

## Analysis of The Preparation of Mayoral Regulations Based on The Formation of Statutory Regulations Justice-Based (Case Study in Semarang City Government)

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**Abstract.** *In carrying out his duties as a regional leader at the district/city level, the Mayor has the authority to form and establish statutory regulations in the form of Mayoral Regulations, the scope of which covers areas at the city level. This study aims to determine and analyze the process of drafting the Semarang Mayor Regulation through the stages of harmonization, rounding and consolidation of the conception of the Draft Semarang Mayor Regulation, to determine and analyze whether the process of drafting the Semarang Mayor Regulation is in accordance with the stages of forming legislation or not, obstacles and factors that influence and solutions in overcoming these obstacles, and to determine and analyze the drafting of the Mayor Regulation based on the formation of justice-based legislation. The research method uses a normative juridical approach with analytical descriptive research specifications, types and sources of data, namely primary legal materials, secondary legal materials and tertiary legal materials with data collection methods through literature studies and library studies using the Pancasila justice theory and legal theory. Based on the results of this study, it shows that the drafting of the Semarang Mayor's Regulations has not yet gone through the process of harmonization, rounding out and strengthening the draft concept in accordance with Law Number 12 of 2011 concerning the Formation of Legislation as amended several times, most recently by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation, so that solutions are needed to improve human resources, coordination between Regional Apparatus and vertical agencies, and strict sanctions in supervising the preparation of regional legal products, in order to obtain consistent and just regional legal products.*

**Keywords:** *Formation; Harmonization; Justice; Major Regulation.*

## 1. Introduction

Law is a system of rules (order) as a system of rules (rules) regarding human behavior. Thus, law does not refer to a single rule (rule), but a set of rules (rules) that have a unity so that they can be understood as a system.<sup>1</sup>The concept of law will continue to evolve with the times and its various influences. Historically and practically, the concept of the rule of law has emerged in various models, such as the rule of law based on Islamic teachings, the rule of law based on the *rechtsstaat* concept, the rule of law based on the Anglo-Saxon concept (rule of law), and the rule of law based on civil law.

Regarding the concept of a state based on the rule of law, Indonesia adheres to a mixed legal system that combines civil law, Islamic law, and customary law. With its highly diverse population, across ethnicities, religions, and cultures, Indonesia is inextricably linked to environmental law and customary law. Therefore, the existence of customary law is highly recognized. Therefore, each region is granted the authority to manage its own government affairs, commonly referred to as Regional Autonomy. Based on Article 18 of the 1945 Constitution of the Republic of Indonesia, regional governments have the right to establish regional regulations and other regulations to implement autonomy and assistance tasks.<sup>2</sup>Regional autonomy aims to empower each region to improve the welfare of its people. This goal can only be achieved if regional autonomy is implemented effectively, necessitating regional leaders, particularly those in districts/cities, who can carry out the tasks of this autonomy within their respective jurisdictions.

In carrying out his duties as a regional leader at the district/city level, the Mayor has the authority to form and stipulate a statutory regulation in the form of a Mayor's Regulation whose scope includes areas at the city level. In the same scope there are also City Regional Regulations, but the Mayor's Regulation can be stipulated by the Mayor without discussion and joint approval with the City Regional People's Representative Council. This is because the content contained in the Mayor's Regulation only regulates the Mayor's policies in running the wheels of government together with the Regional Apparatus as its implementers or in other words the Mayor's Regulation only regulates the administrative processes that apply in a City which is different from the City Regional Regulation which must be discussed together between the City Regional People's Representative Council as a legislative body with the Mayor as an executive body, this is because the City Regional Regulation has different material and

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<sup>1</sup>Hans Kelsen, *General Theory of Law and State*, (New York: Russell, 1961), p. 80

<sup>2</sup> Article 18 of the 1945 Constitution of the Republic of Indonesia

content from the Mayor's Regulation where the City Regional Regulation has implications for all residents living in a particular city.

Although the determination of the Mayor's Regulation is not carried out jointly with the City Regional Representative Council, the design and drafting techniques for the Mayor's Regulation must be carried out in accordance with the provisions of Law Number 12 of 2011 concerning the Formation of Legislation as amended several times, most recently by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation, this is done so that the Mayor's Regulation does not conflict with the existing Legislation above it (*lex superior derogate legi inferior*) in line with the provisions in Article 22A of the 1945 Constitution of the Republic of Indonesia. Further provisions regarding the procedures for the formation of laws are regulated by law.

