Judicial Commission (KY) (Article 24A paragraph (3)); j) Give approval to the president regarding the appointment and dismissal of KY members (Article 24B paragraph (3)); and k) Submit the names of candidates for judges of the Constitutional Court (Article 24C paragraph (3)).

If you look carefully, every authority granted by the 1945 NRI Constitution to the DPR is only aimed specifically at certain positions, for example the president, The Audit Board of the Republic of Indonesia (BPK), MK, MA, KY, and so on. No single authority of the house requires general arrangements so that it must be binding on the people. Even in Law No.17 of 2004, it is emphasized that the authority to form regulations ordered by Law No.17 of 2004 is an organizational regulation that applies bindingly. For example, as explained in Article 77 paragraph (3) of Law No.17 of 2004 on the regulation of procedures for pronouncing promises / oaths of the DPR, facilities and experts of fractions (Article 82 paragraph (7), DPR fittings (Article 83 paragraph (2), and so on.

Third, related to the authority of DPD according to the 1945 NRI Constitution, which includes: a) submitting draft laws relating to regional autonomy, central and regional relations, the formation and expansion and merger of regions, management of regional natural resources, and other economic resources, as well as the balance of central and regional finances (Article 22D paragraph (1)); b) participate in discussing draft laws relating to regional autonomy, central and regional relations, the formation and expansion and merger of regions, the management of regional natural resources, and other economic resources, as well as the balance of central and regional finances (Article 22D paragraph (2)); c) supervise the implementation of laws on regional autonomy, central and regional relations, the establishment and expansion and merger of regions, the management of regional natural resources, and other economic resources, as well as the balance of central and regional finances (Article 22D paragraph (3)); d) give consideration to the president in relation to the discussion of the draft law on Statutes and State Income; and e) give consideration to the House of Representatives in relation to the election of CPC members (Article 23F paragraph (1)).

Of the six authorities attributable to the 1945 NRI Constitution, it can be studied that these powers are addressed to the President and the House of Representatives. None of the powers mentioned by the 1945 NRI Constitution are addressed to the people, so DPD should not be authorized to issue regulations that are binding on the people in general. Moreover, the concept of regulations ordered by Law No. 17 of 2004 functions to regulate the norms of internal DPD organizations such as MPR regulations and DPR regulations. For example, as affirmed in Article 253 paragraph (3) regarding the procedures for pronouncing oaths/promises, procedures for forming, arranging, and ordering and duties of DPD fittings (Article 259 paragraph (2), election of DPD leaders (Article 260 paragraph (7)), and so on.

3.1.3 Regulations of Institutions/Commissions/State Bodies, Financial Audit Agencies, and Judicial Commissions

The regulations intended in this chamber are those issued by the Minister, Non-Departmental Government Agencies, and the Director-General of the Department. The main concept of this type of regulation is that if the underlying issue of the regulation is a higher law, namely a law, government regulation, or presidential regulation, then the regulation is a statutory regulation because it is a form of delegated legislation. Meanwhile, suppose the basis for the issuance of regulations is the interpretation of each government agency/commission/institution based on the 1945 NRI Constitution. In that case, the regulation is discretionary (beleidregels). The formulation of regulation falls into the category of laws or regulations that needs to be further studied based on issuing regulations, the substance, and the marketability of the regulation.

Meanwhile, especially in BPK and KY, the basic concept is the same as the DPR Regulations, MPR Regulations, and DPD Regulations, where the basic concept of issuing regulations is a regulation binding on the internal nature of the organization. Although Article 1 number 17 of Law Number 15 of 2006 on The Audit Board of the Republic of Indonesia (BPK) stated that the CPC regulation is a legal rule that is generally binding, it is necessary to recall that the CPC is a state institution authorized around state financial inspection. Thus, the object of inspection is the executive party. On this basis, the regulations issued by the CPC are generally applicable only to regulate the issue of examination in the government institutions under which it is authorized, so the CPC Regulations are not authorized to bind the public.

Based on the description that has been discussed, it can be concluded that other types of laws and regulations that should be included in Article 8 paragraph (1) of Law No. 12 of 2011 are Bank Indonesia Regulations, Ministerial Regulations, and Regional Head Regulations. Specifically, the Regulation of the Head of Non-Departmental Government Institutions and the Regulation of the Director-General of the Department can be part of the legislation if the basis for its issuance is based on higher regulations. Therefore, the substance stipulated in the regulation must be binding on the public. Outside of the two regulations in question, it is not included in the laws and regulations.

