



JURIDICAL ANALYSIS OF REGIONAL REGULATION FORMULATION TECHNIQUES (Study Of Title And Opening Framework In Sambas District Regulation Number 11 Of 2015 Concerning The Implementation Of Legal Aid)

Tamrin Muchsin¹, Sardjana Orba Manullang², Saiful Rachman³, Sri Sudono Saliro⁴

^{1,4}) IAI Sultan Muhammad Syafiuddin Sambas

²) Universitas Krisnadwipayana

³) Universitas Nuku Tidore

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Abstract

The authority of the regional government to regulate self-government affairs as stipulated in Article 10 paragraph (2) of Law Number 23 of 2014 concerning Regional Government and hierarchically is a juridical implementation of Article 18 paragraph (2) of the 1945 Constitution. Techniques for drafting statutory regulations, each Prevailing Law must refer to Law Number 12 of 2011 concerning the formation of statutory regulations. This paper will explain whether the framework for drafting the Sambas Regency Regional Regulation Number 11 of 2015 concerning the Implementation of Legal Aid is in accordance with Law Number 12 of 2011 concerning the Formation of Laws and Regulations. This research is a normative legal research which is defined as research on statutory rules which is viewed from the point of view of the legal hierarchy. The results show that the Preamble C (preamble) Framework and the legal framework are not in accordance with Law Number 12 of 2011 concerning the Formation of Laws and Regulations.

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Corresponding Author:

Tamrin Muchsin

Email: tamrinmuchsin69@gmail.com

I. INTRODUCTION

The basic idea of a constitutional state in Indonesia cannot be separated from the basic idea of *rechtstaat* (rule of law). This basic idea puts the basis of legal protection for its people on the principle of legality by placing statutory regulations as positive law.¹ Positive law is an important element in guaranteeing legal protection for Indonesian citizens.² In the legal tradition in countries that adhere to a continuous European legal system (civil law), such as Indonesia, the existence of law is one form of implementation of the principles of the rule of law.

The existence of legislation in a country could have strategic and important position, in terms of the concept of constitutional state, the hierarchy of legal norms, as well as views of the function of

¹ A. Rosyid Al Atok, *Konsep Pembentukan Peraturan Perundang-Undangan* (Malang: Setara Press, 2015), hlm. 1.

² Philipus M Hadjon, *Ide Dasar Negara Hukum dalam Sistem Ketatanegaraan Republik Indonesia* (Makalah, 1994), hlm. 4.

law in general. In the concept of a rule of law, the law is a form of legal norm formulation in the life of a state.³ In the view of Paul Scholten, that the law is in legislation, so people must give it a high place.⁴ In the Indonesian legal norm system, as in the provisions of Article 7 paragraph (1) of Law no. 12 of 2011 concerning the Formation of Legislative Regulations, states the types and hierarchy as follows: a) The 1945 Constitution of the Republic of Indonesia, b) Decrees of the People's Consultative Assembly, c) Laws / Government regulations in lieu of laws, d) Government Regulations, e) Presidential Regulation, f) Provincial Regulation, g) Regency / City Regional Regulation.⁵

One of the products of legislation in the Indonesian constitutional system is regional regulations.⁶ In the context of attribution authority in terms of making District/City Regulations explicitly regulated in Law no. 23 of 2014 concerning Regional Government, Article 96 paragraph (1) in conjunction with Article 149 paragraph (1) states that the Legislature District/City has the function of forming Regional Regulations, budgets and supervision. These three functions represent the people which are carried out by discussing Regional Regulations with the regional head, approving or disapproving of the draft Regional Regulations, proposing Regional Regulations, and compiling programs for the formation of regional regulations.⁷

The procedure for the formation of local regulations by local legislative council together regional heads must be guided by some of the relevant legislation, so that a local ordinance does not conflict with the legislation of higher. As an instrument of formation program planning regulations and local regulations provincial districts/municipalities must be arranged in a planned, integrated and systematic. Michael A. Pengemanan argues that the formation of laws and regulations must refer to:

1. Law No. 12 of 2011 concerning the Formation of Legislative Regulations, as amended by Law no. 15 of 2019 concerning amendments to Law no. 12 of 2011 concerning the Formation of Legislative Regulations.
2. Law No. 23 of 2014 concerning Regional Government, which has been amended several times, most recently by Law no. 9 of 2015.
3. Presidential Regulation No. 87 of 2014 concerning the Implementing Regulations of Law no. 12 of 2011 concerning the Formation of Legislative Regulations.

