



Legal Certainty Regarding the Merger of the Population and Civil Registration Services of North Sumatra Province

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Abstract

Bureaucratic reform in Indonesia is an act of innovation that includes restructuring, rehabilitation, and refunctionalization. This article aims to evaluate the procedures for merging the Population and Civil Registration Service with other agencies by applicable legal regulations. The focus of this research is to determine whether the merger process complies with the hierarchy of statutory regulations. The research method used is a normative juridical research method, which involves the analysis of legal rules and a conceptual approach. Data was collected through document studies and literature references related to primary, secondary, and tertiary law. The results of this study conclude that the process of merging the Regional Apparatus Organizations (OPD) of the Population and Civil Registration Service does not ensure compliance with the hierarchy of statutory regulations, and this action can be considered a violation committed by the provincial government because it was carried out inappropriately both substantively and formally.

Keywords: Legal Certainty; Department of Population and Civil Registration; Government

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INTRODUCTION

Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia) mandates that "the State of Indonesia is a State of Law"(1945 Constitution, nd) which adheres to decentralization in government administration, as implied in Article 18 paragraph (1) of the 1945 Constitution of the Republic of Indonesia "The Unitary State of the Republic of Indonesia is divided into provincial regions and the provincial regions are divided into districts, and cities have regional governments, which are regulated by law Invite." A rule of law means that everything must be done according to law (everything must be done according to law) (HR, 2011). As a rule of law, every administration of government affairs must be based on applicable law (wetmatigheid van bestuur).

Likewise, bureaucratic reform in Indonesia can be understood as an act of change or innovation that has aspects of restructuring, rehabilitation, and functionalization, which can then be understood as an action aimed at changing a structure that is no longer by the demands of current developments and is no longer considered effective. to advance the organization. Revitalization is an effort to provide more energy or strength to an organization or institution to optimize its performance. Therefore, recovery will be related to improving job descriptions, adding authority to strategic units, increasing budget allocations, and adding or replacing tools to support the implementation of organizational service tasks. Meanwhile, functionalization is more related to actions or efforts to make something that was not functioning function again. Therefore, regional government reform will aim at these three aspects of reform (Zalukhu & Triwarni, 2023).

Eleven regional apparatus organizations (OPD) in the North Sumatra Provincial Government are planned to be downsized to just a few departments or agencies. To speed up this discourse, the Organizational Bureau of the North Sumatra Regional Secretariat has sent a Draft Regional Regulation (Ranperda) concerning Amendments to Regional Regulation Number 6 of 2016 concerning the Formation and Structure of North Sumatra Province Regional Apparatus to the North Sumatra DPRD. The arrangement of OPDs is carried out based on principles, including so that OPDs can move quickly, run according to function, and so that there is no overlap in duties and functions between OPDs and internal OPDs. Then to realize OPD that is the right size, rational, and appropriate to resources, potential, and real needs. In addition, to increase the value of the Government Agency Performance Accountability System (SAKIP) and bureaucratic reform (RB) (*11-Opd-North Sumatra-Provincial-Government-Will-Be-Downsized-Following-The-Departments-Which-are-Planned-To-Mergean*, 2021).

From this policy planning, the Governor of North Sumatra also gave a response regarding the streamlining of the OPD, he said "We will simplify several regional organizational services (OPD) of the North Sumatra Provincial Government". He added, that with this policy, the North Sumatra Provincial Government will benefit in the form of budget efficiency (*11-Opd-North Sumatra-Provincial-Government-Will-Be-Downsized-Following-The-Departments-Which-are-Planned-To-Mergean*, 2021). The Regional Government Organizations that will join are as follows:

1. The Women's Empowerment and Child Protection Service, and the Population Control and Family Planning Service, become one Service
2. The Population and Civil Registration Service (Disdukcapil), and the Community and Village Empowerment Service, become one Service.
3. The Plantation Service, the Food Crops and Horticulture Service, and the Food Security and Livestock Service become one Service
4. The Department of Highways and Construction Development (BMBK), and the Department of Water Resources, Human Settlements and Spatial Planning become one Department, provided that the Spatial Planning Division is merged into the Department of Housing and Settlement Areas.
5. The Research and Development Agency (Balitbang), and the Regional Planning and Development Agency (Bappeda), become one agency.