In The hierarchical system of statutory regulations as regulated in Article 7 paragraph (1) of Law Number 12 of 2011 concerning the Formation of Statutory Regulations as amended several times, most recently by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Statutory Regulations, states that the types and hierarchy of statutory regulations consist of:

- a. The 1945 Constitution of the Republic of Indonesia;
- b. Decree of the People's Consultative Assembly;
- c. Law/Government Regulation in Lieu of Law;
- d. Government regulations;
- e. Presidential decree;
- f. Provincial Regional Regulations; and
- g. Regency/City Regional Regulations.<sup>3</sup>

The Mayor's Regulation is not explicitly mentioned in the hierarchical system, but in Article 8 of Law Number 12 of 2011 concerning the Formation of Legislation as amended several times, most recently by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation, it explains that the Regent/Mayor's Regulation is recognized and has binding legal force as long as it is ordered by higher legislation or is formed based on authority.

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<sup>3</sup> Law Number 12 of 2011 concerning the Formation of Legislation as amended several times, most recently by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation, Article 7

Process The drafting of the Mayor's Regulation within the Semarang City Government is still not in accordance with the process of forming statutory regulations which are legally and formally regulated in Law Number 12 of 2011 concerning the Formation of Legislation as amended several times, most recently by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation and Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products as amended by Regulation of the Minister of Home Affairs Number 120 of 2018 concerning Amendments to Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products. In the process of drafting regional legal products in the form of regulations, both Regional Regulations or Mayoral Regulations must go through a harmonization stage carried out by the Ministry of Law and facilitated by the Provincial Government, but this stage has not been carried out on the process of drafting the Semarang Mayor's Regulation so that an analysis is needed to determine the implementation process and obstacles faced by the Semarang City Government in the process of drafting statutory regulations.

In order to maintain orderly administration and improve the quality of regional legal products, a process or procedure is needed for preparing legal products so that they are more focused and coordinated.<sup>4</sup> The drafting procedure, which forms part of the process of establishing regional legal products, from planning to enactment and promulgation, must be implemented in accordance with the stages stipulated in legislation. Following the legal product formation process, there is the process of implementing the law. The application of a legal rule is carried out to uphold the law in the event of a violation (non-compliance) with a legal rule. Law enforcement is a concrete form of law implementation in society.<sup>5</sup>

In connection with the description above, the researcher intends to conduct a research study on "Analysis of the Preparation of Mayoral Regulations Based on the Formation of Justice-Based Legislation (Case Study in the Semarang City Government"

## **2. Research Methods**

The approach used in this research is normative legal. The normative legal method is a method of collecting secondary data through literature study. The secondary data analyzed and evaluated include primary legal materials, secondary legal materials, and tertiary legal materials. Qualitative analysis and analysis of the stages of preparation are used to analyze the secondary data.

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<sup>4</sup>Iwan Sulisty, Widayati, Sri Kusriyah, Implementation of the Principle of Openness in the Process of Forming Regional Regulations in the Context of Regional Autonomy in Kendal Regency, *Jurnal Daulat Hukum*, Vol. 1 No. 1, 2018, 196.

<sup>5</sup>Bagir Manan, *Indonesian Positive Law (A Theoretical Study)*, (Yogyakarta: FH UII Press, 2004), p. 50.

### **3. Results and Discussion**

#### **3.1. Implementation of the Semarang Mayor's Regulation Drafting Process at the Harmonization, Finalization and Consolidation Stages of the Semarang Mayor's Regulation Draft Concept**

Good legislation is one that harmonizes with other legislation. Disharmony between one legislation and another, whether at the same or a different level, will create complex problems. Consequently, the regulation can be revoked due to its conflict with the constitution or higher-level legislation.<sup>6</sup>One of the stages in drafting legislation is the process of harmonization, consolidation and consolidation of the draft concept.

Implementationthe process of harmonization, rounding out and strengthening the concept of draft legislation is regulatedin Article 97D of Law Number 12 of 2011 concerning the Formation of Legislation as amended several times, most recently by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation, which reads as follows:

"Harmonization, consolidation, and consolidation of the concept of the Draft Provincial Regional Regulation as referred to in Article 58 and the Draft Regency/City Regional Regulation as referred to in Article 63 shall apply *mutatis mutandis* to the harmonization, consolidation, and consolidation of the concept of the draft regulation of the head of the province and the draft regulation of the head of the district/city."