³ Atok, *Konsep Pembentukan Peraturan Perundang-Undangan*, hlm. 2.

⁴ Satjipto Rahardjo, *Ilmu Hukum* (Bandung: PT. Citra Aditya Bakti, Cetakan Keenam, 2006), hlm. 91.

⁵ "Undang-Undang Republik Indonesia Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan," Pub. L. No. Lembaran Negara RI Tahun 2011 No. 82, Tambahan Lembaran Negara RI No. 5234 (2011), Lihat Pasal 7 ayat (1).

⁶ Sri Sudono Saliro, "Analisis Efektifitas Peraturan Daerah Kabupaten Sambas Nomor 1 Tahun 2009 Tentang Desa," *Jurnal Mahkamah : Kajian Ilmu Hukum Dan Hukum Islam* 3, no. 2 (31 Desember 2018): hlm. 196, doi:10.25217/jm.v3i2.362.

⁷ Asri Lasatu, "Urgensi Peraturan Daerah Tentang Program Pembentukan Peraturan Daerah Terhadap Kinerja DPRD," *Jurnal Ilmiah Kebijakan Hukum* Volume 14, no. 2, Juli (2020): hlm. 202.

4. Minister of Home Affairs Regulation No. 80 of 2015 concerning Regional Legal Products, as amended by Regulation of the Minister of Home Affairs Number 120 of 2018 concerning amendments to the Regulation of the Minister of Home Affairs No. 80 of 2015 concerning Regional Legal Products.⁸

In the context of statutory regulations drafting techniques, based on a review by the Directorate of Regional Regulation Draft Facilities, the Directorate General of Legislation, Ministry of Law and Human Rights on Provincial Regulations in 33 provinces. And District / City Regional Regulations in 491 Regencies / Cities that were stipulated in 2005 to 2010, it is obtained data that most of the preparation of regional regulations have not been in accordance with the technical guidelines for drafting statutory regulations as stipulated in the Attachment to Law Number 12 of 2011 concerning the Formation of laws and regulations.⁹

Techniques for drafting legislation as contained in Law no. 12 of 2011 concerning the formation of statutory regulations there is a statutory framework consisting of:

A. TITLE

B. UNVEILING

1. Phrasa "By the grace of God Almighty"
2. Position Forming Legislation
3. Preamble
4. Legal Basis
5. Dictum

C. TORSO

1. General requirements
2. subject matter
3. criminal provisions (if needed)
4. transitional provisions (if needed)
5. Closing

D. COVER

E. EXPLANATION (if needed)

F. ATTACHMENT (if needed).¹⁰

⁸ Michael A. Pangemanan, "Urgensi Program Pembentukan Perda (Propemperda) Sebagai Instrumen Perencanaan dalam Mengarahkan dan Mendorong Pembentukan Peraturan Daerah," *Lex Privatum* Volume 4, no. 8 (2016): hlm. 26.

⁹ Kementerian Hukum dan Hak Asasi Manusia RI Direktorat Jenderal Peraturan Perundang-Undangan, Direktorat Fasilitasi Perancangan Peraturan Daerah, *Panduan Praktis Memahami Perancangan Peraturan Daerah* (Jakarta: Direktorat Jenderal Peraturan Perundang-Undangan, 2011), hlm. 4.

¹⁰ Undang-Undang Republik Indonesia Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan, Lihat Lampiran II, Teknik Penyusunan Peraturan Perundang-Undangan.

The study to be discussed in this paper is regarding the Title and Opening framework in the drafting technique for the Sambas Regency Regional Regulation Number 11 of 2015 concerning the Implementation of Legal Aid. This study is important that any establishment of legislation in this regard is the Sambas Regency Regulation should be aligned and the reference to the preparation technique. In Law no. 12 of 2011 concerning the formation of statutory regulations, is regulated in such a way as to conform and / or not conflict with higher laws and regulations. Based on the above, the focus of the problem in this paper is whether the framework for drafting the Sambas Regency Regional Regulation Number 11 of 2015 concerning the Implementation of Legal Aid is in accordance with Law No. 12 of 2011 concerning the Formation of Legislative Regulations?.

II. RESEARCH METHODS

This article research using normative law research method is defined as the study of the rules and regulations that the terms of the hierarchy of legislation or vertical.¹¹ In essence, normative legal research is the main legal research considering the main source of law in the legal system in force in Indonesia is the law. The basic principle to be examined is the suitability between the Title and Preamble framework in Perda No. 11 of 2015 concerning the Implementation of Legal Aid, with the provisions contained in Law no. 12 of 2011 concerning the Formation of Legislative Regulations.

