

**STRUCTURING THE FORMATION OF REGIONAL REGULATIONS
IN REALIZING HARMONIUS REGIONAL REGULATIONS****Inris Winni¹, Achmad Ruslan², Marthen Arie³**¹Hasanuddin UniversityJL. Perintis Kemerdekaan KM. 10, Tamalanrea, Makassar, Sulawesi Selatan, 90245, Indonesia
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Abstract

The formation of Regional Regulations requires harmonization as a subsystem in the priority of the development of the national legal system which must be carried out systematically from planning, preparing academic texts, to drafting Regional Regulations. The regional regulation on local taxes and levies is one of the most problematic and canceled types of regulations, including in the city of Makassar. The discussion in this article aims to raise important relevant issues related to the analysis of harmonization of regional regulations and efforts to organize the formation of regional regulations in order to realize a harmonious regional regulation. The research method used in this research is normative research using a statutory approach, and a conceptual approach. It is concluded that (1) the Makassar City Regulation concerning regional taxes and regional levies still has weaknesses in terms of vertical and horizontal harmonization. The regulations in question are; 1) Regional Regulation Number 2 of 2018 concerning Regional Taxes is marked by the provisions of Article 10 Paragraph (4), Article 14 and Article 17 that are not yet vertically harmonized with Act Number 28 of 2009 concerning PDRD, 2) Regional Regulation Number 5 of 2012 concerning certain licensing fees is marked with the provisions of Article 14 not yet horizontally harmonized with Regional Regulation Number 4 of 2014 concerning P5MB. (2) Structuring the formation of Regional Regulations within the local government environment is carried out through efforts to strengthen stages; 1) planning, starting with research and reviewing regional regulations on taxes and regional levies as outlined in academic texts as a medium of harmonization, 2) preparation, harmonization is carried out by the Regional Office of the Ministry of Law and Human Rights, 3) Discussion, harmonizing various opinions and inputs so that the design remains in harmony and there are no conflicts in its arrangement, 4) ratification, preventive supervision in the form of mandatory evaluation before being determined and Noreg can be given if the verification results show discrepancies.

Keywords: *Formation of Regional Regulations; Harmonization; Regional Taxes; Retributions*

INTRODUCTION

The formation of laws and regulations is a dynamic process that is adapted to the dynamics of society in the context of developing a national legal system. One of the priorities in the framework of developing a national legal system is related to harmonization that must be carried out systemically from planning, preparing academic texts to drafting legislation. Carried out by deepening the material, synchronization, and harmonization with other relevant laws and regulations.¹

Integrated harmonization appears as a necessity and a necessity so that legal norms in laws and regulations do not conflict with each other and there is no duplication or overlap.²

Regional Regulation (Perda) is one type of legislation, constitutionally the authority for its formation is confirmed in Article 18 Paragraph (6) of the 1945 Constitution of the Republic of Indonesia, that

"local governments have the right to stipulate regional regulations and other regulations to implement regional autonomy and co-administration." The implementation of this article has the potential to cause legal pluralism so that legal harmonization is needed to address the possibility of diversity in the content system in the future.³ The role of regional regulations is very important in the implementation of regional autonomy, so the process of its formation needs to be planned in the program for the formation of laws and regulations, systematically formed based on certain methods and parameters, and inspired by the vision and mission of the local government concerned.⁴

The provisions of Article 250 of Law 23 of 2014 confirms that "Perda and Perkada are prohibited from contradicting higher laws and regulations, public interest, and/or decency." Perda is indeed a regulation that demands concrete material and in theory, Perda has a small degree of flexibility because it cannot conflict with

¹Badan Pembinaan Hukum Nasional. Departemen Hukum dan HAM RI. (2008). *Tiga Dekade Prolegnas dan Peran BPHN*, Jakarta: Pusat Dukumentasi dan Informasi Hukum Nasional. p. 157.