Legal harmonization plays a strategic role and must begin at the planning stage to facilitate subsequent processes, but its implementation is complicated due to legal pluralism and the development of global society. Legal harmonization does not only concern matters intended to avoid overlapping or conflicting regulations, but more than that so that the legislation that is born and the ease of positive law can carry out its function properly in society. Harmonization is one of the processes and mechanisms in order to implement changes and updates to laws and regulations regulated by the 1945 Constitution of the Republic of Indonesia and Law Number 12 of 2011 concerning the Formation of Legislation as amended several times, most recently by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation.

In a study at the Legal Section of the Semarang City Regional Secretariat by taking several examples of administrative documents, it was found that the

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<sup>6</sup>M. Jeffri Arlinandes Chandra, Rofi Wahanisa, Ade Kosasih, Vera Bararah Barid, *Theory and Concept of Legislation Formation in Indonesia*, (Bengkulu: CV. Zigie Utama, 2022), p. 3.

Mayor's Regulation did not have complete administrative documents in accordance with the procedures for forming statutory regulations as regulated in Law Number 12 of 2011 concerning the Formation of Legislation as amended several times, most recently by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation and Regulations. Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products as amended by Regulation Minister Regulation of the Minister of Home Affairs Number 120 of 2018 concerning Amendments to Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Formation of Regional Legal Products. Administrative documents that should be included in each stage of the formation of the Mayor's Regulation include:

1. Letter of Application for Harmonization, Unification, and Consolidation to the Head of the Central Java Regional Office of the Ministry of Law.
2. Letter of Request for Facilitation to the Governor.

In practice, the stages of harmonization, consolidation, and consolidation of the draft Semarang Mayoral Regulation are carried out after coordination and corrections from the relevant Regional Apparatus to the Legal Section of the Semarang City Regional Secretariat in accordance with its main duties and functions based on Semarang Mayoral Regulation Number 90 of 2021 concerning the Position, Organizational Structure, Duties and Functions and Work System of the Semarang City Regional Secretariat carrying out facilitation activities for the discussion and preparation of the Mayoral Regulation. This coordination and correction are carried out through a system called "Electronic Legal Drafting", so that the notes of the results of corrections and revisions can be viewed in full. Corrections to the draft Mayoral Regulation are carried out by employees who have the duties and functions as drafters of legislation and legal analysts. At this stage, if the employee making the correction has not received approval from the Head of the Legal Section, the harmonization, rounding and consolidation process cannot be implemented, this provision is in accordance with the Decree of the Regional Secretary of Semarang City Number 000.8.3.3 / 70/70 of 2024 concerning Standard Operating Procedures in the Legal Section of the Regional Secretariat of Semarang City. If the correction has received approval from the Head of the Legal Section, then it is proposed to carry out the process of harmonization, rounding and consolidation of the concept to the Central Java Regional Office of the Ministry of Law. This proposal stage is implemented based on Article 4 of the Regulation of the Minister of Law and Human Rights Number 22 of 2018 concerning Harmonization of Draft Legislation Formed in the Region by the Drafter of Legislation, namely as follows:

"The draft legislation formed in the region as referred to in Article 3 is submitted in writing to the Director General as the Drafting Supervisor through the Head of the Regional Office for Harmonization."

The proposed application for harmonization, consolidation, and consolidation of the concept of the draft Mayor's Regulation as regulated is submitted by the Legal Section of the Regional Secretariat through a system established by the Ministry of Law called the "E-Harmonization" website. At this stage, the Semarang City Government prepares supporting documents as administrative requirements for the harmonization, consolidation, and consolidation of the concept by the Ministry of Law. The administrative requirements and procedures for this harmonization are stipulated in the Decree of the Minister of Law and Human Rights Number M.HH-01.PP.02.01 of 2023 concerning Guidelines for Harmonization, Consolidation, and Consolidation of the Concept of Draft Regional Regulations and Draft Regional Head Regulations. The Ministerial Decree explains the procedures for submitting a request for harmonization of the draft Regional Head Regulation in the form of;

1. Explanation/description of the Draft Regional Head Regulation in the specified format.
2. Draft Regional Head Regulation that has received approval from the Regional Secretary and the Initiator.

After the administrative requirements are met and declared complete, the harmonization application proceeds to the next process, namely a conceptual analysis by the Harmonization Working Group at the Central Java Regional Office of the Ministry of Law. The results of the conceptual analysis are submitted to the Semarang City Government, which is then followed up with a Harmonization meeting to obtain agreement and unanimity on the concept of the draft Regional Head Regulation. The agreement obtained in the meeting is then stated in the Harmonization Minutes to be revised according to the results of the agreement agreed upon in the minutes. The revised draft concept must receive an approval initial and be resubmitted to the Central Java Regional Office of the Ministry of Law to obtain the final result, namely the Harmonization Completion Letter.