III. RESULTS AND DISCUSSION

3.1. Concept of Regulation Legislation

High appreciation of the legislation to be one characteristic shared by the continental legal system. The continental legal system prioritizes written law in the form of statutory regulations which are the product of legislation as the main foundation of the legal system.¹² Hans Kelsen in his book *General Theory of Law and State* states that the lower legal norms must not conflict with the higher legal norms, and the higher legal norms must not conflict with other higher norms, and so on until it is terminated by a highest basic norm (*staatsfundamentálnorm*).¹³

Legislation in Indonesia has been regulated in Law Number 12 Year 2011 on the Establishment Regulation Legislation. The definition of statutory regulations in Indonesia has been regulated in Law Number 12 of 2011 concerning the formation of statutory regulations hereinafter abbreviated as Law no. 12 of 2011 concerning the formation of laws and regulations. In Article 1 point 2 "laws and regulations are written regulations that contain legally binding norms and are

¹¹ Elisabeth Nurhaini Butarbutar, *Metode Penelitian Hukum: Langkah-langkah untuk Menemukan Kebenaran dalam Ilmu Hukum* (Bandung: PT Refika Aditama, 2018), hlm. 83.

¹² Atok, *Konsep Pembentukan Peraturan Perundang-Undangan*, hlm. 1.

¹³ Hans Kelsen, (diterjemahkan Drs. H. Somardi) *Teori Hukum dan Negara, Dasar-Dasar Ilmu Hukum Normatif Sebagai Ilmu Hukum Deskriptif-Empirik* (Jakarta: BEE Media Indonesia, 2007), hlm. 155.

formed or stipulated by State institutions or authorized officials through procedures stipulated in statutory regulations".¹⁴

The understanding of laws and regulations according to the experts themselves is very diverse. As Bagir Manan argues, laws and regulations are written decisions of the state or government that contain guidelines or patterns of behavior that are generally binding in nature.¹⁵

Another definition of statutory regulations according to Attamimi is State regulations, at the central level and at the regional level, which are formed based on statutory authority, either attributable or delegate in nature.¹⁶ According to Maria Farida Indrati, the term legislation (legislation, wetgeving, or gesetzgebung) has two different meanings, namely: (a). Legislation is the process of forming / forming state regulations, both at the central and regional levels; (b). Legislation is all state regulations, which are the result of the formation of regulations, both at the central and regional levels.¹⁷

The types of statutory regulations contained in the hierarchy of the prevailing laws and regulations in Indonesia are mentioned in Article 7 paragraph (1) of the Law on the Establishment of Legislation), the types of laws and regulations consist of:

- a. 1945 Constitution of the Republic of Indonesia;
- b. Decree of the People's Consultative Assembly;
- c. Laws / Government Regulations In Lieu of Laws;
- d. Government regulations;
- e. Presidential decree;
- f. Provincial Regulation; and
- g. Regency / City Regional Regulations.¹⁸

Furthermore, Article 8 paragraph (1) of the Law on the Establishment of Legislations contains types of statutory regulations other than those referred to in Article 7 paragraph (1) of the Law on the Establishment of Legislation, which includes regulations stipulated by the People's Consultative Assembly, the People's Representative Council, Regional Representative Council, Supreme Court, Constitutional Court, Financial Audit Board, Judicial Commission, Bank Indonesia, Ministers, agencies, institutions, or commissions at the same level as established by Law or the Government by

¹⁴ Undang-Undang Republik Indonesia Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan, Lihat Pasal 1 angka 2.

¹⁵ Bagir Manan, *Dasar-Dasar Perundang-Undangan Indonesia* (Jakarta: Ind-Hill-Co, 1992), hlm. 18.

¹⁶ Rosjidi Ranggawidjaja, *Pengantar Ilmu Perundang-Undangan* (Bandung: Mandar Maju, 1998), hlm. 19.

¹⁷ Maria Farida Indrati Soeprapto, *Ilmu Perundang-Undangan, Dasar-Dasar dan Pembentukannya* (Yogyakarta: Kanisius, 2006), hlm. 3.

¹⁸ Undang-Undang Republik Indonesia Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan, Lihat Pasal 7 ayat (1).

order of the Law, Provincial Regional People's Representative Council, Governor, Regency/City Regional People's Representative Council, Regent / Mayor, Village Head or equivalent.

