

**IMPLEMENTATION OF HUMAN RIGHTS PARAMETERS
IN THE ESTABLISHMENT OF REGIONAL REGULATIONS
IN TOBA SAMOSIR REGENCY****Yuli Rosdiana, Mirza Nasution, Jelly Leviza, Chairul Bariah**

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ABSTRACT

The importance of guidance for human rights material as the reference in regulating and limiting human rights in legislation, especially Regional Regulation is the values of human rights to be realized by the involvement and intervention of government/local governments in the form of regulations. The research method used in this writing is normative legal research method with empirical data. The main data in this research is secondary data. There are 3 (three) Regulations of the Regency of Toba Samosir that optimally accommodate the parameters of human rights in making the Regional Regulation. However, there is 1 (one) Regional Regulation that has 2 (two) indicators of parameters of human rights that have yet to be fulfilled. Suggestively, the Government to make a special regulation related to The Parameters of Human Rights in Regional Regulation Making that will be guidance for Provincial/Regency/Municipal Governments in making their Regional Regulations, so that they will be more measured in viewing Human Rights and it is also suggested for the Government of Regency of Toba Samosir in accommodating implemented parameters of human rights in making the Regional Regulations by involving the Regional Office of the Ministry of Law and Human Rights both in the harmonization, discussion and finalization of conception of the Draft Regional Regulation.

Keywords: Parameters, Human Rights, Regional Regulation.

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INTRODUCTION

Regional Regulation (hereinafter referred to as Perda) is one of the products of local legislation set by the Regional Head, both provinces and districts / cities, whose authority is recognized in Law No. 23 of 2014 on Local Government as

amended several times, most recently by Law No. 9 of 2019 on the Second Amendment to Law No. 23 of 2014 on Local Government.

The determination of the Regulation shall be made to: 1) carry out the Order of higher legislation; 2) organize regional autonomy and auxiliary duties; and 3) accommodate regional special conditions according to regional characteristics. This resulted in the Perda having a strategic position in the life of the nation and state, or in other words the role of the Perda in the implementation of local government became very large. The strategic position of the Perda in organizing local government can be good if the establishment of the Regulation is done well and backfires if done badly.¹

Provincial Government, District Government and City Government in Indonesia, Perda becomes an operational juridical instrument to organize local government. In the context of regional autonomy, perda is a controlling instrument for the implementation of regional autonomy, this is because the essence of regional autonomy is independence or freedom (*zelfstandingheid*), and not a form of freedom of an independent government

¹ Rudy Hendra Pakpahan, *Perda Testing by Executive and Judicial Institutions*, (Thesis: Graduate School, University of North Sumatra-Medan), 2009, things. *See also in*, Ni'matul Huda, *Problematika Cancellation of Local Regulations*, (Yogyakarta: FHUI Press, 2010), p. 100. 88.

unit (*onafhankelijkheid*). Self-reliance itself means that the region has the right to regulate and take care of the household affairs of its own government. The authority to regulate here means that the Regional region has the right to make legal products in the form of legislation, among others, named Perda.

Regulation is a statutory regulation that belongs to the hierarchy of laws and regulations. The consequence of a hierarchy of legislation in stages in the practice of state regulation is that theoretically all laws and regulations should not be contrary to higher regulations. The regulation theoretically has a degree of flexibility that should not deviate from the areas of national legislation. In Hans Kelsen's '*stufenbau theory*'² approach, positive laws (regulations) are constructed tiered and multi-layered, low-sourced regulations and should not be contrary to higher regulations. The theory later in the

² *Look in*, Article 7 paragraph (1) of Law No. 12 of 2011 concerning the Establishment of Legislation that states that the type and hierarchy of laws and regulations consist of:

- a. Constitution of the Republic of Indonesia year 1945;
- b. Decree of the People's Consultative Assembly;
- c. Law/Government Regulation Replacement Law;
- d. Government Regulations;
- e. Presidential Regulations;
- f. Regional Regulations Provincial;
- g. District/City Regulations.

science of law is called the principle of "*lex superior derogat legi inferiori*".³

Practically speaking, there is a problem of the establishment of a Regulation if the content of the Regulation violates the *constitutional rights (constitutional rights violation) of* citizens. Philosophically this problem has implications on the existence of ⁴*judicial* authority review Perda. All laws and regulations must not be contrary to the 1945 Constitution. The 1945 Constitution as the basis of the state expressly mentions what principles of Human Rights (hereinafter abbreviated as human rights) must be fulfilled. Therefore, the establishment of the Regulation should not be contrary to

³ Hans Kelsen, *General Theory of Law and State*, (New York: Russell, 1961), p. 100. 155-162.