The Draft Mayor Regulation that has been completed with harmonization, rounding, and consolidation of the draft concept and has obtained a Harmonization Completion Letter is then resubmitted by the initiating Regional Apparatus to the Legal Section of the Regional Secretariat to be submitted hierarchically initialed to obtain approval from the Head of the Legal Section, then initialed by the Assistant to the Government of the Semarang City Regional Secretary, then initialed by the Regional Secretary of Semarang City, then requested for the signature of the Mayor of Semarang for the determination process and returned to the Regional Secretary again to be signed in the context



of the promulgation process. The original document that has been signed is submitted to the Legal Section again to be archived and authenticated by the Head of the Legal Section in the context of disseminating legal information.

From the description of the stages of the process of forming the Mayor's Regulation, the data obtained from the research results show that not all Mayor's Regulations have the intended documents, so that formally they do not meet the administrative requirements in the stages of forming statutory regulations. From the results of the research conducted, the implementation of harmonization, rounding and consolidation of the concept of the draft Mayor's Regulation is not all carried out by the drafters from the Regional Office of the Ministry of Law. In 2025, there were 53 (fifty-three) Mayor's Regulations that had been stipulated and promulgated, but there were only 20 (twenty) Mayor's Regulations that underwent the process of harmonization, rounding and consolidation of the concept.<sup>7</sup>For example, in the same year, Semarang Mayor Regulation Number 1 of 2025 concerning Guidelines for the Establishment of Village Community Institutions and Semarang Mayor Regulation Number 51 of 2025 concerning Regional Risk-Based Health Problem Management were enacted.

From the title page, there can be visible differences in the resulting legal products. In the legal basis, considering the inconsistency, Semarang Mayor Regulation Number 1 of 2025 concerning Guidelines for the Establishment of Village Community Institutions, which was not harmonized, rounded up and strengthened the concept, does not include Article 18 paragraph (6) of the 1945 Constitution of the Republic of Indonesia, while Semarang Mayor Regulation Number 51 of 2025 concerning Regional Risk-Based Health Problem Management, which was harmonized, rounded up and strengthened the concept, includes Article 18 paragraph (6) of the 1945 Constitution of the Republic of Indonesia.

Therefore, the stages of harmonization, rounding out, and consolidation of concepts based on formal legal provisions must be carried out in order to avoid inconsistencies in formulations that arise due to the absence of a harmonization process between articles, between terms, and between references, so that the entire regulation does not form a unified, logical system of norms. Without harmonization, legal products tend to be incoherent, imprecise, and non-operational, thus reducing their quality and validity.

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<sup>7</sup> Legal Documentation and Information Network, ([jdih.semarangkota.go.id](http://jdih.semarangkota.go.id) accessed on November 1, 2025 at 20.15)



### **3.2. Obstacles in the Process of Drafting Semarang Mayoral Regulations in Accordance with the Stages of Forming Legislation and Solutions to Overcome These Obstacles**

#### **1. Obstacles in the Process of Drafting the Semarang Mayor's Regulation**

Although the law clearly regulates the stages of the formation of laws and regulations, including regional head regulations, there are still regions that have not implemented the stages in accordance with the formal provisions stipulated in the law. The large number of Mayoral Regulations that have not gone through the harmonization stage can be explained by various interrelated factors. One of the main causes is a lack of understanding among local government officials or apparatus regarding the importance of the harmonization process in the formation of laws and regulations. Many assume that the harmonization stage is only mandatory for Regional Regulations (Perda), while Mayoral Regulations as implementing regulations are considered sufficient to be created internally without the need for this process. In fact, in accordance with the provisions of Law Number 12 of 2011 concerning the Formation of Laws and Regulations, as amended several times, most recently by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Laws and Regulations, every draft regulation must go through harmonization, rounding, and conceptual strengthening to align with higher regulations and avoid legal overlap.

Furthermore, limited human resources in the field of legal drafting are also a contributing factor. In many local governments, the number of legal experts or regulatory drafters who understand the techniques of drafting and harmonizing regulations is still very limited. Legal departments in regional secretariats often have few employees, while the workload of drafting regulations is quite large. Based on personnel data in the Legal Section of the Semarang City Regional Secretariat, there are only 6 (six) functional officials serving as First Expert Legal Drafters, 1 (one) Junior Expert Legal Analyst, and 3 (three) implementing officials serving as Legal Analysts.<sup>8</sup>Of the 10 (ten) employees who should carry out the duties and functions to facilitate the preparation of legislation, data shows that only 4 (four) employees carry out these duties and functions. 6 (six) other employees are seconded to other Work Units, some are given additional other duties so that they cannot optimally carry out the duties and functions to facilitate the preparation of legislation. The 4 (four) employees who are still optimally carrying out their duties and functions have not received education and training from the agency that oversees the design of legislation and legal analysts, so there are still limitations in carrying out the task of forming good regional legal products.

