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PURPOSE LEGISLATION STATUS (*PSEUDOWETGEVING*) AGAINST LEGAL REGULATIONS (ACCORDING TO LAW NUMBER 12 OF 2011 JO. LAW NUMBER 15 OF 2019 REGARDING THE ESTABLISHMENT OF LEGISLATION REGULATIONS)

Grace Sharon¹, Bintang Aulia Hutama², Levina Yustitiani³, Anang Dony Irawan^{4*}

¹ Universitas Krisnadwipayana, DKI Jakarta, Indonesia

Jl. Unkris No.23, RT.009/RW.005, Jaticempaka, Kec. Pd. Gede, Kota Bks, Jawa Barat 17411

² Universitas 50 Angga, Jawa Timur, Indonesia

Jl. Dharmawangsa Dalam Selatan, Airlangga, Kec. Gubeng, Surabaya, Jawa Timur 60286

^{3,4} Universitas Muhammadiyah Surabaya, Jawa Timur, Indonesia

*Correspondence email: anangdonyirawan@um-surabaya.ac.id

Abstract

Pseudo-legislation (*pseudowetgeving*) in the Dutch Legal Dictionary is defined as "regelstelling door een bettokken bestuursorgaan zonder dat dit op grond van een uitdrukkelijke wettelijke bepaling die bevoegdheid bezit". Which can be understood as a regulation made by the competent Administrative Body but the policy does not have the power based on explicit statutory provisions. In writing this article, there are three main ideas related to the background of the problems raised, namely the use of the legal system by the Indonesian state which is more inclined to the common law system or civil law system, the ordering of laws and regulations in Indonesia, and the position of pseudo legislation (*pseudowetgeving*) or policy regulations (*beleidsregels*) against existing laws and regulations in Indonesia. To provide comprehensive results, in writing article⁹ used research methods that are normative juridical. The conclusions obtained in this study are that Indonesia is a state of law with a civil law system character that makes so many legal products issued by the executive body, including pseudo legislation. However, this is not explicitly regulated in Law Number 12 of 2011 Jo. Law Number 15 of 2019 concerning the Establishment of Legislation, but it is implied in the regulation of the National Archives of the Republic of Indonesia Number 5 of 2021 concerning General Guidelines for the Administration of Service Manuscripts, specifically in the section "regulation¹³ official documents and determination official documents". The conclusions obtained in this study are that Indonesia is a state of law with a civil law system character that makes so many legal products issued by the executive body, including pseudo legislation. However, this is not explicitly regulated in Law No. 12 of 2011 Jo. Law Number 15 of 2019 concerning the Establishment of Legislation, but it is implied in the regulation of the National Archives of the Republic of Indonesia Number 5 of 2021 concerning General Guidelines for the Administration of Service Manuscripts, specifically in the section "regulation¹³ official documents and determination official documents". The conclusions obtained in this study are that Indonesia is a state of law with a civil law system character that makes so many legal products issued by the executive

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body, including pseudo legislation. However, this is not explicitly regulated in Law Number 12 of 2011
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regulation of the National Archives of the Republic of Indonesia Number 5 of 2021 concerning General

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Guidelines for the Administration of Service Manuscripts, specifically in the section "regulation official documents and determination official documents".

Keywords: *Pseudo-Legislation (Pseudowetgeving); Hierarchy of Laws And Regulations; Civil Law System.*

INTRODUCTION

In administering the government, pseudo-legislation (*pseudowetgeving*) or policy regulations (*beleidsregels*) are widely used by various state institutions, where in the implementation and application of these policies, it is not uncommon to raise problems regarding the position, binding power, as well as the right to material and formal review of these policy regulations (Suaib et al., 2022). Of course, the author hopes that this article can be used as a reference in the literature to equate understanding of the meaning of pseudo-legislation (*pseudowetgeving*) or policy regulations (*beleidsregels*).

It is important to understand that pseudo-legislation (*pseudowetgeving*) in the Dutch Legal Dictionary means "regelstelling door een betrokken bestuursorgaan zonder dat dit op grond van een uitdrukkelijke wettelijke bepaling die bevoegdheid bezit" (Fockema, 1985). A free translation of the meaning of pseudo-legislation is a regulation made by an authorized Administrative Body but the policy has no power based on the provisions of the Act explicitly (Solvak, 2013).