⁴ To understand the enforcement of constitutional rights law (*constitutional right*) then we need to distinguish it from other rights such as *human rights* Dan *legal right*. Human rights are rights inherent in every human being, because human rights (*human right*) different from the sense of the rights of citizens (*the citizen's right*). Human rights have been listed in the 1945 Constitution, so it officially becomes the constitutional rights of everyone (*constitutional rights*). But not all *constitutional rights* it's identical with *human rights* because there are also constitutional rights of citizens (*the citizen's constitutional rights*) that does not include *human rights*, e.g. the right of every citizen to hold a position in government that is a *the citizen's constitutional rights* but does not apply to all persons who are not citizens but it cannot be said that all *the human rights* Is *The citizen's right*. Look in, Jimly Assidique, *The Principles of Indonesian Constitutional Law After The Reformation*, (Jakarta: BIP, 2008), p. 100. 161.

human rights values that are recognized and strictly regulated in the 1945 Constitution.

Since the second amendment of the Indonesian Constitution of 1945 has formulated human rights widely, namely in chapter XA consisting of 10 (ten) articles ranging from Article 28A to Article 28J. Juridically respect for human rights values in Indonesia is very strong. Human rights that have been constitutionally accepted as law must be spelled out and tested in other laws and regulations. Therefore, it is necessary to understand to the main parties of the legislators including the Regulation to always guarantee that the regulations that are being drafted must respect, uphold and not conflict with human rights.

When viewed from the efforts that have been made by the Government as mentioned above, then it is in all provinces, districts / cities in Indonesia have had a Regulation that performs the fulfillment and protection of human rights, but in its implementation there are still many problems. Most of the people do not know the Regulation that regulates their rights and obligations, suddenly binding them, the community judged the regulation contrary to propriety and sense of justice, did not even heed the principle and synchronization of the law both vertically and horizontally, indicated contrary to human rights instruments, given the absence of binding legal sanctions stipulated in

the regulation. In addition, local governments often use the principle for the 'public interest' in forming a Regulation which seems to be the reason for the justification for the override of human rights principles in a Regulation.

The fulfillment of guaranteed human rights in a Regulation should be limited given the rights of others who if it becomes a limitation in the enjoyment of human rights. This is based on ensuring recognition and respect for human rights as well as the basic freedoms of others, decency, public order, and interests. Restrictions on human rights in the establishment of the Regulation are carried out by referring to the material guidelines of human rights content, especially at the stage of planning, drafting, harmonizing, rounding and strengthening the conception, determination, and enactment of the Regulation. Restrictions on the fulfillment of rights must be stipulated by the rule of law with the sole purpose of ensuring recognition and respect for the rights and freedoms of others and to meet fair demands in accordance with moral considerations, religious values, security and public order in a democratic society.

Thus, the importance of human rights content material guidelines (human rights parameters) that become a reference in the framework of regulation and restriction of human

rights in legislation, especially the Regulation are as follows:

- a. The need for involvement and intervention of the government / local government in the form of regulation, including in the establishment of a Regulation that has the value of benefit and justice that is a reflection of human rights values, so that the welfare of the community can be realized;
- b. Legislation including the Regulation that was born from the process of legislation clearly has a general and binding general nature, so that the application of norms in the legislation lies in the conformity of the needs of norms and human rights as the obligation of the State / local government;
- c. Ineffectiveness of the applicable legislation process, can eliminate the application. The existence of laws and regulations including the Regulation that relies only on validity, runs as if it is not supported by the legal needs in the community, rather than to meet and guarantee human rights that occur is the birth of a repressive law that oppresses human rights, which results in being tested and canceled by the authorized institutions.

Furthermore, Toba Samosir Regency as an autonomous region has implemented all the authorities that according to the prevailing laws and regulations, including one of them in setting the Regulation. In establishing

the Regulation should pay attention to the restrictions in the formation of legislation, namely the Regulation should not be contrary to the public interest, contrary to other laws and regulations and higher legislation and should not be contrary to human rights values. These restrictions must be observed by every Local Government including the Government of Toba Samosir Regency in every making a Regulation.