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<sup>8</sup>Civil Servant Data, (<https://data.scymark.semarangkota.go.id/pns.php>, accessed October 23, 2025 at 11:25)

The drafters of these laws and regulations and legal analysts are mentioned in the provisions of Article 98 of Law Number 12 of 2011 concerning the Formation of Laws and Regulations as amended several times, most recently by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Laws and Regulations, which reads as follows:

This situation is exacerbated by time pressures and demands for immediate policy issuance, making the harmonization process excessively time-consuming and impractical. As a result, several draft regulations are immediately enacted as Mayoral Regulations without going through the proper harmonization process.<sup>9</sup>This pressure can be seen in the process from the proposal to the enactment and enactment of the Mayor's regulation, which was so short that it was deemed too fast and rushed. One example is

Another contributing factor is the lack of coordination between regional agencies. In practice, the drafting of Mayoral Regulations is generally initiated by specific technical agencies or bodies, but not all agencies coordinate intensively with the legal department from the outset. This often results in draft regulations being prepared and ready to be enacted before the harmonization review. This lack of communication and synergy between agencies results in many Mayoral Regulations not going through a proper harmonization process.<sup>10</sup>

From a political and policy perspective, the desire to respond quickly to public issues is also a reason why the harmonization process is often neglected. Mayors and regional officials sometimes feel the need to quickly enact certain policies to address community needs or local political dynamics. In such situations, the harmonization process is perceived as delaying the issuance of regulations, so this stage is skipped for the sake of time efficiency.<sup>11</sup>

Furthermore, weak oversight and the absence of strict sanctions for regulations that fail to undergo harmonization also reinforce this tendency. While harmonization is a crucial part of the process of creating legitimate regulations, there are no explicit provisions that invalidate or sanction Mayoral Regulations created without this process.<sup>12</sup>As a result, the level of compliance with harmonization procedures is low because they do not have direct legal consequences for their drafters.

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<sup>9</sup>Philipus M. Hadjon, *Introduction to Indonesian Administrative Law* (Yogyakarta: Gadjah Mada University Press, 2015), p. 87.

<sup>10</sup>Maruarar Siahaan, *Constitutional Law and State Administrative Law in the Perspective of Indonesian Constitutional Reform* (Jakarta: Konstitusi Press, 2008), p. 133.

<sup>11</sup>Jimly Asshiddiqie, *Regarding the Law* (Jakarta: Secretariat General and Registrar of the Constitutional Court, 2006), p. 217.

<sup>12</sup>Romli Atmasasmita, *Integrative Legal Theory: Reconstruction of Development Legal Theory and Progressive Legal Theory* (Bandung: Genta Publishing, 2012), p. 102.

Overall, the phenomenon of suboptimal harmonization in the formation of Mayoral Regulations is caused by a combination of limited legal understanding, a lack of competent human resources, weak inter-agency coordination, political pressure and practical needs, and the absence of a strong oversight mechanism. This condition indicates that the problem is not solely caused by individual negligence, but rather by the regional regulatory system and governance, which still need improvement so that the regulation-making process can proceed in accordance with legal principles and good governance.<sup>13</sup>

Of the various factors described above, in practice, the Semarang City Government in the process of drafting the Mayor's Regulation also still faces various obstacles with the factors that have been described, which then impact the effectiveness and quality of the resulting regulations. These obstacles arise from both internal bureaucratic aspects, coordination between regional agencies, and external factors that influence the dynamics of the formation of legislation at the regional level. Concretely, these obstacles can be described as seen from the time period for drafting from proposal to promulgation which is carried out in a short time and changes to the Mayor's Regulation which can be changed in less than a year. For example, Semarang Mayor Regulation Number 1 of 2025 concerning Guidelines for the Establishment of Village Community Institutions which was only stipulated and promulgated on January 2, 2025 but has been amended by Semarang Mayor Regulation Number 9 of 2025 concerning Amendments to Semarang Mayor Regulation Number 1 of 2025 concerning Guidelines for the Establishment of Village Community Institutions which was stipulated and promulgated on February 18, 2025.<sup>14</sup> It can be concretely analyzed that the factors hindering the preparation of the Semarang Mayor's Regulation in accordance with the formation of statutory regulations can be described as follows:

a. First, the lack of education and training for functional officials who are competent in drafting legislation or who understand the techniques for drafting regulations in accordance with the rules of Law Number 12 of 2011. This condition causes the initial substance proposed to still be conceptual, incomplete, or not meet academic standards, thus slowing down the harmonization process at the Legal Division level.