² Kusnu Goesnadhie S. (2010). *Harmonisasi Sistem Hukum, Mewujudkan Tata Pemerintahan yang Baik*. Malang: Nasa Media. p. 84.

³ *Ibid.* p. 177.

⁴Marthen Arie. (2016). *An Approach of Legisprudence Theory to Assess The Quality of Local Regulation*. Journal Hasanuddin Law Review. 2 (3): 383.

higher regulations.⁵ This is a logical consequence of the adoption of the principle of hierarchical norms and the principle of laws and regulations that do not require vertical or horizontal conflict.

However, after more than a decade of reform (1998-2015), the spirit of reforming the law has not met the demands. All aspects of the legal system, both material aspects and legal substance, such as the synchronization and consistency of legal norms, both vertically and horizontally, the integrity and professionalism of law enforcement and the legal culture of the community are still far from expectations.⁶

According to Enny Nurbaningsih, the problems faced in the early reform era related to the authority to form regional regulations were caused by the spirit of broad autonomy without the support of guidelines for the authority to form regional regulations.

One of the most widely formed contents is local regulations on taxes and levies.⁷ I Gde Pantja Astwa said that one of the indicators that caused problematic local

regulations was due to the strong tendency of the regions to be more oriented towards PAD in the form of regional taxes and levies, rather than a correct understanding of the essence of regional taxes and retributions within the framework of regional autonomy.

Legal bureau chief Kemendagri, Pudjianto Sigit Widodo said that from 2002 to 2009, there were 1,878 regional regulations have been canceled, about 1,179 the retributions. In 2010, there were 324 cancellations related regulations regional taxed and retributions. before the enactment of Act No. 32 2004 through Act 23 of 2014 regarding local government, has formed About a r 8000 Perda on tax and retributions area dan more than 3000 Perda is ed problematic⁸ The cancellation of regional regulations with relatively large quantities occurred in 2016 reaching 3,143 regulations, announced directly by President Joko Widodo. A total of 145 regional regulations from the province of South Sulawesi, including the regional regulations for the city of Makassar. Andi Bau Inggit in his dissertation found that the type of regional regulation that

⁵ Ibid, p. 372.

⁶Hamdan Zoelva. (2015). *Prospect of The constitutional State of Indonesia: Ideas and Reality*, Journal Hasanuddin Law Review. 1 (2) : 179-193.

⁷Enny Nurbaningsih. (2019). *Problematika Pembentukan Perda; Aktualisasi Wewenang Mengatur Dalam Era Otonomi Luas*. Depok: PT. Raja Grafindo Persada. p.

⁸Aristo Evandi A. Barlian. (2016). *Konsistensi Pembentukan Peraturan Daerah berdasarkan Hierarkie Perundang-undangan dalam Perspektif Politik Hukum*. Jurnal Fiat Justisia. 10 (4) : 615.

was canceled the most in 2016 was the regional regulation on retribution and local taxes. and the area with the highest number of canceled local regulations on retribution is South Sulawesi.⁹

In this study, the author is interested in studying the arrangement of the formation of the Makassar City Perda, to focus the research object the author will only analyze the harmonization of Perda No. 2 of 2018 concerning regional taxes and one Perda of regional levies, namely Perda No. 5 of 2012 concerning certain licensing fees. As well as reviewing efforts to structuring the formation of regional regulations Makassar city to realize harmonious regional regulations.

METHOD

The research method used in this research is normative research using a statutory approach by examining all laws and regulations relating to the legal issues faced.¹⁰ and a conceptual approach to understand the concepts related to normalization in a law whether it is in accordance with the spirit contained in the underlying

legal concepts.¹¹ Sources of legal materials include primary legal materials obtained from searching official government documents including statutory regulations, minutes or official records of making laws and regulations, and court decisions. and secondary legal materials include all publications on law relating to the object of this research, among others; books, dictionaries, journals, and comments from relevant informants or experts. Techniques for collecting legal materials with literature studies and documentation studies. Analysis of legal materials using a content analysis approach which is very instrumental in analyzing the substance of each regulation, as well as qualitative analysis to produce an explanation of a truth.¹² Then draw a conclusion based on the analysis carried out.