The Regulation concerning Human Rights in Toba Samosir Regency can be seen in the table below:⁵

Table 1
Regulation related to human rights in Toba Samosir Regency

No	Perda	Number
1	2	3
1.	Amendment to Regulation No. 4 of 2015 concerning The Selection of Village Heads	2 Year 2017
2.	Water Quality Management and Water Pollution Control	14, 2018
3.	Protection and Fulfillment of Rights of Persons with Disabilities	10 Year 2019
4.	Elderly Welfare	11 Year 2019

⁵ Legal Department of The Local Government of Toba Samosir Regency.

Source: Legal Department of Toba Samosir Regency, 2020

Based on the descriptions and based on the above issues, further will be discussed and researched in this paper by taking the title of Application of Human Rights Parameters in the Establishment of Regional Regulations in Toba Samosir Regency.

METHOD

To obtain data to describe the Application of Human Rights Parameters in the Establishment of Regional Regulations in Toba Samosir Regency, the type of research used in this study is a method of legal research normatif by using empirical data.

Data analysis techniques used are qualitative analysis techniques, where after all the data is collected, it is carried out the processing, analysis and construction the data. After the data is processed the next step is done the interpretation of the data to draw conclusions from the reality encountered in the field.

DISCUSSION

Human Rights Parameters in the Establishment of Regulation in Indonesia

The legal system in human rights gives the State great authority in cracking down on human rights issues. Countries with dominant positions are given the responsibility to implement the provisions in international regulations on human rights. Every

right always demands an obligation and in that right, that obligation is mandated by the State. The obligation to fulfill human rights requires the State to be proactive which aims to strengthen public access to resources. This obligation is the obligation that most demands state intervention (*positive measures*) so that everyone's right to the opportunity to obtain their rights cannot be fulfilled through their own efforts.

Human rights implementation measures in the field of legislation, among others, can be done in the preparation of legislation containing human rights values that contain human rights parameters, including regional legal products. Human rights parameters are a measure of human rights values contained in the formation of legislation.

Joint Regulation of the Minister of Law and Human Rights and Minister of Home Affairs No. 20 of 2012/77 of 2012 concerning Human Rights Parameters in the Establishment of Regional Legal Products is a statutory regulation that was originally used in measuring indicators of human rights parameters in the formation of regional legal products, including in this case the Regulation. However, the joint regulation has been cancelled by the Minister of Home Affairs of the Republic of Indonesia. In response, the Minister of Law and Human Rights of the Republic of Indonesia gave birth to Regulation of the Minister of Law and

Human Rights No. 24 of 2017 concerning Guidelines for Human Rights Content Materials in the Establishment of Legislation.

However, compared between the Human Rights Parameters contained in the Joint Regulation of the Minister of Law and Human Rights and the Minister of Home Affairs No. 20 of 2012/77 of 2012 concerning Human Rights Parameters in the Establishment of Regional Legal Products with Human Rights Parameter contained in Regulation of the Minister of Law and Human Rights No. 24 of 2017 concerning Guidelines for Human Rights Content Material in the Establishment of this Legislation, it will be clear that the Human Rights Parameters contained in the Joint Regulation of the Minister of Law and Human Rights and the Minister of Home Affairs No. 20 of 2012 / No. 77 of 2012 concerning Human Rights Parameters in the Establishment of Regional Legal Products, more precisely with the situation and conditions in the region. Human rights parameters contained in the Joint Regulation of the Minister of Law and Human Rights and the Minister of Home Affairs No. 20 of 2012/77 of 2012 concerning Human Rights Parameters in the Establishment of Regional Legal Products are formed based on the division of government affairs between the Central Government, Provincial Government and District / City Government,

making it easier for the region to implement it in the establishment of a Regulation that becomes its authority.

Based on this, it is necessary to establish a regulation in the form of Presidential Regulation on Human Rights Parameters in the Establishment of Regional Regulations based on the division of government affairs between the Provincial Government and the Regency / City Government which will be a guide for the Provincial / Regency / City Government in the establishment of the Regulation so that the existing Regulations will be more measured and human rights perspectives.