The order of the laws and regulations is related to Hans Kelsen's teachings regarding The Hierarchy of Law. Hans Kelsen argues that legal norms are tiered and layered in a hierarchy of structure, where a lower norm applies, originates and is based on higher norms, higher norms apply, originate and are based on norms. which is higher, and so on until a norm that cannot be traced further and is hypothetical and fictitious, namely the basic norm (Grundnorm).¹⁹

The existence of Regional Regulations (Perda) be it Provincial or Regency / City in the hierarchy of statutory regulations explicitly contained in Article 18 paragraph (6) of the 1945 Constitution which states that the Regional Government has the right to stipulate Regional Regulations and other regulations to implement autonomy and co-administration.²⁰ Then in Article 14 of Law no. 12 of 2011 concerning the formation of statutory regulations confirms that "the material content of Provincial regulations and Regency / City regulations contains material content in the context of implementing regional autonomy and assistance tasks as well as accommodating special regional conditions and / or further elaboration of statutory regulations higher."²¹

3.2. Analysis of Regional Regulation Formulation Framework No. 11 of 2015 concerning the Implementation of Legal Aid

The statutory framework as stipulated in Law no. 12 of 2011 concerning the formation of laws and regulations, among others are as follows:

A. TITLE

B. UNVEILING

1. Frasa "By the grace of God Almighty"
2. Position Forming Legislation
3. Preamble
4. Legal Basis
5. Dictum

C. TORSO

1. General requirements
2. subject matter
3. criminal provisions (if needed)
4. transitional provisions (if needed)

¹⁹ Teguh Prasetyo dan Abdul Halim Barkatullah, *Ilmu Hukum dan Filsafat Hukum (Studi Pemikiran Ahli Hukum Sepanjang Zaman) Cet IV* (Yogyakarta: Pustaka Pelajar, 2011), hlm. 109-110.

²⁰ "Undang - Undang Dasar Negara Republik Indonesia Tahun 1945" (2011), Lihat Pasal 18 ayat (6).

²¹ Undang-Undang Republik Indonesia Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan, Lihat Pasal 14.

5. Closing

D. COVER

E. EXPLANATION (if needed)

F. ATTACHMENT (if needed) .²²

In this paper, it will be analyzed systematically starting from the title, preamble, torso, closing, explanation and attachments contained in the legal basis of Law no. 12 of 2011 concerning the formation of statutory regulations which are then juxtaposed with Regional Regulation No. 11 of 2015 concerning the Implementation of Legal Aid. The analysis will be presented in tabular form, as follows:

Table 1

Conformity Analysis Regional Regulation No. 11 of 2015 concerning the implementation of legal aid with Law no. 12 of 2011 concerning the formation of Legislation.

No	Regulatory Framework	Law No. 12 of 2011	Regional regulation no 11 of 2015	Explanation
1	Title ²³	Example: Provincial regulations Jakarta capital special region Number 8 of 2007 concerning general obligations	REGIONAL REGULATION OF SAMBAS DISTRICT NUMBER 11 OF 2015 CONCERNING THE IMPLEMENTATION OF LEGAL ASSISTANCE	appropriate
2	UNVEILING a) Phrasa	At the opening of each type of Legislation before the name of the office of the formator of the Legislations, the phrase With the Grace of God Almighty is written which is written entirely in capital letters placed in the middle of the margin.	REGIONAL REGULATION OF SAMBAS DISTRICT NUMBER 11 OF 2015 CONCERNING THE IMPLEMENTATION OF LEGAL ASSISTANCE By the grace of God Almighty	appropriate
3	UNVEILING b) Position Forming Legislation	The position forming the laws and regulations is written entirely in capital letters that are placed in the middle of the margin and ends with a comma punctuation	REGENT SAMBAS	appropriate

²² *Ibid.*, Lihat Lampiran II, Teknik Penyusunan Peraturan Perundang-Undangan.

²³ Judul peraturan perundang-undangan memuat keterangan mengenai jenis, nomor, tahun pengundangan atau penetapan dan nama peraturan perundang-undangan. Judul peraturan perundang-undangan ditulis seluruhnya dengan huruf kapital yang diletakan di tengah marjin tanpa diakhiri tanda baca