From the news above, it is known that the reason the government is carrying out organizational restructuring is to save budgets and to streamline regional apparatus organizations because offices are getting bigger and the number of agencies will burden the financing of each region, especially since the personnel budget is bigger than the development budget. For this reason, regional apparatus organizations are made as effective and efficient as possible, but streamlining these organizational structures must also pay attention to sociological, juridical, and philosophical foundations in terms of their formation.

The regional organizational structure will focus on merging regional apparatus organizations. This is in line with the policies issued by the central government, especially Government Regulation No. 18 of 2016 concerning regional apparatus, in Article 18 paragraphs (3) and (4). In principle, this Government regulation provides clear guidelines and instructions for regions in organizing effective, efficient, and reasonable organizations by the needs and capabilities of each region as well as in coordination, integration, synchronization, simplification, and institutional communication between the center and regions. The size of regional apparatus organizations described in this Regulation must at least consider financial factors, regional needs, and scope of tasks, including mission targets to be achieved. Apart from that, the size of the regional apparatus organization must also take into account the number and type of tasks, the size of the work area and geographical conditions, the number and density of the population, the potential of the area concerned, the problems that must be resolved, the facilities and infrastructure that support the implementation of the tasks. This Government Regulation also emphasizes that the needs of each regional apparatus organization are not always the same and uniform. Thus, one region and another may have different regional organizational structures. The existence of this regulation also explains that during this period there was an increase in regional bureaucratic organization and closeness of character in government work.

Based on the above, the government's goal is to save money and streamline regional apparatus organizations to be as efficient and effective as possible so that government organizations can function well. It's not easy, we have to consider the aspects of the merger, especially the social, legal, and philosophical aspects so that no one has to follow the law of decentralization, in this case, the merger of the Population and Civil Registration Services (Disdukcapil). Population and Civil Registration (Disdukcapil) and the Community and Village Empowerment Service (PMD) in one service are legal issues because this formation does not provide legal certainty for the system. This organization can be seen in Law No. 24 of 2023 regarding population management, article 16: "To carry out population management in the province, a Provincial Population and Civil Registration Service was established." (Law Number 23 of 2006 concerning Population Administration as Amended by Law 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration, 2013).

Whereas Government Regulation Number 40 of 2019 concerning Implementation of Law Number 23 of 2006 concerning Population Administration as amended by Law 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration Article 16 reads: (1). To carry out Population Administration affairs in the province, the Provincial Population and Civil Registration Service was established; (2). The establishment of the Provincial Population and Civil Registration Service as intended in paragraph (1) is regulated by Provincial Regional Regulations (Government Regulation Number 40 of 2019 concerning the Implementation of Law Number 23 of 2006 concerning Population Administration as Amended by Law 24 of 2013 concerning Amendments to Law Number 23 of 2006 Concerning A, 2013).

In the Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 14 of 2020 concerning Guidelines for the Nomenclature of Population and Civil Registration Services in Provinces and Regency/City states: "When this Ministerial Regulation comes into force, provincial and district/city Disdukcapil must be established and cannot be combined with the affairs of other governments and adjusted to the provisions in this Ministerial Regulation no later than 1 (one) year from the promulgation of this Ministerial Regulation." (Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 14 of 2020 concerning Guidelines for Nomenclature of Population and Civil Registration Services in Provinces and Regencies/Cities, 2020).

Based on this, in the formal legal hierarchy, Provincial Regional Regulations cannot be the main milestone in the merger of the Population and Civil Registration Services and override other regulations such as laws, government regulations, Minister of Home Affairs regulations, and/or derivative regulations as regulated in the law. Law Number 12 of 2011 concerning the formation

of statutory regulations, therefore because the merger uses Provincial Regional Regulations, the service does not receive legal certainty.