Application of Human Rights Parameters in the Establishment of Regulation in Toba Samosir Regency

Regulation of the Minister of Law and Human Rights No. 24 of 2017 concerning Guidelines for Human Rights Content Materials in the Establishment of Legislation makes indicators of human rights parameters in the formation of legislation, including in this case the Regulation. The indicators of human rights parameters used in analyzing the Regulation in Toba Samosir Regency are as follows:

Table 2
Human Rights Content Materials in the Establishment of Local Regulations

HUMAN RIGHTS				ons
Right to participation in government	a.	Article 28 D (3), Article 22 E, Article 18 (3) and (4) of the NRI Constitution of 1945	All citizens regardless of race, ethnicity, and religion are equal before the law and they have the same political opportunity	It does not provide exceptions, regardless of the position in government.
	b.	Articles 43 and 44 of Law No. 39 / 1999 on Human Rights		
	c.	Article 25 International Covenant on the Rights of Civil		
	d.	General Comment No 25 Article 25 International Covenant on civil rights		
People with disabilities	a.	Article 20 (1) of the NRI Constitution of 1945	a. Raising awareness in the community of people's rights, their needs, their potential and all their contributions	Policies for people with disabilities must guarantee access for people with disabilities to every community/public service
	b.	Article 41 (2) of Law No. 39 / 1999 on Human Rights	b. Raising awareness in the community of people's rights, their needs, their potential and all their contributions	
	c.	General Comment No. 5 International Covenant on EKOSOB Rights	c. Take positive action to reduce structural losses and provide better treatment for people with disabilities in order to achieve the goal of full participation and equality of standing in society for every person with disabilities	
Elderly	a.	Article 5 (3) of Law No. 39 / 1999 on Human Rights	Ensuring independence, participation, care, fulfillment of desire, and dignity for the elderly.	Determined by applicable laws and regulations
	b.	General comment No 6 International Covenant on EKOSOB Rights	1. Independence Includes access to food, water, shelter, clothing and health care for occupations in the form of and access to	

SUBSTANCE OF	Reference	Settings	Restricti
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			<p>Education and training</p> <p>2. Participation Actively participate in policy formulations that affect their fate</p> <p>3. Care The elderly should get family care, health care and be able to enjoy and have fundamental freedoms when settling in a shelter or care facility.</p> <p>4. Fulfillment of the desire for the full development of elderly potential through access to Educational, cultural, spiritual and recreational services in the community</p> <p>5. Dignity Must be able to live a dignified and guaranteed life and be free from exploitation and physical or mental abuse, should be treated fairly regardless of age, gender, ethnic background, disability, finances or other status and their contributions should be independently appreciated</p>	<p>discrimination and accessibility of information</p> <p>c. The quality and quantity of water available to each person must be adjusted to WHO guidelines</p> <p>d. Preventing third parties from interfering with all means of water ha katas fulfillment</p> <p>e. Provide adequate water ha katas, safe, acceptable, physically accessible and easily obtained for personal and domestic use</p> <p>f. Pay special attention to individual tau groups that traditionally face difficulties in enjoying this right, including women, children, minority groups, and indigenous peoples.</p> <p>g. Ensuring that water becomes affordable for everyone; and facilitate good access</p>
Water	a.	Article 33 (3) of the 1945 NRI Constitution	a. Must be enforced as a social and cultural item, not only as an economic item and its fulfillment must be sustainable, and continue to be fulfilled	
	b.	Article 9 (3) of Law No. 39 / 1999 on Human Rights		
	c.	General Comment No. 15 International Covenant on Ha EKOSOB	b. Waterworthiness is met when the water supply is viable, quality, and accessible, both economic access, non-	

Source: Attachment to Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 24 of 2017 concerning Guidelines for Human Rights Content Material in the Establishment of Legislation.

That's all the crucials aspect of human rights that must to contain in local regulations, such as Right to

participation in government, Elderly, Water and People with disabilities. Human Rights Content Material In the Establishment of the Regulation above then became a guide in analyzing the perspective of human rights in the establishment of the Regulation in Toba Samosir Regency. The analysis was conducted on 4(four) Perda in Toba Samosir Regency. After being analyzed, it can be described as a human rights perspective in the Establishment of Regional Regulations in Toba Samosir Regency are as follows:

Table 3
Fulfillment of Human Rights
Parameter Indicators
In Several Districts in Toba Samosir
Regency In 2017-2019

No.	Perda	Indicators Human rights parameters	Fulfilled	Not Fulfilled
1.	Toba Samosir District Regulation No. 2 of 2017 concerning Amendments to Local Regulation No. 4 of 2015 concerning Selection of Village Heads	Right of participation in government: All citizens regardless of race, ethnicity, and religion are equal before the law and they have the same political opportunity.	✓	
2.	Toba Samosir District Regulation Number 14 of 2018 concerning Water	Must be enforced as a social and cultural item, not only as an economic item and its fulfillment must	✓	