b. Second, time pressure and political pressure. In many cases, the proposing regional apparatus has not conducted technical consultations from the outset, resulting in differing interpretations of the norms to be regulated. This lack of synchronization leads to repeated revisions and lengthens the timeframe for

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<sup>13</sup> M. Nurkholis, Implementation of Harmonization Stages in the Formation of Regional Regulations in Indonesia, *Journal of Law and Social Sciences* Vol. 8, No. 2, 2021, 145–158.

<sup>14</sup> Legal Documentation and Information Network, (<https://jdih.semarangkota.go.id/peraturan-walikota>, accessed November 2, 2025, at 9:20)

drafting the Mayoral Regulation, leaving insufficient time for harmonization, consolidation, and consolidation of the draft concept.

Thus, these obstacles demonstrate that the development of the Mayoral Regulation in Semarang City is not only related to the technical aspects of regulatory development, but also concerns institutional quality, bureaucratic coordination, and the readiness of regulatory support systems. To produce an effective Mayoral Regulation, strengthening the capacity of drafters, improving the coordination system, enhancing data quality, and accelerating the digitalization of the regional legislative process are necessary.

To overcome problems in the system of forming legislation, especially Mayoral Regulations, the Semarang City Government has prepared a strategy which includes:

- a. Synchronizing planning through the integration of the Mayor's Regulation planning system through the determination of the annual Mayor's Regulation needs planning. This is evidenced by the Decree of the Mayor of Semarang Number 100.3/1216 of 2024 concerning the Planning for the Preparation of the 2025 Semarang Mayor's Regulation.
- b. Controlling the process of formulating legislation through stricter harmonization and synchronization by establishing policies regarding the requirements for proposing draft Mayoral Regulations. This is evidenced by Circular Letter Number: B/387/100.3.4/I/2025 concerning the Preparation of Explanations/Remarks in the Process of Formulating Mayoral Regulations.

## 2. Solutions to Overcome Obstacles

In overcoming obstacles in the Semarang Mayor's Regulation Drafting Process, the following solutions can be provided:

- a. In response to the lack of Education and Training for Civil Servants, it is necessary to:
  - 1) Conducting technical guidance (bimtek) and regular training for regulatory drafting officials, legal staff, and heads of legal departments.
  - 2) Form an internal harmonization team consisting of State Civil Apparatus with competencies as functional officials drafting legislation and legal analysts.
  - 3) Encourage cooperation with the Ministry of Law (Kanwil) for technical assistance.
- b. Against Time Pressure and Political Pressure, it is necessary:
  - 1) Create a realistic annual Mayoral regulatory requirements plan taking into account the legal department's workload.

2) Establish a mechanism for accelerating harmonization through fast-track consultation without eliminating normative stages.

3) Strengthening the independence of the legal department so that it is not easily influenced by short-term political interests.

c. Regarding the Lack of Coordination Between Regional Devices, it is necessary to:

1) Implementing a cross-sector coordination mechanism through a consultation forum between Regional Devices before the draft is sent to the legal department.

2) Establish a timeline and Standard Operating Procedures that regulate the flow of preparation and the responsibilities of each party.

3) Optimizing the Regional Legal Product Formation Information System so that the harmonization process can be carried out transparently and documented.

### **3.3. Analysis of the Drafting of Mayoral Regulations Based on the Formation of Justice-Based Legislation**

Pancasila, as the state philosophy, is derived from a source of values within the dynamic context of the nation's cultural history. The formation of these sources of values, encompassed within the national philosophical system, took place over a long period of time, involving not only intellectuals and the *primus inter paries* (the principle of unity), but also the community.<sup>15</sup> For the Indonesian people, the Pancasila philosophy is part of an Eastern philosophical system that exudes its superior value as a theistic-religious philosophical system. In the formation of national law, there must be a guarantee for upholding the values embodied in the Pancasila principles. This must be able to accommodate legal needs in accordance with societal developments in order to create certainty, justice, and benefit. Furthermore, it must be able to provide an efficient and responsive legal framework and regulations for the implementation of national and state life now and in the future. Therefore, the development of national law must be in accordance with the values vibrant in Indonesian society, as formulated in Pancasila.