ANALYSIS AND DISCUSSION

Harmonization of Regional Regulations of Makassar City concerning Regional Taxes and Retribution

Vertical Harmonization of Regional Regulation of Makassar City Number 2 of 2018 concerning Regional Taxes

⁹Andi Bau Inggit AR. (2017). *Hakikat Pengujian Peraturan Daerah dalam Mewujudkan Tertib Hukum Penyelenggaraan Pemerintahan Daerah*. Disertasi. FH, Universitas Hasanuddin. p. 277.

¹⁰ Irwansyah. (2020). *Penelitian Hukum, Pilihan Metode dan Praktik Penulisan Artikel*. Yogyakarta: Mirra Buana Media. p. 116.

¹¹Peter Mahmud Marzuki. (2016). *Penelitian Hukum*. Jakarta: Kencana. p. 133-135.

¹² Op. Cit. Irwansyah. p. 171.

with Act Number 28 of 2009 Regarding Regional Taxes and Retributions (PDRD)

Vertical harmonization in this case is an effort to harmonize so that there is no conflict between local regulations as regulations with a lower position and laws and regulations with higher hierarchical positions.

The formation of the Makassar City Regulation 2/2018 concerning regional taxes was born from the authority of the delegation. Based on an analysis of the scope of the content material, it is appropriate and has contained all the material mandated by Act 28/2009 concerning PDRD.

However, based on the analysis of the alignment of the charge material, several discrepancies were found in the arrangement. Among others:

First, the misalignment of the provisions of Article 10 Paragraph (4) of Regional Regulation 2/2018 concerning regional taxes which states that "the object of the restaurant tax as referred to in Paragraph (2) is services provided by restaurants (restaurants) whose sales value is determined by the Mayor" while the provisions of Article 37 Paragraph (3) of Act 28/2009 concerning PDRD states that "excluding the object of restaurant tax as

referred to in paragraph (1) is a service provided by a restaurant whose sales value does not exceed a certain limit stipulated by a Regional Regulation."

The first thing that the author underlines regarding the phrase in brackets that mentions a restaurant, it shows an exception only for restaurants, even though it is based on the purpose of exceptions in this case for restaurants in general. Restaurant includes all facilities for providing food and/or beverages for a fee, including restaurants, cafeterias, canteens, stalls, and the like, including catering and catering services. So that the phrase in brackets is unnecessary because it does not match the purpose of exemption from restaurant tax objects as mandated by the PDRD law which is intended for all restaurant tax objects whose sales value does not exceed a certain limit.

The second thing, related to the phrase "stipulated by the Mayor" legally, this is not in accordance with what is ordered by Article 37 Paragraph (3) of Act 28/2009 which specifically requires the stipulation of an exception to the value of restaurant sales that are not taxable to be mentioned or regulated in Regional regulations, such as those that apply to exceptions to other types of regional taxes, namely hotel taxes, advertisement taxes,

street lighting taxes and so on, the provisions of which exceptions are also stipulated by regional regulations. It is not possible for the delegation of authority to regulate the material to be sub-delegated to a lower regulation, because the sound of the delegation as referred to clearly mentions the material and form or instrument of the desired regulation, namely the Regional Regulation. The clause "stipulated by regional regulations" of course the organs in question are stipulating the DPRD and the Regional Head. Formally, the stipulation is through mutual agreement between the Mayor and DPRD as people's representatives. It would be different if it was only determined by the mayor unilaterally. So the provisions in Article 10 paragraph (4) of Regional Regulation 2/2018 regarding regional taxes are not in accordance with or not in line with the provisions of Law 28/2009 concerning PDRD.