RESEARCH METHODS

This research is a type of legal research that uses a normative juridical approach (Sukanto, 2009) The normative juridical approach is an approach based on legal materials by examining theories, concepts, legal principles and statutory regulations related to the research carried out. Normative juridical research is also known as research with a library research approach, namely by studying statutory regulations, books and other documents related to the research title (Rantau, 2019).

In this research, the data source used is secondary data, where secondary data consists of:

1. Primary Legal Materials, namely legal materials that follow applicable laws and regulations such as Law Number 23 of 2006 concerning Population Administration as amended by Law 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration; Government Regulation Number 40 of 2019 concerning Implementation of Law Number 23 of 2006 concerning Population Administration as amended by Law 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration; Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 14 of 2020 concerning Guidelines for Nomenclature of Population and Civil Registration Services in Provinces and Regencies/Cities; and several other legal regulations that are still related to research titles (Akili & Achmad, 2023).
2. Secondary legal materials, namely legal materials that provide explanations of primary legal materials obtained from library studies in the form of literature related to research problems (Wulandari et al., 2021).
3. Tertiary legal materials, namely legal materials that provide instructions and explanations for primary and secondary legal materials related to this research include newspapers, the internet, legal dictionaries and the Big Indonesian dictionary.

Technical Analysis of this data is carried out using the analytical method, namely by interpreting the symptoms that occur, analysis of legal materials is carried out by collecting all the necessary legal materials which are not numbers and then connecting them to existing problems.

RESULTS AND DISCUSSION

Legal Certainty of Organizational Governance of Regional Apparatus Department of Population and Civil Registration of North Sumatra Province

Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia) mandates that "the State of Indonesia is a State of Law" (1945 Constitution, nd) which adheres to decentralization in government administration, as implied in Article 18 paragraph (1) of the 1945 Constitution of the Republic of Indonesia "The Unitary State of the Republic of Indonesia is divided into provincial regions and the provincial regions are divided into districts, and cities have regional governments, which are regulated by law Invite." A rule of law means that everything must be done according to law (everything must be done according to law) (HR, 2011). As a rule of law, every administration of government affairs must be based on applicable law (*wetmatigheid van bestuur*).

According to Friedrich Julius Stahl, the elements of the rule of law (*rechtsstaat*) are as follows (Putridewi, 2019):

- a. Protection of human rights;
- b. Separation or sharing of powers to guarantee those rights;
- c. Government based on statutory regulations; And
- d. Administrative justice in disputes (Citrawan, 2015)

By referring to the elements of the rule of law which have been stated above, several provisions are found in the 1945 Constitution of the Republic of Indonesia which show that the Indonesian State adheres to decentralization and is welfare-oriented which provides recognition

and protection of human rights. (Patra, 2022) as contained in Articles 28A to 28J of the 1945 Constitution of the Republic of Indonesia. In achieving the goal of prosperity, good government (Good Governance) is needed. For this reason, legality is required in every action carried out. Legality in all forms of government action is very necessary, because it means that all government actions must be justified by legal norms. Therefore the government must not act outside the law (T, 2017).

One of the most important elements in a rule of law is the guarantee of human rights, one of which is in the field of protection and state recognition of personal status and legal status for every population event (Khairunnisa, 2018) and important events experienced by the Indonesian population within and/or outside the unitary territory of the Republic of Indonesia. So, to fulfill human rights in the form of protection and recognition of personal status and legal status of population events in accordance with the mandate of statutory regulations, Population and Civil Registration organizations were formed in provinces and districts/cities in accordance with Government Regulation Number 40 of 2019 concerning Implementation of the Law -Law Number 23 of 2006 concerning Population Administration as Amended by Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration Article 16 reads: "To carry out Population Administration affairs in the province, a Population and Registration Service was established Provincial Civil Service".