So that the writing of this scientific article is the result of literature research which aims to be able to explain and describe the position of pseudo-legislation (*pseudowetgeving*) or often also known as policy regulations (*beleidsregels*) in Indonesia, as a "regulation" other than statutory regulations (Zafrullah Salim, 2011) as stipulated principally in the Law of the Republic of Indonesia Number 12 of 2011 concerning Formation of Legislation which has been amended by Law of the Republic of Indonesia Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning Formation of Legislation .

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Based on what was explained in the introductory section, in writing this article there are three main ideas that will be discussed, the first is the notion of the rule of law where in this article specifically discusses Indonesia as a rule of law which has characteristics close to the form of a Continental European legal system, the two positions of statutory regulations according to the doctrine or opinion of experts as well as the normative stipulated in the Law of the Republic of Indonesia Number 12 of 2011 concerning the Establishment Laws that have been amended by Law of the Republic of Indonesia Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning Formation of Legislation, thirdly the emergence of pseudo-legislation (pseudowetgeving) or policy regulations (beleidsregels) and their position on The existing laws and regulations in Indonesia.

RESEARCH METHOD

The research method used in writing this article is normative juridical research, namely research that is focused on analyzing the application of norms or principles in positive law or applicable laws and regulations. One method that the author uses is to examine various formal legal rules related to pseudo-legislation (pseudowetgeving) or policy regulations (beleidsregels) against the Law of the Republic of Indonesia Number 12 of 2011 concerning the Formation of Legislation which has been amended by the Law of the Republic of Indonesia Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning Formation of Legislation (hereinafter referred to as UU P3) ((Marzuki, 2014).

RESULTS, DISCUSSION AND ANALYSIS

Indonesia as a State of Law

To find out the emergence of pseudo-legislation (pseudowetgeving) or policy regulations (beleidsregels) cannot be separated from the existence of the rule of law

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itself. Where the notion of a rule of law is a state based on law, a state based on regulations, with the main goal of eliminating arbitrary actions from the state or government that has authority (Marbun, 1997). In its development, the rule of law is closely related to the concept of division and separation of powers (Asshiddiqie, 2011).

The beginning of the idea of a rule of law was put forward by Plato, when he wrote *Nomoi*, as the third written work made in his old age, while in the first two writings, *Politeia* and *Politicos*, the term rule of law had not yet appeared. In *Nomoi*, Plato argues that good state administration is based on good (law) arrangements (Azahary, 1992). Plato's idea of a rule of law became even firmer when it was supported by his student, Aristotle, who wrote it in the book *Politica*. According to Aristotle, a good state is a state that is governed by a constitution and has legal sovereignty. According to him, there are three elements of constitutional government, namely:

- 1) Government is carried out in the public interest;
- 2) Government is carried out according to law based on general provisions, not arbitrary laws that set aside conventions and the constitution;
- 3) Constitutional government means government that is carried out at the will of the people, not in the form of coercion or pressure carried out by a despotic government.

Aristotle also said the constitution is:

"The arrangement of positions in a country and determining what is meant by governing bodies and what is the end of each society, the constitution is the rules and the ruler must govern the country according to these rules." (Azahary, 1995).

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In the 19th century the idea of a rule of law (rechstaat) appeared more explicitly with the idea of rechstaat from FJ Stahl, which was inspired by Immanuel Kant. According to Stahl, the elements of a rule of law (rechtstaat) are as follows:

- a. Protection of Human rights;
- b. Separation or division of powers to guarantee those rights;
- c. Government based on laws and regulations; And
- d. Administrative justice in disputes (Hadjon, 1987).

Whereas in the Anglosaxon region, the concept of a rule of law is also known as proposed by AV Dicey, with the following elements:

- a. Supremacy of legal rules (Supremacy of law); no arbitrary power (absence of arbitrary power) in the sense that a person may only be punished if he violates the law;
- b. Equal standing before the law (equality before the law). This postulate applies both to ordinary people and to officials; And
- c. The guarantee of human rights by law (in other countries by the constitution) and court decisions (Budiardjo, 1982).