Second, the misalignment of the provisions of Article 14 and Article 17 of Perda 2/2018 which regulates the following :

Article 14 Paragraph (3) Entertainment as referred to in paragraph (2) is

- a. Watch movies;
- b. Performing arts, music, dance, and/or fashion;

- c. Beauty pageants, bodybuilding and the like
- d. Exhibition
- e. Discotheque, karaoke, house singing, nightclubs, and the like
- f. Circus, acrobatics and magic
- g. Billiards , futsal and bowling bowl
- h. Motor vehicle horse racing, and stunt games
- i. Massage parlors, reflexology, steam bath/spa, and fitness center (*fitness center*), and
- j. sports competition).

Article 17 letter k, the entertainment tax rate is determined as follows:

- k. Organizing entertainment in crowded places such as tourist attractions, recreational parks, family recreation, night markets, fishing ponds, swimming pools, merry-go-rounds, cruise trains, and the like at 15% of the entrance ticket price and/or the amount of money that should be received.

Meanwhile, based on the provisions of Article 42 Paragraph (2) of Act 28/2009 concerning PDRD stipulates that entertainment as referred to in paragraph (1) is:

- a. Watch movies;
- b. Performing arts, music, dance, and/or fashion;
- c. Beauty pageants, bodybuilding and the like

- d. Exhibition
- e. Discotheque, karaoke, house singing, nightclubs, and the like
- f. Circus, acrobatics and magic
- g. The game of billiards, and bowling
- h. Motor vehicle horse racing, and stunt games
- i. Massage parlors, reflexology, steam bath/spa, and fitness center (*fitness center*), and
- j. sports competition).

Based on the provisions between Article 14 and Article 17 of the Regional Regulation, there has been a discrepancy because there is an additional object of the type of entertainment tax in letter k which is not mentioned in Article 14. Then, when viewed vertically against the provisions of Article 42 Paragraph (2) of Act 28/2009, it clearly shows inconsistency.

The said misalignment is related to Article 14 letter g "games of billiards, futsal, and bowling." Futsal should not be included in the formulation of letter g because this implies tax collection on futsal games, even though Article 42 Paragraph (2) letter g of Law 28/2009 only designates billiards and bowling as game objects that can be subject to entertainment tax. Equating the game of futsal with a game of billiards and bowling is a mistake. In principle, futsal will only be sub-

ject to an entertainment tax if it is in a tournament/match activity that charges spectators (including category j. Sports competition).¹³

Furthermore, in relation to Article 17 letter k "tourist attractions, recreational parks, family recreation, night markets, fishing ponds, swimming pools, merry-go-rounds, cruise trains, and the like" the places referred to are not included as objects of entertainment tax because they are not mentioned in Article 42 Paragraph (2) of Act 28/2009 concerning PDRD. There is even a clause in Article 42 Paragraph (3) which affirms that "the organization of entertainment as referred to in paragraph (2) can be excluded by a Regional Regulation." This means that the Regions can only exclude or not collect the types of entertainment taxes mentioned in Paragraph (2) if the potential is not adequate, and there is no clause that allows the regions to seek their own or immediately add other types of entertainment taxes as referred to in Article 42 Paragraph (2). Strictly speaking, Law 28/2009 as a law that is *lex specialis* in terms of embodiment of regional autonomy for local levies emphasizes a *closed list* system or

¹³Direktorat Pendapatan Kapasitas Keuangan Daerah, Direktorat Jenderal Perimbangan Keuangan, Kementerian keuangan RI, (2019) *Buku Pedoman Pajak Daerah dan Retribusi Daerah*,. p. 20.

can only collect taxes as stated in the law. For this purpose, the types of entertainment tax are detailed in the formulation of Article 42 Paragraph (2) so as not to give rise to other interpretations for the regions regarding the object of the entertainment tax itself.