To fulfill basic human rights in order to obtain legal certainty regarding the protection and recognition of personal status and legal status, the state is present to provide certainty of these human rights in terms of separating the Organizational Structure of Provincial and Regency/Municipal Population and Civil Registration Services. Human rights as stated in Article 1 point 1 of Law Number 39 of 1999 concerning Human Rights (hereinafter referred to as the Human Rights Law) are a set of rights that are inherent in the essence and existence of humans as creatures of God Almighty and are His gift. must be respected, upheld and protected by the state, law, government and everyone for the sake of honor and protection of human dignity (Laurensius Arliman S, 2017). Article 2 of the Human Rights Law states that, Indonesia as a legal state recognizes and upholds human rights and basic human freedoms as those which are naturally inherent in and inseparable from humans, which must be protected, respected and upheld for the sake of increasing human dignity and welfare. and intelligence and justice.

Likewise with the ideals and goals of the nation and state, to realize them in implementing a government system consisting of central government and regional government as regulated in Article 18 of the 1945 Constitution of the Republic of Indonesia concerning Regional Government. All state affairs are only carried out by one government, or in other words, there is no regional government. Apart from that, according to CF Strong, there are two important characteristics of a unitary state, namely: (1) the supremacy of the central parliament, and (2) the absence of additional sovereign bodies. The birth of the central-regional form of government in the Unitary State of the Republic of Indonesia is philosophically due to several things, including: First, the territory of the State is too large, making it impossible for good control, public services (Muliawaty & Hendryawan, 2020) and others evenly throughout the country. Second, the ideal of democratic prosperity for all people is very difficult to achieve (Said, 2015).

To apply the principles of synchronization and simplification, the aim is to reduce or even eliminate barriers in organizational communication relations both vertically with the central government and horizontally between regional governments. Building relations between the central government and regional governments using the principles of organizational communication, of course there is a concept of authority relations based on the constitutional system, as in the concept of the rule of law (*rechstaat*) all government actions originating from its authority must be based on the principle of legality.(Nur & Susanto, 2020). Therefore, authority, which is a form of power, has legitimacy (legitimacy), which in turn means that the authority relationship has legitimate power (Aziz et al., 2020). Based on this, the central government's policy

to hand over some of its affairs to regional authority is delegated through statutory regulations and is not carried out through arbitrary actions (Shujahri Am, 2010).

Regarding the state's duties, they are divided into 3 (three) groups, namely first, the state must provide protection to residents in certain areas. Second, the state supports or directly provides various community life services in the social, economic and cultural fields. Third, the state becomes an impartial referee between conflicting parties in society and provides a judicial system that guarantees basic justice in social relations. The task of the state according to current modern understanding (in a welfare state or social service state) is to carry out public interests to provide maximum prosperity and well-being based on justice in a rule of law state. To achieve the goals of the state and run the country, it is carried out by the government.

Law Number 23 of 2014 concerning Regional Government as has been amended several times, and most recently amended by Law Number 9 of 2015 concerning Amendments to Law Number 23 of 2014 concerning Regional Government mandates that Regional Autonomy be placed in Regencies/Cities. The division of government affairs in Indonesia is essentially divided into 3 (three) categories, namely government affairs managed by the central government (government), government affairs carried out by provincial regional governments, and government affairs carried out by district/city governments.

Government affairs that fall under the authority of regional governments consist of mandatory affairs and optional affairs. Mandatory affairs, meaning government administration that is guided by minimum service standards, are carried out in stages and determined by the government. As for optional government affairs, both for provincial regional governments and district/city regional governments, they include government affairs that actually exist and have the potential to improve community welfare in accordance with the conditions, characteristics and superior potential of the region concerned.

Article 5 of Law Number 23 of 2006 concerning Population Administration as amended by Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration states that the government through the minister has the authority to carry out national population administration, including (Law Number 23 of 2006 concerning Population Administration as Amended by Law 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration, 2013):

- a. Coordination between agencies and between regions;
- b. Determination of systems, guidelines and standards;
- c. Facilitation and socialization;
- d. Coaching, mentoring, supervision, monitoring, evaluation and consultation;
- e. Management and presentation of national scale population data;
- f. Providing electronic identity card (E-KTP) forms for districts/cities;
- g. Providing population document forms other than Electronic Identity Card (E-KTP) forms through implementing agencies; And
- h. Supervision.