Quality Management and Water Pollution Control	be sustainable, and continue to be fulfilled	
	Waterworthiness is met when the water supply is viable, quality, and accessible, both economic access, non-discrimination and accessibility of information	✓
	The quality and quantity of water available to each person must be adjusted to WHO guidelines	✓
	Preventing third parties from interfering with any means of fulfilling water rights	✓
	Provide adequate, safe, acceptable, physically accessible and accessible water rights for personal and domestic use	✓
	Pay special attention to individuals and groups that have traditionally faced difficulties in enjoying this right, including women, children, minority groups, and indigenous peoples.	✓
	Ensuring that water becomes affordable for everyone; and facilitate good access	✓
3. Toba Samosir District Regulation Number 10 year 2019 on Protection and Fulfillment	Raising awareness in the community of people's rights, their needs, their potential and all their contributions	✓
	Take positive	✓

	of Rights of Persons with Disabilities	action to reduce structural losses and provide better treatment for people with disabilities in order to achieve the goal of full participation and equality of standing in society for every person with disabilities	
4.	Toba Samosir District Regulation Number 11 Year 2019 on Elderly Welfare	<p>Ensuring Self-Reliance: Includes access to food, water, shelter, clothing and health care for occupations in the form of and access to Education and training for the Elderly</p> <hr/> <p>Guarantee Participation: Actively participate in policy formulations that affect their fate</p> <hr/> <p>Ensuring Care: The elderly should get family care, health care and be able to enjoy and have fundamental freedoms when settling in a shelter or care facility.</p> <hr/> <p>Ensuring the fulfillment of the desire for full development of elderly potential through access to Educational, cultural, spiritual and recreational services in the community</p> <hr/> <p>Ensuring Dignity: Must be able to live a dignified and guaranteed life and be free from exploitation and physical or mental abuse,</p>	<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>

should be treated fairly regardless of age, gender, ethnic background, disability, finances or other status and their contributions should be independently appreciated

Source : Results of Analysis Results based on Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 24 of 2017 concerning Guidelines for Human Rights Content Materials in the Establishment of Legislation and Some Regional Regulations in Toba Samosir Regency.

Based on the results of the analysis of 4 (four) Perda in Toba Samosir Regency as stated above, there are 2 (two) Indicators of Human Rights Parameters that have not been met in the Toba Samosir District Regulation No. 14 of 2018 on Water Quality Management and Water Pollution Control, namely:

1. There are no arrangements regarding the quality and quantity of water available in accordance with *world health organization* (WHO) guidelines;
2. There is no arrangement regarding giving special attention to individuals and groups, including women, children, minority groups, and indigenous peoples who have

traditionally faced difficulties in enjoying water rights.

When compared with other districts / cities, namely Probolinggo City Regulation No. 4 of 2010 on Water Quality Management, it will be seen that the content material of this Regional Regulation also does not have 2 (two) indicators of human rights parameters as occurred in the Toba Samosir District Regulation No. 14 of 2018 on Water Quality Management and Water Pollution Control. People do not understand the quality and quantity of water available in accordance with world health organization (WHO) guidelines or not and the concentration of the community is not on paying special attention to individuals and groups, including women, children, minority groups, and indigenous peoples who traditionally face difficulties in enjoying the water right. But the concentration of the community is more to the provision of healthy, clean and productive water, and affordable

Based on the above, it can be concluded that 2 (two) indicators of human rights parameters related to the quality and quantity of water available in accordance with the World Health Organization (WHO) Guidelines and special attention to individuals and groups, including women, children, minority groups, and indigenous peoples who traditionally face difficulties in enjoying the water right is not or inappropriately applied to be

an indicator of human rights parameters in the fulfillment of the water right quality in the district / city.

Efforts That Need to Be Made To Support Implementative Human Rights Parameters In the Establishment of Local Government In Toba Samosir Regency

Supervision of the Perda became one of the important elements in the supervision of government administration. Supervision of regional legal products began from the establishment until the application of such legal products in the community. The establishment of a Regulation in the context of regional autonomy should be able to pay attention to the needs and interests of the region. By paying attention to the needs and interests of the region, it opens the possibility of irregularities to the authority given for reasons of regional needs and interests. Therefore, supervision is needed to ensure that there are no irregularities in the authority given.