4	UNVEILING c) Considerations	The preamble begins with the word Consider. The considerations for Regional Regulations simply contain one consideration which contains a brief description of the need to implement the provisions of an article or several articles of a Law or Government Regulation which orders the formation of the Regional Regulation by pointing to the article or several articles of the Law or Government Regulation ordering its Formation	Considering: that in order to guarantee the constitutional rights of everyone to get recognition, guarantee, protection and legal certainty that is just and equal treatment before the law as a means of protecting human rights, it is necessary to provide legal aid for the poor / needy as a manifestation. access to justice... .. etc.	it is not in accordance with
5	UNVEILING d) Legal Basis	The legal basis begins with the word remember. The legal basis for the formation of Regional Regulations is Article 18 paragraph (6) of the 1945 Constitution of the Republic of Indonesia, the Law on the Establishment of Regions and the Law on Regional Government.	Remember: Article 18 paragraph (6), Article 20, Article 21, Article 27 paragraph (1), Article 28D paragraph (1), Article 28H paragraph (2), Article 28I paragraph (4) and paragraph (5), and Article 34 paragraph (2) and paragraph (4) of the 1945 Constitution of the Republic of Indonesia	it is not in accordance with
6	UNVEILING e) Dictum.	The dictum consists of: Deciding Words; Word Establish; and the type and name of the Prevailing Laws	With agreement HAS DECREED: SETTING: REGIONAL REGULATIONS CONCERNING THE IMPLEMENTATION OF LEGAL ASSISTANCE	appropriate

7	Torso	The body of the statutory regulation contains all the material contained in the Prevailing Laws formulated in an article or several articles. In general, the cargo material in the torso is classified into: a. general requirements; b. regulated subject matter; c. criminal provisions (if required); d. transitional provisions (if required) and; e. closing	• General provisions are contained in Article 1. • The subject matter regulated is in Article 2 to Article 23. • Criminal provisions are contained in article 24 • Closing provisions are contained in Articles 25 and 26.	appropriate
8	Closing	The closing is the final part of the Laws and Regulations which contains: a formulation of orders for promulgation and placement of Legislation in the State Gazette of the Republic of Indonesia, the State Gazette of the Republic of Indonesia, the Provincial Gazette, the Regency / City Regional Gazette, the Provincial Gazette or the Regency / City Regional Gazette; b signing ratification or stipulation of Legislation; c the promulgation or enactment of laws and regulations; and d end of the closing section.	Stipulated in Sambas on December 10, 2015. REGENT OF SAMBAS TTD JULIARTI DJUHARDI ALWI Promulgated in Sambas On December 10, 2015. REGIONAL SECRETARY TTD JAMIAT AKADOL 2015 SAMBAS DISTRICT REGIONAL SHEET NUMBER 13	appropriate

9	Explanation	The explanation serves as the official interpretation of the formers of the Legislation on certain norms in the body. Therefore, the explanation only contains descriptions of foreign words, phrases, sentences or equivalent words / terms in the norm which can be accompanied by examples. Explanation as a means of clarifying norms in the body must not result in confusion of the norm in question.	The explanation in Perda 11 of 2015 regarding the implementation of legal aid is found at the end of the regional regulation.	appropriate
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Based on the explanation of the table this paper will narrate the inconsistencies in the preparation of laws and regulations contained in Perda Sambas 11 of 2015 concerning the implementation of legal aid, among others:

First, in the framework of drafting Legislation as contained in Law no. 12 of 2011 concerning the Formation of Prevailing Laws, in the Preamble framework in letter c, namely Preamble. Whereas the main idea in the preamble of the Regency / City Regional Regulation contains philosophical, sociological and juridical elements which are taken into consideration and the reasons for its formation whose writing is placed sequentially from philosophical, sociological and juridical.²⁴ In addition, the preamble Local Regulation sufficiently to load the considerations which contains a brief description of the need to implement the provisions of article or some of the provisions of the Act or a government regulation which authorized the establishment of the regional regulation by appointing article or some of the provisions of the Act or Regulations Government ordered formation.²⁵ Whereas in Perda 11 of 2015 concerning the implementation of legal aid, it contains the following considerations:

Considering:

- a. That in order to guarantee the constitutional right of everyone to get recognition, guarantee, protection, and legal certainty that is just and equal treatment before the law as a means of

²⁴ Undang-Undang Republik Indonesia Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan, Lihat Lampiran II.

²⁵ *Ibid.*, Lihat Lampiran II, pada bahasan Konsideran angka 24.

protecting human rights, it is necessary to provide legal assistance for the poor / incapable as a manifestation of access to justice.²⁶

- b. That in order to realize the objectives referred to in letter a, it is necessary to provide legal aid for the poor in Sambas Regency.
- c. That based on the considerations as referred to in letter a and letter b, it is necessary to establish a Regional Regulation concerning the Implementation of Legal Aid.