The large number of Mayoral Regulations that have not yet undergone the harmonization stage is a fundamental problem in regional governance that directly impacts legal certainty and the public's sense of justice. Normatively, Law Number 12 of 2011 concerning the Formation of Legislation, as amended several times, most recently by Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation,

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<sup>15</sup>Teguh Prasetyo and Arie Purnomosidi, *Building Law Based on Pancasila*, (Nusa Media, Bandung, 2014), p. 21

requires every draft regulation, including Mayoral Regulations, to go through the stages of harmonization, finalization, and conceptual consolidation before being enacted. However, in practice, many regional governments still ignore this provision due to various factors, such as limited legal understanding, a lack of competent human resources in the field of regulatory drafting, and political and bureaucratic pressure to immediately issue policies. This condition demonstrates a gap between legal ideals (*das sollen*) and administrative practices (*das sein*), which results in the failure to achieve the principle of justice in the formation of regulations.<sup>16</sup>

The harmonization process is essentially a mechanism designed to ensure procedural fairness in the formation of regional regulations. In the context of procedural justice theory, as proposed by Tom R. Tyler, fairness is measured not only by the outcome of a decision but also by the fairness of the process behind it.<sup>17</sup> When harmonization is ignored, the process of formulating Mayoral Regulations loses the principles of transparency, participation, and accountability, which are fundamental elements of procedural justice. This leads the public to perceive the regulations as unfair, even if their substance appears sound. Within the framework of administrative justice, Philipus M. Hadjon explains that:

Every government action must be based on the principles of legal certainty, the principle of accuracy, and the principle of not abusing authority.<sup>18</sup>

Thus, ignoring harmonization means ignoring the moral and legal obligation to ensure fair governance procedures.

In addition to procedural issues, the failure to implement harmonization also raises the issue of distributive justice. Distributive justice focuses on the proportional distribution of policy benefits and burdens among members of society.<sup>19</sup> When Mayoral Regulations are created without harmonization, the potential for overlap or contradiction between regulations increases, so that policy implementation can benefit certain groups and disadvantage others. For example, policies on the formation of village community institutions, spatial planning, or social assistance that are not synchronized across regulations can widen social disparities, as groups with better access to information or power will benefit more. Within the framework of state administrative law, this reflects

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<sup>16</sup>Peter Mahmud Marzuki, *Legal Research* (Jakarta: Kencana Prenada Media Group, 2016), p. 165.

<sup>17</sup>Tom R. Tyler, *Why People Obey the Law* (Princeton: Princeton University Press, 2006), p. 119.

<sup>18</sup>Philipus M. Hadjon, *Introduction to Indonesian Administrative Law* (Yogyakarta: Gadjah Mada University Press, 2011), p. 87.

<sup>19</sup>John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971), p. 75–83.

substantive injustice that contradicts the principle of equitable distribution of development benefits as mandated by the constitution.<sup>20</sup>

From the perspective of John Rawls's theory of justice (justice as fairness), the neglect of harmonization also demonstrates a failure to fulfill the principle of social justice. Rawls asserts that justice must be understood through two main principles:

1. everyone has an equal right to fundamental freedoms, and
2. Social and economic inequality can only be justified if it benefits the least advantaged (difference principle).<sup>21</sup>

In this context, harmonization serves as a means to ensure that any regulations enacted do not result in structural discrimination against certain groups in society. In other words, the harmonization process is an instrument for ensuring regional policies remain within the framework of justice as fairness, namely ensuring proportional protection for vulnerable communities and ensuring equal access to the benefits of public policies.<sup>22</sup>

Furthermore, the weak implementation of harmonization indicates a problem of normative justice in regional bureaucratic practices. Maruarar Siahaan emphasized that the law should not be merely a tool of administrative power, but rather an instrument of justice that lives within society.<sup>19</sup> However, in reality, in many cases, Mayoral Regulations are drafted more out of pragmatic motives—for example, the need to accelerate program implementation or fulfill political promises—without ensuring compliance with higher regulations or the broader public interest. This practice shifts the legal orientation from the rule of law to rule by law, where the law becomes a tool of policy, rather than a tool of justice.<sup>23</sup>

Overall, the suboptimal harmonization process in the formulation of Mayoral Regulations demonstrates that regional regulatory issues are not merely bureaucratic technicalities, but rather broader issues of justice. Bypassing the legal process, the public loses the assurance that government decisions are made fairly, transparently, and in the public interest. Therefore, improving harmonization governance in the regions is not only an administrative necessity but also a moral and ethical imperative to uphold the principles of justice in law and governance.