Horizontal Harmonization of Makassar City Regulation Number 5 of 2012 Realizing Certain Licensing Retribution with Makassar City Regulation Number 4 of 2014 concerning Supervision, Control, Procurement, Distribution, and Sales of Alcoholic Drinks (P5MB)

Horizontal harmonization in this case so that there is no conflict or overlap between the content of laws and regulations that are in the same hierarchical degree (between regional regulations and other regional regulations) that regulate the same thing or are interconnected with each other.

Perda 5/2012 concerning certain permits, one of the contents of which regulates the collection of levies on permits for the sale of alcoholic beverages. Meanwhile, Regional Regulation 4/2014 also specifically regulates the supervision, control, procurement, distribution, and sale of alcoholic beverages. the element of remembering also includes Perda 5/2012. So that these two regula-

tions have a horizontal relationship.

However, in the provisions of the content of these two regional regulations, the author finds a discrepancy in terms of determining the place of sale of alcoholic beverages. Provisions regarding the structure and amount of levy rates in Perda 5/2012:

Article 18

(1) The structure and amount of the levy on the permit for selling alcoholic beverages is determined as follows:

- a. Hotel, Cafe, Bar, Rp. 25,000,000,00 (twenty five million rupiah)
- b. Discotheque, Karaoke, Pub Rp. 20,000,000,00 (twenty million rupiah)
- c. Another point of sale that is not including letters a and b Rp. 15,000,000,00 (fifteen million rupiah)

(2) Other places of sale as referred to in paragraph (1) letter c are prohibited from being adjacent to places of worship, schools, hospitals, or certain other locations stipulated by a Mayor Regulation.

Meanwhile, the provisions of Regional Regulation 4/2014 concerning P5MB regulate the following:

Article 5

Sales of alcoholic beverages of class A

class B and class C to be drunk on the spot can only be sold at:

- a. Hotel, Bar, Discotheque, Karaoke, Pub in accordance with the provisions of the legislation in the field of tourism .
- b. Hotels as referred to in letter a are 5-star, 4-star, and 3-star hotels
- c. Forth in paragraph a place to be determined by mayor selectively according to the characteristics of the city by considering not adjacent to the house of worship, educational institutions and hospitals.

Article 12

(1) Every direct seller of alcoholic beverages is required to have a permit for selling alcoholic beverages from the mayor

(2) The permit as referred to in paragraph (1) is valid for 1 year from the date of issue and can be extended

Article 18

Every person or company is prohibited from selling class A, class B, and class C alcoholic beverages in retail packaging.

Based on the provisions as stipulated in the two types of regulations above, it can be seen that the inconsistency occurred, firstly, Article 18 paragraph (2) stipulates "Other places of sale as referred to in paragraph (1) letter c are prohibited from being close to places of worship, schools,

hospitals, or other certain locations stipulated by a Mayoral Regulation" even though the content material is not the content of a certain Perda permit but the content of the Perda on the Supervision and Control of Alcoholic Beverages. Article 18 should only contain tariffs and retribution structures.

The second thing, the non-conformity with the determination of places to sell alcoholic beverages, Article 18 paragraph (1) of Perda 5/2012 concerning certain permits states that the places where alcoholic beverages are sold consist of hotels, cafes, bars, discotheques, karaoke, pubs, and other places of sale other than letter a. and b. Meanwhile, Perda 4/2014 stipulates that alcoholic beverages can only be sold in hotels, bars, discotheques, karaoke and pubs. then locked with the provisions of Article 18 which prohibits any person or company from selling alcoholic beverages in the form of retail packaging. So that in the city of Makassar legally only allowed to sell in five places as mentioned in Article 5.

So that the differences that occur in cafes and other places of sale other than letters a and b. does not recognize as a place that is allowed to sell alcoholic beverages as stipulated in Regional Regulation 4/2014. So that this creates horizontal

disharmony, even though there should be no conflict between regional regulations within the same government. Horizontal harmonization in statutory regulations is very important because if it is not fulfilled it will have a massive impact on legal certainty and ambiguity in the application of related regulations, especially for permit givers and business actors themselves.