Article 6 The authority of the provincial government in carrying out and administering population administration affairs carried out by the governor includes:

- a. Coordination of population administration;
- b. Providing guidance, supervision and consultation on the implementation of population registration and civil registration;
- c. Guidance and socialization of the implementation of population administration;
- d. Presentation of provincial-scale population data originating from population data that has been consolidated and cleaned by the ministry responsible for domestic government affairs; And
- e. Coordination of supervision over the implementation of population administration.

Meanwhile, the authority of the district/city government, which is obliged and responsible for carrying out population administration affairs, is contained in the provisions of Article 7 paragraph (1) of Law Number 23 of 2006 in conjunction with Law Number 24 of 2013 concerning Population Administration which includes:

- a. Coordination of population administration;
- b. Establishment of implementing agencies whose duties and functions are in the field of population administration;
- c. Technical arrangements for the implementation of population administration in accordance with the provisions of statutory regulations;
- d. Guidance and socialization of population administration;
- e. Implementation of community service activities in the field of population administration;
- f. Assignment to villages to carry out some population administration affairs based on the principle of co-administration;
- g. The presentation of district/city scale population data comes from population data that has been consolidated and cleaned by the ministry responsible for domestic government affairs;
- h. Coordination of supervision over the implementation of population administration.

Then what becomes a legal problem is when the Population and Civil Registration Service is merged with other government affairs such as the Community and Village Empowerment Service, the Women's Empowerment and Child Protection Service, and the Population Control and Family Planning Service, the Plantation Service, the Food Crops and Horticulture Service, and the Department of Food Security and Livestock, the Department of Highways and Construction Development, and the Department of Water Resources, Human Settlements and Spatial Planning, the Research and Development Agency, and the Regional Planning and Development Agency are one thing that clearly violates the material content of legal norms in the hierarchy of statutory regulations. invitation contained in Law Number 23 of 2014 concerning Regional Government as well as Law Number 23 of 2006 on Population Administration and Government Regulation Number 40 of 2019 concerning Implementation of Law Number 23 of 2006 concerning Population Administration as Amended by Law Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration and Minister of Home Affairs Regulation Number 14 of 2020 concerning Guidelines for the Nomenclature of Population and Civil Registration Services in Provinces and Districts/Cities.

Legal Certainty of Service Mergers

In the merger of Regional Organizational Devices (OPD), there are government inconsistencies that are not in accordance with the material contained in the law, and isn't it clear that the Indonesian state adheres to the rule of law Article 1 paragraph (3) of the 1945 Constitution so that what is contained in Article 11 Paragraph (2) has provided legal certainty so that no changes are made to "Compulsory Government Affairs as intended in paragraph (1) consisting of Government Affairs relating to Basic Services and Government Affairs not relating to Basic Services". So that the legal norms regulated in Article 11 Paragraph (2) are clear and concise, confirmed by Article 12 Paragraph (2) as Mandatory Government Affairs which are not related to Basic Services, meaning that the provision of services to the community as intended in Article 11 paragraph (2) includes:

- a. labor;
- b. women's empowerment and child protection;
- c. food;
- d. land;
- e. environment;
- f. population administration and civil registration;
- g. community and village empowerment;

- h. population control and family planning;
- i. transportation;
- j. communications and informatics;
- k. cooperatives, small and medium enterprises;
- l. capital investment;
- m. youth and sports;
- n. statistics;
- o. coding;
- p. culture;
- q. library; And
- r. record management.

The government as a public servant (public servant)(Lestari & Santoso, 2022) has the duty and responsibility to provide the best service to the community as an explanation of the state's goals, namely ensuring state security, maintaining order, making the nation's life intelligent and protecting the interests of the community, improving the welfare of society based on the principles of social justice. In order to achieve this function, decentralization is needed (Harsasto, 2020).

Thus, to carry out population administration affairs in the province, a Population and Civil Registration Service must be established as mandated in Government Regulation Number 40 of 2019 concerning the Implementation of Law Number 23 of 2006 concerning Population Administration as amended by Law 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration. This is stated in Article 16 which reads:

- (1) To carry out Population Administration affairs in the province, the Provincial Population and Civil Registration Service was established.
- (2) The establishment of the Provincial Population and Civil Registration Service as intended in paragraph (1) is regulated by Provincial Regional Regulations.