Regarding the relationship and differences that exist between the concept of rechtstaat and the concept of rule of law, Philip M. Hadjon stated:

"The concept of rechtstaat is based on a continental legal system called "civil law" or "Modern Roman Law", while the rule of law concept is based on a system called "common law". The characteristics of civil law are administrative while the characteristics of common law are judicial (The Robbins Collection, 2010). Such differences in characteristics are due to background rather than royal power. In Roman times, the prominent power of the King was to make

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regulations through decrees. That power is then delegated to administrative officers who make written directions for judges on how to decide a dispute. So big is the role of administration,

In connection with the existence of an element of equality before the law in the rule of law which applies equally to officials and citizens, the State Administrative Law as a law that specifically regulates the relationship between the government and citizens is considered foreign to British society. In this context AV Dicey said, "In England we know nothing of administrative law, and we wish to know nothing" (HR, 2011).

It can be understood that both the rule of law state in the Continental system and the Anglo-Saxon system are inseparable from the philosophy and socio-political background, especially the influence of the philosophy of individualism, which is based on individual freedom and is limited only by the free will of other parties, including freedom from arbitrariness. ruler. And because of that, the element of limiting state power to protect individual rights occupies a central position as the adage put forward by Lord Acton: "Power tends to corrupt, but absolute power corrupt absolutely" (Humans who have power tend to abuse that power, but unlimited (absolute) power will surely be misused (HR, 2011). Miriam Budiardjo calls it constitutional democracy which has the characteristic that a democratic government is a government whose powers are limited and it is not justified to act arbitrarily against its citizens. Restrictions on government power are listed in the constitution, so they are often called "constitutional government" (Budiardjo, 1982). HWR Wade stated that in a constitutional state, everything must be done according to law (everything must be done according to law). The rule of law determines that the government must be subject to the law, not that the law must be subject to the government (Wade, 1971). Restrictions on government power are listed in the constitution, so they are often called "constitutional government" (Budiardjo, 1982). HWR Wade stated that in a

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Based on the provisions of Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, "Indonesia is a legal state" which adheres to decentralization in administering government, as stated in Article 18 paragraph (1) of the 1945 Constitution "The Unitary State of the Republic of Indonesia is divided into regions provinces and provincial areas are divided into districts and cities, each province, district and city has a local government, which is regulated by law. So that it is clear that Indonesia is a state of law (Hamzani, 2014), every administration of Indonesian government affairs must be based on applicable law (wetmatigeheid van bestuur) (Ridlwan, 2012).

And Indonesia as a country that adheres to decentralization means that government affairs consist of central government affairs and regional government affairs, where both the central government and regional governments are given autonomy, namely freedom and independence to regulate and manage their own household affairs.

With reference to the formulation of state objectives listed in the fourth paragraph of the Preamble to the 1945 Constitution, which is written as follows:

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“.....to form an Indonesian state government that protects the entire Indonesian nation and all of Indonesia's bloodshed and to promote public welfare, educate the nation's life, and participate in carrying out world order based on freedom, eternal peace, and social justice....”

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It can be seen that the State of Indonesia is a legal state (*rechtstaat*) which has duties and responsibilities to advance public welfare, educate the nation's life, and realize social justice for all Indonesian people. Where the duties and responsibilities are one of the characteristics of the concept of a welfare state, namely the government has an obligation to strive for general welfare or *bestuurszorg*.

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According to F. Utrecht, the existence of this *bestuurszorg* is a sign indicating the existence of a "welfare state". If the obligation to promote public welfare is a feature of the concept of a welfare state, Indonesia is classified as a welfare state, because the government's duties are not solely in the field of government, but must also carry out social welfare in order to achieve state goals, which are carried out through national development (Basah, 1985). As stated in Article 33 and Article 34 Chapter XIV of the 1945 Constitution, there is an obligation for the state and the Indonesian government to regulate and manage the economy, branches of production, and natural resources in order to realize what is called "social welfare", and care for the poor. and abandoned children,

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With the duty of the state in carrying out public welfare, it is necessary to have legal instruments or the formation of regulations in the Indonesian state, because the state intervenes in managing people's welfare in the legal, social, economic, political, cultural, environmental and defense and security fields that implemented (Elviandri et al., 2019) with the formation of state regulations it is no longer possible to avoid it.