Structuring the Formation Regional Regulations Makassar City to Realizing Harmonious Regional Regulations

Clarity in the formation of local regulations is needed to ensure that they are in accordance with the principles of forming good regulations. According to Achmad Ruslan¹⁴ In principle, the legislative process is standardized and tends to be formalistic. the level of preparation and determination must be given serious attention by a designer, however, not only the two stages are given serious attention but all stages of the stage including the stage of discussion between the government and the legislature. On the other hand, this process is substantial / emphasizes the substance in order to realize a quality le-

gal product.

The harmonization of draft regional regulations follows the process of forming regional regulations so that they must exist at every stage starting from the stages of planning, drafting, discussing, and ratifying. So that efforts are needed to organize the formation in order to produce a harmonious regional regulation.

Planning Stage

Planning drafting of the regulations made in the establishment of program regulations (Propemperda) drafted by the parliament and local leaders are set for a period of one year upon priorities. The Propemperda contains a program for the formation of regional regulations with the title of Draft City Regulations, the contents of which are regulated, and their relation to other laws and regulations, which is a description of the conception of Ranperda including; the background and purpose of the preparation, the objectives to be realized, the main idea, the scope or object to be regulated, and the range of the arrangement.

The material that has gone through research and assessment is outlined in an academic manuscript. Academic manuscripts are very urgent in planning the formation of local regulations, one of which is because academic documents a

¹⁴ Achmad Ruslan. (2021). *Teori dan Panduan Praktik Pembentukan Peraturan Perundang-Undangan di Indonesia*. Cet. 3 edisi revisi, Tangerang: Rangkang Education. p. 107-108

re a medium for vertical and horizontal harmonization.¹⁵

Yuliandri stated that planning the formation of laws is the first step taken to achieve the formation of sustainable regulations, one of the planning activities for the formation is through the preparation of academic texts¹⁶The formal requirements for the preparation of academic texts are carried out before the preparation of the draft Perda.

As with Reed Dicreson's theory, that in designing a regulation begins with a substantive policy step, namely knowing what the client wants, this stage is carried out with research and assessment activities both field research and literature, the next stage the designer investigates all related legal instruments so that there is no overlap. overlapping or inconsistent settings. Then developing an organizational plan, the designer must have a concept and then match the concepts with each other, this stage is the most difficult stage for the designer because it must close the

overlapping gaps, as well as aspects that absolutely must be considered juridical, philosophical, sociological, and political aspects.¹⁷so that from the beginning, harmonization was needed in the formation of regional regulations.

Drafting of Regional Regulations

The drafting is carried out based on the Propemperda. The preparation of the draft within the local government is carried out by means of the Mayor instructing the initiating regional apparatus to prepare the draft. In this activity, the Mayor formed a drafting team consisting of; a) Mayor; b) Regional Secretary; c) Initiating regional apparatus; d) Regional apparatus in charge of city law; e) Related regional apparatus; f) Drafting laws and regulations, and g) May involve relevant vertical agencies, and/or academic teams. Harmonizing, concluding, and strengthening the conception of the

draft regional regulation is coordinated by the head of the regional apparatus in charge of city law, and may involve vertical agencies from the ministry that administers government affairs in the field of law.

Regarding the participation of vertical

¹⁵Marwan, (2017). *Hakikat Naskah Akademik dalam Pembentukan Peraturan Daerah yang Responsif*, Disertasi, Universitas Hasanuddin. p.

¹⁶Yuliandri, (2009). *Asas-Asas Pembentukan Peraturan Perundang-Undangan yang Baik; Gagasan Pembentukan Peraturan Perundang-undangan Berkelanjutan*. Jakarta: Rajawali Perss. p. 169.