3.2. Implementation of Article 8 Paragraph (1) in Regulatory Policy Design Based on Good Regulatory Practices (GRP)

The concept of Good Regulatory Practices (GRP) is an overview model to identify the process of making a law that can be used to improve the quality and effectiveness of the regulation's usefulness. Partially, GRP examines the administrative process of forming a law which includes coordination from the Government and legislature in proposing and discussing the draft of a law, evaluating the impact of regulations, transparency of regulatory formation, presence or absence of public participation, and accountability of the regulation (Gazali, Adolf, Husni, & Cahyowati, 2018).

The purpose of implementing the GRP is to test how effectively the laws and regulations can solve the problems that occur. Given the existence of regulations, it functioned to answer legal issues that arise. Regarding the basic concept, the GRP indicators have basically been accommodated in the principles of the formation of laws and regulations mentioned in Article 5 of Law No. 12 of 2011. The principles in question include a) clarity of purpose; b) appropriate institutional or forming officers; c) conformity between the types, hierarchies, and materials of the charge; d) enforceable; e) usability and usefulness; f) clarity of formulation; and g) openness.

Meanwhile, the content of the law must reflect the principles as stipulated in Article 6 of Law No.12 of 2011, which includes: a) highlighting; b) humanity; c) nationality; d) kinship; e) archipelagic; f) Bhinneka Tunggal Ika; g) fairness; h) equality of position in law and government; i) order and legal certainty; and/or j) balance, harmony, and alignment. These principles indicate whether the entire process of formulating laws and regulations has passed the series of restrictions or not. In addition to the code, other elements used to implement GRP are internal coordination of rulemaking activity, regulatory impact assessment (RIA), and public consultation mechanisms to improve transparency.

First, Internal coordination of rulemaking activity is managing regulatory reforms and coordinating with officials related to the substance of the regulations discussed. In this case, the authorities authorized to issue laws and regulations c.q. Laws are the president and the DPR. In comparison, the DPD is permitted to submit the draft of laws related to regional substance and participate in discussing laws relating to regional autonomy, central and regional relations, the formation and expansion and

merger of regions, the management of regional natural resources, and other economic resources, as well as balance central and regional finance. The coordination between the executive and the legislature is accommodated in the planning system of laws and regulations outlined in the national legislation program (Article 16 of Law No.12 of 2011). The national legislation program (Prolegnas) is compiled in a list of bills based on a) orders from the 1945 NRI Constitution; b) MPR TAP command; c) Other statutory orders; d) national development planning system; e) long-term national development plans; f) medium-term development plans; g) the Government's work plan and the house's strategic plan; and g) the aspirations and legal needs of the community (Article 18 of Law No.12 of 2011). Coordination between relevant parties is summarized in the stages of discussing national development plans on a long, medium, and short scale so that the regulations to be made are right on target.

Second, regulatory impact assessment (RIA). The RIA is described as a systematic process to identify and assess the desired impact of a law filing (Suska, 2012). Concept of regulatory impact assessment can be seen in Fig. 1 (H. K. Putra et al., 2020).

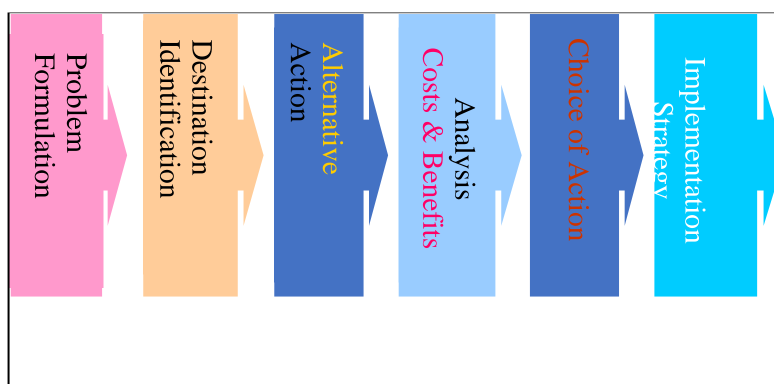

Fig. 1. Regulatory Impact Assessment Concept

The RIA ensures that better policy options are chosen by establishing a systematic and consistent framework for assessing the potential impact of government actions. According to the RIA mechanism, appropriate legislation will be born from a complete and systematic rulemaking process. Regulations must be initiated from problems that exist in society, so the first stage of formulating a regulation is a problem formulation, namely developing what problems occur, the causes of problems, and who the subjects and objects of the existing problems are. As explained upfront, this stage has been accommodated in Article 16 jo. Article 68 of the Law No.12 of 2011 regarding the national legislation program whose existence is aimed at sorting out the priorities of problem-solving targets.