In carrying out Population Administration affairs in the province, the Provincial Population and Civil Registration Service carries out:

- a. coordination between government institutions and non-government institutions in provinces and between districts/cities on a regular basis;
- b. preparing procedures for planning, implementing, monitoring, evaluating and controlling Population Administration affairs in the province;
- c. preparing procedures for managing Population Data in the form of individual data, aggregate data and Personal Data in provinces and districts/cities;
- d. facilitating the implementation of Population Administration affairs;
- e. organizing the use of Population Data;
- f. socialization of the implementation of Population Administration affairs;
- g. collaboration with community organizations and universities;
- h. communication, information and education to stakeholders and the community;
- i. guidance on the implementation of Population Administration affairs, including guidance on documentation of the implementation of Population Administration affairs;
- j. technical guidance on Population registration, civil registration, management of population information, and utilization of Population Data;
- k. supervision of Population Data verification and validation activities as well as implementation of Population Administration affairs;
- l. monitoring and evaluating the implementation of Population Administration affairs;
- m. providing consultation on the implementation of Population Administration matters;
- n. presentation of Population Data that is accurate and accountable; And
- o. supervision of the implementation of Population Administration affairs.

So that in order to ensure that the implementation of population administration runs well, is sustainable and is focused on carrying out population administration affairs, the government regulates that the OPD which carries out Population Administration affairs in provinces and districts/cities takes the form of a Department and cannot be combined with other government affairs in one Service as mandated in the Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 14 of 2020 concerning Guidelines for the Nomenclature of Population and Civil Registration Services in Provinces and Regencies/Cities (established on 10 February 2020, promulgated on 5 March 2020).

These regulations are contained in the Transitional Provisions contained in Article 15 of the Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 14 of 2020 concerning Guidelines for the Nomenclature of Population and Civil Registration Services in Provinces and Regencies/Cities which reads: "When this Ministerial Regulation comes into force, the provincial and district Dukcapil Dis. "Cities must be formed and cannot be combined with other government affairs and are adjusted to the provisions in this Ministerial Regulation no later than 1 (one) year after this Ministerial Regulation is promulgated."

Jimly believes that in understanding the rule of law, all government actions must be based on valid and written statutory regulations. These written statutory regulations must exist and be in effect before or before any administrative actions or actions taken. Thus, every act or administrative action must be based on rules and procedures' (regels) (Hardianto, 2022).

The function of general principles of good governance in administering government is as a guide or guide for the government or state administration officials in the context of good governance. In this connection, Muin Fahmal stated that the general principles of proper government are actually guidelines for state administrators in carrying out their duties. These signs are needed so that actions remain in accordance with the true objectives of the law (Sutriadi et al., 2018).

With the provisions of laws and regulations which state that the Population and Civil Registration Service cannot be combined with other government affairs as mentioned above, the Population and Civil Registration Service is independent (single) and not combined with other government affairs so that in carrying out its duties and its function is focused and directed because the Population and Civil Registration Service is an institution that manages the basic fundamental rights of every person to be registered in the civil registry and to have their status recognized as Indonesian citizens who receive equal legal protection as mandated by the fourth paragraph of the constitution. protect the entire nation and all of Indonesia's blood without exception, especially in population and civil registration (Tuju et al., 2017).

So, in this way, the government in establishing regulations for the formation of legal norms must still refer to the principles of the formation of statutory regulations and must not conflict with basic principles and must also be in accordance with the hierarchy of applicable statutory regulations as regulated in Law Number 12 of 2011 concerning the Formation of Legislative Regulations as amended by Law Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning the Formation of Legislative Regulations Article 5, namely:

- a. Clarity of purpose;
- b. Appropriate forming institutions or officials;
- c. Compliance between type, hierarchy and content material;
- d. Can be implemented
- e. Efficacy and usability;
- f. Clarity of formulation; And
- g. Openness.