¹⁷ Op.Cit., dikutip dalam Achmad Ruslan. p.105.

agencies in this case the Ministry of Law and Human Rights, it turns out that in practice it has never involved the Regional Office of the Ministry of Law and Human Rights in terms of harmonization of the Makassar City Perda draft on regional taxes and regional levies. This can be seen in the LKIP report of the Regional Office of the Ministry of Law and Human Rights of South Sulawesi from 2016 to 2019.

Tabel 1

Year	Harmonized Raperda of Makassar City Regional Office of the Ministry of Law and Human Rights of South Sulawesi Selatan
2016	Nothing Makassar City Ranperda was requested
2017	1. Ranperda concerning the Makassar City Regulation Number 10 of concerning the Management of Boarding Houses
2018	<ol style="list-style-type: none"> 1. Ranperda on the protection of nurses 2. Ranperda on the implementation of gender mainstreaming (PUG) in development in Makassar City 3. Ranperda calm flats 4. Ranperda on procedures for naming roads and public facilities 5. Ranperda on the implementation of education 6. Ranperda on industrial development plan for Makassar city kota 7. Ranperda on the management of zakat, infaq, alms, and other religious social assistance funds in the city of Makassar
2019	Nothing Makassar City Ranperda was requested

Data Source: LKIP Kanwil Kemenkumham South SulSel, 2016-2019 (processed by author)

Based on the data in the table above, it shows that the Draft Perda of Makassar City regarding regional taxes and levies has never been requested for harmonization. Matrix problems encountered in the field of legal services division that not all districts upaten / city cooperation for harmonized draft regulations, whereas the aim to support the establishment of legal formation programs in the region

Minister of Law and Human Rights Regulation Number 22 of 2018 concerning the harmonization of draft laws and regulations formed in the regions by the

drafters of laws and regulations, regulates new obligations for regions in the harmonization process, through the involvement of designers from the Ministry of Law and Human Rights in the series of regional regulations formation. Still in the context of responding to the need for structuring and strengthening the formation of regional regulations, for the harmonization process. Law Number 15 of 2019 concerning amendments to Law Number 12 of 2011 concerning the formation of laws and regulations, changing the provisions of Article 58 paragraph (2)

to "the process of harmonization of draft regulations originating from regional governments is carried out by ministries or institutions that carry out government affairs in the field of law. ."

Widodo Ekatjahjana, as Director General of Legislation, said that there were instructions from the minister of law and human rights regarding the implementation of Law Number 15 of 2019, namely the contents of harmonization activities that were originally coordinated by the law bureau or legal department, which have been changed to be coordinated by the Ministry of Law and Human Rights. To follow up the order, the Minister of Law and Human Rights Circular Letter No. M.HH-01.PP.04.02 Year 2019 contains procedures for harmonization which go through the stage of requesting for harmonization; administrative checks; analysis of the conception by the designer of the legislation; a harmonizing meeting involving the regional apparatus submitting the application, relevant regional apparatus, related vertical agencies, and researchers and/or experts from universities; initial approval, and finally obtaining a letter of completion of harmonization.

Discussion of Draft Regional Regulations

The discussion is carried out through two levels of talks, namely level I talks and level II talks. Level I discussions for the draft regional regulation from the Mayor include 1) the explanation of the mayor in the plenary session regarding the draft regional regulation, 2) the faction's general view of the draft regional regulation, and 3) the response of the dna/or the mayor's response to the general view of the faction. Level II talks include; 1) decision-making in a plenary meeting which is preceded by the submission of a report from the commission/leader of the joint commission/leader of a special committee containing the opinions of the factions and the results of the discussion, and a request for approval from members verbally by the chairman of the plenary meeting, 2) the final opinion of the mayor.

In the event that agreement is not reached by deliberation for consensus, the decision is taken based on the majority decision. This stage requires harmonization when the articles are discussed because at this stage there is a potential for various interests to emerge that can significantly change the substance of the previous draft regional regulation. In addition, at this stage the academic text and the results of previous harmonization can become a common reference

when there is a debate on a provision or material for the content of the related Regional Regulation .