The second stage is destination identification. After a problem is identified, it is necessary to determine what exactly is the policy goal to be taken. This objective represents the applicability of the principle of clarity of purpose as referred to in Article 5 letter a of the Law No.12 of 2011. After the purpose of a regulation is determined, the next step that must be taken is alternative action (development of various choices / alternative policies to achieve the goal). This stage requires the framers of laws and regulations to do nothing or not to take any action. This action is done solely to initiate the basic baseline of taking the next existing action. At this stage it is very important to involve stakeholders from various backgrounds and interests to get a complex and holistic picture (H. K. Putra et al., 2020).

After determining the steps to be taken, the next procedure that must be passed is an analysis of the costs and benefits obtained (cost and benefit analysis). This process begins with the selection of assessments from the aspect of legality because each existing option must not conflict with the relevant laws and regulations. Even in conducting a cost and benefit analysis, it is necessary to pay attention to who are the affected parties and who benefits from the issuance of a law. After completing the cost and benefit analysis the next step is to choose the best course of action. Analysis of costs and benefits in the previous stage is used as a basis for making decisions about what options to take. The principle used in this stage is that the option taken is the option that provides the most net benefit (i.e., the sum of all benefits minus the amount of costs present) (Zeldi et al., 2019).

The last stage that must be passed is the preparation of an implementation strategy where this step is taken based on the awareness that the actions taken by the Government automatically involve implementative knowledge and capabilities. Therefore, this step is supported by public consultation where the community is actively involved in knowing and proposing a discussion of the substance of a regulation. Usually, this mechanism is also known as a public hearing which is used to rally public opinion on a ready regulatory plan. Public hearings are regulated in Article 96 of the Law No.12 of 2011. Although not all stages are regulated in detail in the Law No.12 of 2011, the RIA concept can be used as a guideline for the preparation of technical laws and regulations.

It's just that when it comes to the practice of drafting laws and regulations by referring to the formulation of Article 8 paragraph (1) it is frugal that not all stages of the RIA are applied. This can be seen from the formulation of legal norms that are out of sync considering that it includes all components of regulations issued by each state institution / government agency / commission as part of the laws and regulations. It can be concluded that the formulation of Article 8 paragraph (1) was not carefully discussed by involving in-depth study from constitutional experts. In addition, the concept of the consequences of the inclusion of a regulation into legislation is the emergence of judicial review. With the unclear hierarchy, the content of other regulatory materials included in Article 8 paragraph (1) confirms that the article does not go through the RIA stage.

Third, public consultation and transparency. The concept of public consultation and transparency in the formulation of regulations for negotiations is only regulated in one article, namely Article 96 of the Law No.12 of 2011. Where people are given the opportunity to voice their aspirations either orally or in writing. The existence of community aspirations is certainly an indicator that the plan or draft regulations to be drawn up have reached the ears of the community. It is also the public that can determine whether the new written legal norms can be used to regulate their legal order. Considering that regulations do not have the power to use if they are not able to bind the community to obey them.

The three GRP elements above have basically been adapted in the Law No.12 of 2011 although not perfectly all GRP components are conveyed in it. It's just that the practice of GRP needs to be maximized in the preparation of future laws and regulations so that the regulations issued are right on target. Most regulations are made as if they are only a means to consume the eyes of the state budget in addition to seeing the usefulness of the regulations. As a result, the regulations issued tend to be out of sync with each other, overlap, and result in legal uncertainty. Indonesia is already quite known as a country of regulatory jungles, so it is time for the "little bit of lawmaking" paradigm to be stopped.

4. Conclusion

Based on the description above, it can be concluded that, first, the proper meaning of Article 8 paragraph (1) of Law No.12 of 2011 is Bank Indonesia Regulations, Ministerial Regulations, and Regional Head Regulations. Regulations of Non-Departmental Government Institutions and Regulations of the Director General of Departments can only be recognized as legislation if their issuance is ordered by higher legislation. Second, the GRP concept basically includes internal coordination of rulemaking activity, regulatory impact assessment, and public consultation which has been accommodated in Article 5 and Article 6 of Law No. 12 of 2011 on the principles of forming legislation.

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