Apart from the principle of forming formal statutory regulations, Article 6 of Law Number 12 of 2011 concerning the Formation of Legislative Regulations as amended by Law Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning the Formation of Legislative

Regulations -The invitation also states that "The content of statutory regulations must reflect the principles of:

- a. Protection;
- b. Humanity;
- c. Nationality;
- d. Kinship;
- e. Archipelago;
- f. Unity in Diversity;
- g. Justice;
- h. Equality of position in law and government;

These principles can be categorized as the basis for the formation of material legal regulations, where the material content of legal regulations must reflect these principles and must not conflict between one legal rule and the highest legal rule in accordance with the hierarchical order of statutory regulations. invitation to article 7 of Law Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning the Formation of Legislative Regulations, namely:

- 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

Hans Kelsen stated that in the formation of statutory regulations, the theory of legal levels (Stufentheorie) is known.(Muhammad F Hanafi & Sunny U Firdaus, 2022)In this theory, Hans Kelsen argues that legal norms are tiered and layered in a hierarchy (arrangement) in the sense that a higher norm applies, is sourced and based on an even higher norm, and so on until it reaches a norms that cannot be explored further and are hypothetical and fictitious, namely Basic Norms (Grundnorms)(Paramarta et al., 2016). "The 'grundnorm' is not constitution, it is simply the presupposition, demanded by theory, that this constitution ought to be obeyed. (Basic Norms are the highest norms in a system of norms. They are no longer formed by a higher norm, but the Basic Norms are established first by society as Basic Norms which are the basis for the norms that are below them, so that a Basic Norm it is said to be pre-supposed).

According to Hans Kelsen, legal norms always originate and are based on norms above them, but downward, legal norms also become the source and basis for norms lower than them. In terms of the structure/hierarchy of the norm system, the highest norm (Basic Norm) is the place on which the norms below it depend, so that if the Basic Norm changes, the system of norms beneath it will be damaged (Muhammad F Hanafi & Sunny U Firdaus, 2022).

Hans Nawiasky developed Hans Kelsen's theory about levels of norms in relation to the legal norms of a country which states that a legal norm from any country is always layered and tiered. The lower norms apply, originate and are based on higher norms, the higher norms apply, originate and are based on a highest norm which is called the Basic Norm. as a student of Hans Kelsen, the theory developed by Hans Nawiasky apart from norms being layered and tiered, the legal norms of a country are also in groups, and the grouping of legal norms in a country consists of four large groups, including (Muhtadi, 2014):

- Group I: *Staatsfundamentalnorm*(Fundamental State Norms);
- Group II: *Staatsgrundgesetz*(Basic Rules/Basic State Rules);
- Group III: *Formell Gesetz*("Formal" Law);
- Group IV: *Verordnung & Autonome Satzung*(Implementing rules/autonomous rules)

CONCLUSION

The legal norms contained in positive law provide a prohibition against combining the Population and Civil Registration Service with other government affairs, in accordance with the orders of Government Regulation Number 40 of 2019 concerning the Implementation of Law Number 23 of 2006 concerning Population Administration as amended by Law -Law 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration Article 16 paragraph (1) reads: "To carry out Population Administration affairs in the province, a Provincial Population and Civil Registration Service was established." Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 14 of 2020 concerning Guidelines for the Nomenclature of Population and Civil Registration Services in Provinces and Regency/City Article 2 reads: "Provincial and regency/city regional apparatus that handles Population Administration matters takes the form of Provincial, Regency/City regional services". Article 15 reads: "When this Ministerial Regulation comes into force, provincial and district/city Disdukcapil must be established and cannot be combined with other government affairs. Added to this is the Circular Letter of the Minister of Home Affairs Number: 061/9007/SJ Dated 4 September 2019 concerning Institutions for Organizing Population Administration Affairs in the Province and the Letter of the Minister of Home Affairs Number 061/5537/SJ Dated 6 October 2020 Regarding the Establishment of the Population and Civil Registration Service in the Province which essentially emphasizes that the Population and Civil Registration Services in Provinces and Regency/City cannot be combined with other government affairs.

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