In Law No. 23 of 2014 on Local Government, the pattern of supervision carried out remains within the scope of the implementation of local government, including: (1) supervision over the implementation of government affairs in the region to the affairs of the village government; (2) supervision of the process of establishment and material content of the Regulation. This provision is strengthened by government regulation

No. 12 of 2017 concerning The Development and Supervision of Local Government Implementation. Supervision is a process of activities aimed at ensuring that local government runs efficiently and effectively in accordance with the plans and provisions of legislation. Development and supervision of the local government implemented by the central government as an integral part of governance system.

Surveillance mechanism in the form of preventive supervision through the evaluation process and repressive supervision through the cancellation of the Regulation. Preventive supervision is carried out through evaluation and clarification of the evaluation results of the draft Regulation, while repressive supervision is carried out through clarification of the Regulation. Preventive supervision according to this law is only applied to the establishment of a Regulation governing APBD, local taxes, regional levies and regional spatial planning, which requires coordination with the Minister. The content material of perda APBD was consulted with the Minister of Home Affairs, Regional Tax and Levy Regulation consulted with the Minister of Finance while the Spatial Regulation was consulted with the Minister who regulates spatial planning. The parameters of supervision of the Regulation according to Law No. 23 of 2014 are parameters contrary to higher

legislation, contrary to the public interest and contrary to decency.

However, in the plenary session of the Constitutional Court through Decree No. 137/PUU-XIII/2015 stated Article 251 of Law No. 23 of 2014 on Local Government related to the authority to cancel district/city regulations can no longer be canceled by the Minister of Home Affairs or governor. The Constitutional Court in its ruling states that the phrase "district/municipal regulations and" in the provisions of Article 251 paragraphs (2) and (4), the phrase "district/municipal regulations and/or" in Article 251 paragraph (3), and the phrase "district/municipal government organizers cannot accept the decision to cancel district/city regulations and" Law No. 23 of 2014 on Local Government is contrary to the 1945 NRI Constitution and has no binding legal force. Furthermore, completing Decision No. 137/PUU-XIII/2015, the Constitutional Court through Decree No. 56/PUU-XIV/2016 states that the central government no longer has the authority to cancel provincial regulations.⁶

After The Decree No. 137/PUU-XIII/2015 and No. 56/PUU-

⁶ Eka NAM Sihombing, *Perkembangan Kewenangan Pembatalan Perda dan Peraturan Kepala Daerah Kajian Putusan Mahkamah Konstitusi Nomor 137/PUU-XIII/2015 dan Nomor 56/PUU-XIV/2016*. Jurnal Yudisial, Vol.10 No. 2 (2017).

XIV/2016, neither the Minister of Home Affairs nor the governor is authorized to cancel provincial and district/municipal regulations. So to file its annulment must go through a judicial review process in the Supreme Court. The higher level government can still be given the authority to supervise regulations (including local regulations and regional head regulations) born in the region through strengthening executive preview or testing of a legal norm before it is legally binding in general by involving vertical agencies whose duties and functions are related to legislation (in this case the Ministry of Law and Human Rights). This is in line with the spirit of Article 24A of the 1945 NRI Constitution which in no way gives delegates the authority to test local regulations or regional head regulations to executive institutions.

Regulation of the Minister of Home Affairs No. 120 of 2018 concerning Amendments to Regulation of the Minister of Home Affairs No. 80 of 2015 concerning the Establishment of Regional Legal Products states that the Government facilitates the construction in writing of regional legal products in the form of regulations on material content and drafting techniques before it is determined. Facilitation is done in stages. The facilitation of the Provincial Regulation is carried out by the Minister through the Director General of Regional Autonomy, while

the facilitation of district/municipal regulation is carried out by the Governor.

Against the 4 (four) Regulations that have been analyzed as stated above, it has been facilitated by the Governor before the Regulation is determined (still in the form of a Draft Regulation). These laws are in accordance with higher laws and regulations, are not contrary to the public interest and are not contrary to decency. This is in line with the results of the analysis of human rights parameters, 4 (four) Regulation above almost all have accommodated human rights parameters based on the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 24 of 2017 on Guidelines for Human Rights Content Materials in the Formation of Legislation, although there are still 2 indicators of human rights parameters that have not been met in the Toba Samosir District Regulation No. 14 of 2018 on Water Quality Management and Water Pollution Control.