As with Reed Diceson's theory, after the draft is consulted with experts in the field through seminars, workshops, and panel discussions, the next stage is to carry out a final examination of the draft by checking the harmonization of each element related to the draft by summarizing the opinions of the results of the seminar.

Ratification Perda

This stage is a form of preventive supervision which is manifested in the form of the requirement to ratify a regional regulation with a certain content before it is enforced. According to Bagir Manan, ratification is carried out by checking (*chacking*) in order to maintain a higher level of legislation, the interests of other local governments that may be affected (either directly or indirectly) and so on.¹⁸ Abdul Gani Abdullah stated that the harmonization of the drafting of laws and regulations is intended as an effort to carry out joint supervision by an inter-departmental committee that is to prevent the possibility of a draft containing legal defects (*preventief toezicht*) which are

not clearly visible to the initiating department.¹⁹ The same applies to the drafting of regional regulations.

After the Constitutional Court's decision Number 137/PUU-XII/2015 and the Constitutional Court's decision Number 56/PUU-XIV/2016 which canceled the central government's authority to cancel the existing regional regulations, the government was required from the start to provide guidance and *executive abstract previews* of all draft regional regulations. submitted for ratification, the government in this case the Ministry of Home Affairs and the governor as the representative of the central government must maximize efforts to harmonize regional regulations.

Article 243 paragraph (1) of Act 23/2014 concerning regional government asserts, "a draft regional regulation that has not yet received a registration number as referred to in article 242 cannot be promulgated in a regional gazette." The requirement to obtain a noreg against a draft regional tax and regional levy is carried out in the form of mandatory evaluation. by the governor. In conducting the evaluation, the governor consults with the Minister of Home Affairs in coordination with the Minister who carries out financial af-

¹⁸Ni'matul Huda, (2009). *Hubungan Pengawasan Produk Hukum Daerah antara Pemerintah dan Pemerintah Daerah dalam Negara Kesatuan Republik Indonesia*. Disertasi, Universitas Islam Indonesia. p.131.

¹⁹ Op. Cit., Yuliandri, p. 220

fairs.

In the event that the governor declares the results of the evaluation are in accordance with the provisions of higher legislation and/or public interest, it is followed by the issuance of a register number (noreg). Before being given a noreg, the governor as the representative of the central government verifies the draft that has been refined. In the event that the verification does not match the results of the evaluation, the draft regional regulation is not given a noreg. And automatically can not be determined and can not be enacted in the regional sheet.

CONCLUSION

(1) Makassar city regulations regarding regional taxes and retributions still have weaknesses in terms of vertical and horizontal harmonization. The regulations in question are; 1) Regional Regulation Number 2 of 2018 concerning regional taxes is marked by the provisions of Article 10 Paragraph (4) regarding the exception of restaurant tax objects, Article 14 and Article 17 regarding types of entertainment tax objects that have not been vertically harmonized with Act Number 28 of 2009 concerning PDRD, 2) Regional Regulation Number 5 of 2012 concerning certain licensing levies is marked by the provision of P origin 14 regarding places

where alcoholic beverages are sold, not yet horizontally harmonized with Regional Regulation Number 4 of 2014 concerning P5MB. (2) Structuring the formation of Regional Regulations within the local government environment is carried out through efforts to strengthen stages; 1) planning, starting with research and review of regional tax regulations and regional levies as outlined in academic texts as a medium of harmonization, 2) preparation, harmonization is carried out by the Kemenkumham regional office as regulated in Article 58 of Act 15/2019, however the Memenkumham has never involved in the harmonization of regional tax regulations and regional levies in Makassar city, 3) Discussion, harmonizing various opinions and inputs so that the design remains aligned and there are no conflicts in its arrangement, 4) ratification, preventive supervision in the form of mandatory evaluation before being determined by first verifying the the result of the refinement of Ranperda .

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