This shows that this regional regulation is not in accordance with what is stated in Law no. 12 of 2011 concerning the Formation of Legislative Regulations. Should the drafting of regional regulations on legal aid referring to Law no. 16 of 2011 concerning Legal Aid, Article 19 paragraph (2) which states that “further provisions regarding the implementation of legal aid as referred to in paragraph (1) shall be regulated by Regional Regulations”.

Second, the next discrepancy contained in the Perda on the Implementation of Legal Aid is in the framework for the preparation of basic legal aspects of the preparation of District / City Regional Regulations. Whereas the legal basis for the formation of Regional Regulations is Article 18 paragraph (6)²⁷ The 1945 Constitution of the Republic of Indonesia, the Law on Regional Formation and the Law on Regional Government. Whereas in Regional Regulation number 11 of 2015 concerning the implementation of Legal Aid, the legal basis for this is Article 18 paragraph (6), Article 20²⁸, Article 21²⁹, Article 27 paragraph (1)³⁰, Article 28D paragraph (1)³¹, Article 28H paragraph (2)³², Article 28I paragraph (4)³³ and paragraph (5)³⁴, dan Article 34 paragraph (2)³⁵ dan paragraph (4)³⁶ 1945 Constitution of the Republic of Indonesia.

Based on the second statement above, the Perda No. 11 of 2015 concerning the implementation of legal aid, in its basic legal aspects it is not in accordance with the Law on the Formation of

²⁶ “Peraturan Daerah Kabupaten Sambas Nomor 11 Tahun 2015 Tentang Penyelenggaraan Bantuan Hukum” (2015), Lihat pada Konsideran Menimbang.

²⁷ Berbunyi: Pemerintah daerah berhak menetapkan peraturan daerah dan peraturan-peraturan lain untuk melaksanakan otonomi dan tugas pembantuan.

²⁸ Berbunyi: (1) DPR memegang kekuasaan membentuk UU. (2) setiap rancangan UU dibahas oleh DPR dan Presiden untuk mendapat persetujuan bersama.....dst

²⁹ Berbunyi: Anggota DPR berhak mengajukan usul rancangan UU.

³⁰ Berbunyi: Segala warga negara bersamaan kedudukannya di dalam hukum dan pemerintahan wajib menjunjung hukum dan pemerintahan itu dengan tidak ada kecualinya.

³¹ Berbunyi: Setiap orang berhak atas pengakuan, jaminan, perlindungan dan kepastian hukum yang adil serta perlakuan yang sama dihadapan hukum.

³² Berbunyi: Setiap orang berhak mendapat kemudahan dan perlakuan khusus untuk memperoleh kesempatan dan manfaat yang sama guna mencapai persamaan dan keadilan.

³³ Berbunyi: Perlindungan, pemajuan, penegakan dan pemenuhan HAM adalah tanggung jawab negara terutama pemerintah.

³⁴ Berbunyi: untuk menegakan dan melindungi HAM sesuai dengan prinsip negara hukum yang demokratis, maka pelaksanaan HAM dijamin, diatur dan dituangkan dalam peraturan perundang-undangan.

³⁵ Berbunyi: Negara mengembangkan sistem jaminan sosial bagi seluruh rakyat dan memberdayakan masyarakat yang lemah dan tidak mampu sesuai dengan martabat kemanusiaan.

³⁶ Berbunyi: Ketentuan lebih lanjut mengenai pelaksanaan pasal ini diatur dalam UU.

Legislation, where the legal basis contains: the basis for the authority to form laws and regulations and statutory regulations that order the formation of statutory regulations. That means, the authority to establish regulation District / City is the local legislative districts / municipalities along with the Regent or as contained in Article 18 paragraph (6) of the 1945 Constitution.

IV. CONCLUSION

Aspects of the framework for drafting the Sambas Regency Regional Regulation Number 11 of 2015 concerning the Implementation of Legal Aid, there are at least 2 frameworks, namely the Opening Framework letter c (preamble) and the legal framework that is not in accordance with the provisions contained in Law Number 12 of 2011 concerning the Formation of Regulations Legislation. The Preamble framework in the preamble should contain one consideration, namely to realize the constitutional rights of the citizens of Sambas Regency with the principle of equal position before the law, and in line with the provisions of Article 19 paragraph (2) of Law no. 16 of 2011 concerning Legal Aid. While the basic framework of law should be referred to the legal basis for the establishment of regional regulation is Article 18 paragraph (6) the State Constitution of Republic of Indonesia Year 1945.

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