In the process of monitoring phase 4 (four) of this Regulation also community involvement is in the position of central role. Community involvement at this stage can be seen how the community adheres to the material of the Perda because it feels it is in accordance with the aspirations and until now there has been no objection to the Regulation by the community. It can be said that the

Regulation is in accordance with the aspirations of the community and in line with the results of the analysis of human rights parameters against the 4 (four) regulation above almost all have accommodated human rights parameters based on the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 24 of 2017 concerning Guidelines for Human Rights Content Materials in the Formation of Legislation. Even against the Toba Samosir District Regulation No. 14 of 2018 on Water Quality Management and Water Pollution Control, there were no objections from the community even though there are still 2 human rights indicators that have not been met.

The application of human rights parameters in the establishment of regulation in Toba Samosir Regency based on the results of human rights perspective analysis of 4 (four) Perda Toba Samosir regency is known that Toba Samosir Regency has 85% met the indicators of the human rights parameters. There are 3 (three) Regional Government of Toba Samosir Regency has optimally accommodated human rights parameters in the establishment of the Regulation. The three Regional Regulations are Toba Samosir District Regulation No. 2 of 2017 concerning Amendments to Local Regulation No. 4 of 2015 concerning The Selection of Village Heads, Perda, Toba Samosir District Regulation No. 10 of 2019

concerning Protection and Fulfillment of Rights of Persons with Disabilities, and Toba Samosir District Regulation No. 11 of 2019 concerning Elderly Welfare. However, there is 1 (one) Regulation namely Toba Samosir District Regulation No. 14 of 2018 concerning Water Quality Management and Water Pollution Control, of which there are 2 indicators of human rights parameters that have not been met.

Regional Government of Toba Samosir Regency to pay more attention to the indicators of human rights parameters contained in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 24 of 2017 concerning Guidelines for Human Rights Content Materials in the Establishment of Legislation in order to produce a regulation that is human rights-related.

Regional Government of Toba Samosir Regency in accommodating implementation of human rights parameters in the Establishment of its Regulation involving the Regional Office of the Ministry of Law and Human Rights in the prohibition, rounding and strengthening of the conception of the Draft Regulation as the mandate of Article 58 paragraph (2) of Law No. 15 of 2019 concerning Amendments to Law No. 12 of 2011 concerning the Establishment of Legislation, which reads as follows: "The harmonizing, rounding, and

strengthening of the conception of the Draft Provincial Regulation derived from the Governor is carried out by the ministry or institution that organizes government affairs in the field of The Establishment of Legislation".

CONCLUSION

The regulation of human rights parameters in the establishment of regulation in Indonesia is: Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 24 of 2017 concerning Guidelines for Human Rights Content Material in the Establishment of Legislation. However, when compared between the Human Rights Parameters contained in the Joint Regulation of the Minister of Law and Human Rights and the Minister of Home Affairs No. 20 of 2012/77 of 2012 concerning Human Rights Parameters in the Establishment of Regional Legal Products with Human Rights Parameter contained in Regulation of the Minister of Law and Human Rights No. 24 of 2017 concerning Guidelines for Human Rights Content Material in the Formation of this Legislation, it will be clear that the Human Rights Parameters contained in the Joint Regulation of the Minister of Law and Human Rights and the Minister of Home Affairs No. 20 of 2012 / No. 77 of 2012 concerning Human Rights Parameters in the Establishment of Regional Legal Products, more precisely with the situation and

conditions in the region, because the human rights parameters contained in the Joint Regulation of the Minister of Law and Human Rights and the Minister of Home Affairs No. 20 of 2012/77 of 2012 concerning Human Rights Parameters in the Establishment of Regional Legal Products were formed based on the division of government affairs between the Central Government , Provincial Government and Regency / City Government, making it easier for the region to implement it in the establishment of a Regulation that becomes its authority.

Efforts that need to be made to support implementation of human rights parameters in the Establishment of Regulation in Toba Samosir Regency is to consistently refer to the legislation on human rights parameters and not to close themselves to the efforts of the Government and the public to supervise the Regulation in Toba Samosir Regency. It is recommended to the Government to make a regulation in the form of a Presidential Regulation on Human Rights Parameters in the Establishment of Regional Regulations based on the division of government affairs between the Provincial Government and the Regency / City Government which will be a guide for the Provincial / Regency / City Government in the establishment of the Regulation so that the existing Regulations will be more measured in terms of human rights.

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