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<sup>20</sup>Jimly Asshiddiqie, *Regarding the Law*, Op Cit., p. 217

<sup>21</sup>John Rawls, *Justice as Fairness: A Restatement* (Cambridge: Harvard University Press, 2001), p. 43–45.

<sup>22</sup>Romli Atmasasmita, *Op.Cit.*, p. 102.

<sup>23</sup>Satjipto Rahardjo, *Law and Society* (Bandung: Angkasa, 1980), p. 97.



Thus, the analysis of the process of forming the Semarang Mayor's Regulation is not fully in line with the principles of the theory of justice put forward by Teguh Prasetyo, which explains that A Pancasila state based on the rule of law, in which all uses of power must always be legally based and within the limits established by law, a fortiori for public use. Therefore, the desired government is a government based on and by law. The process of implementing regional governance plays a strategic role in regulating community life at the city level. Mayoral Regulations serve not only as administrative instruments but also as legal products containing values and consequences for the wider community. Therefore, their formation cannot be separated from the principles of justice.

The failure to implement the stages of harmonization, consolidation and consolidation of the draft concept also has further implications for aspects of justice, both procedural justice, distributive justice, and substantive justice. Without the stages of harmonization, consolidation and consolidation of the draft concept, the Mayor's Regulation becomes incoherent, imprecise, and has the potential to harm certain community groups, so that it is not in line with the values of Pancasila as the basis for the development of national law.

In this context, the Theory of Dignified Justice developed by Teguh Prasetyo offers a deeper philosophical approach, which not only assesses regulations from a formal perspective, but especially from the humanitarian values they contain.<sup>24</sup> In this regard, every regulation, including the Mayor's Regulation, must be able to provide protection, guarantee legal certainty, and bring tangible benefits to the community. The formation of a Mayoral Regulation that is solely oriented toward administrative matters or institutional interests is inconsistent with the principle of dignified justice, as it ignores the interests and dignity of the community as legal subjects.

From a developmental perspective, this theory demands a transparent, participatory, and community-focused legislative mechanism. The planning stage must be based on an in-depth study of social conditions and public needs. The harmonization phase must also be undertaken seriously to ensure that the Mayoral Regulation does not conflict with higher-level laws and regulations. Harmonization is not merely a technical procedure, but a moral effort to prevent legal uncertainty that harms human dignity. Disharmonized regulations have the potential to create normative conflicts, administrative confusion, and implementation difficulties, ultimately harming the community.

In substance, the Mayor's Regulation must contain clear, non-interpretable, proportional, and non-discriminatory norms. Teguh Prasetyo emphasized that justice is not only measured formally, but also substantively. Therefore, the

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<sup>24</sup>Teguh Prasetyo, *Dignified Justice: A Legal Theory Perspective*, (Bandung: Nusa Media, 2015), pp. 12–15.

substance of the Mayor's Regulation must be analyzed in terms of its impact on society. If the formulated norms have the potential to create unreasonable burdens, distributive injustice, or even harm certain groups, then the Mayor's Regulation does not fulfill the values of dignified justice. In this context, good regulations are those that provide social benefits, protect vulnerable groups, and create a balance between the interests of the government and society. Thus, the Mayor's Regulation is not only legally valid but also philosophically and sociologically just.

#### **4. Conclusion**

Based on the description of the research results and discussion above, the following conclusions can be drawn: 1. The implementation of the process of drafting the Semarang Mayor's Regulation through the stages of harmonization, rounding and consolidation of the Draft concept based on the results of research within the Legal Section of the Semarang City Regional Secretariat has been implemented but is not yet optimal or in other words there are still several Mayor's Regulations that do not go through the harmonization mechanism and do not even have administrative documents that should be a formal requirement for the formation of regulations. 2. Obstacles in the process of drafting the Semarang Mayor Regulation in accordance with the stages of the formation of legislation are the lack of education and training for the apparatus, time pressure and political pressure on the interests of Development in Semarang City, lack of coordination between regional apparatus, weak supervision and the absence of strict sanctions for regulations that do not go through harmonization. So in overcoming these obstacles, a solution is needed in the form of a commitment from the Semarang City Government starting from planning the development of apparatus competency, synchronizing the planning system for drafting the Mayor Regulation based on the urgency of its formation, forming a forum or team in each drafting of the Mayor Regulation, increasing monitoring and evaluation involving the regional internal supervisory apparatus so that the formation process in accordance with the provisions of the formation of legislation is still implemented.

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