Legislation

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The formation of laws and regulations is very necessary in a country based on law. According to the science of legislation, the levels can be distinguished. The author refers to the theory put forward by Hans Kelsen, known as the stufenbau theory (level of legal norms), namely:

"Legal norms are tiered and layered in a ²¹ hierarchical arrangement, where a lower norm applies, originates and is based on an even higher norm, and so on until it reaches a norm that cannot be traced further and hypothetical and fictitious, namely Basic Norms (Grundnorm) (Kelsen, 1945)."

The Basic Norms which are the highest norms in the system of norms are no longer formed by a higher norm, but the Basic Norms are determined in advance by the community as Basic Norms which are a hanger for the norms that are below them so that a Basic Norm is said to be predetermined (Soeprapto, 2007).

In his development of Hans Kelsen's level theory of legal norms developed by his student named Hans Nawiasky in his book entitled *Allgemeine Rechtslehre*, he argued that according to Hans Kelsen's theory a legal norm from any country is always layered and tiered, where the norms under applicable, based on, and sourced from higher norms, higher norms apply, based on, and sourced from even higher norms, up to a norm called Basic Norms. But Hans Nawiasky also argues that in addition to the norms being layered and tiered, the legal norms of a country are also grouped (Soeprapto, 2007).

Hans Nawiasky classifies legal norms in a country into four major groups consisting of:

Group I : Staatsfundamentalnorm (State Fundamental Norms)

Group II : Staatsgrundgesetz (Basic Rules/State Principles)

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Group III : Formell Gesetz ('formal' Act)

Group IV : Verordnung & Autonome Satzung (Implementing rules and rules autonomous).

Explanation :

❖ *Staatsfundamentalnorm*

The fundamental norms of the state which are the highest norms in a country are norms that are ²⁴ not formed by a higher norm, but are pre-supposed or determined in advance by the people in a country and are a norm on which the legal norms below depend. . It is said that this highest norm is not formed by even higher norms because if the highest norm is formed by even higher norms, it is not the highest norm (Soeprapto, 2007).

According to Hans Nawiasky, the contents of the Staatsfundamentalnorm are norms which are the basis for forming a constitution or basic law of a country (Staatsverfassung), including the norms for changing them. The legal essence of a staatsfundamentalnorm is a requirement for the validity of a Constitution or Basic Law. It existed before the existence of a constitution or constitution. The constitution according to Carl Schmitt is a joint decision or consensus about the nature and form of a political unit, which is agreed upon by a nation (A Hamid S. Attamimi,, 1990: 359).

❖ *Staatsgrundgesetz*

The Basic Rules of the State or the Basic Rules of the State (staatsgrundgesetz) are a group of legal norms under the Fundamental norms of the State. The norms of the Basic/Principal State Rules are general rules that are still outline in nature so that they are still a single norm and have not been accompanied by secondary norms.

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In each of the Basic State Rules, matters regarding the distribution of state power at the top of the government usually regulate. And apart from that, relations between high state institutions are also regulated, as well as regulated relations between the state and its citizens (Young, 2007). In Indonesia, the Basic Rules/State Principles are contained in the Body of the 1945 Constitution and MPR Decrees, as well as in an unwritten legal basis which is often called a constitutional convention. The Basic Rules/State Principles are the basis for the formation of lower laws and regulations. In the General Explanation of number IV of the 1945 Constitution:

"Then it is enough if the Constitution contains only basic rules, only contains outlines as instructions, to the central government and other state administrators to carry out state life and social welfare. Especially for new countries and young countries, it is better that the written basic law only contains the main rules, while the rules that carry out the main rules are left to the Law which is easier to make, amend and repeal (the Basic Law). 1945."

❖ *Formell Gesetz*

The group of legal norms under the Basic Rules/State Principles (staatsgrunesetz) is Formell Gesetz or translated as "Law". In contrast to the groups of norms above, namely the Basic State Norms and Basic Rules/State Principles, the norms in a law are already more concrete and detailed legal norms and can immediately apply in society. The legal norms in a law are already more concrete and detailed legal norms and can be directly applied in society. The legal norms in this Law are not only single norms, but these legal norms can already be attached by secondary norms in addition to the primary norms, so that an Law can include norms that are sanctions in nature, both criminal and coercive sanctions. Apart from that, the law is different from other regulations because a law is a legal norm that is always formed by a legislature. Meanwhile, in the technical sense of Indonesian state

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administration, "law" is also a product formed by the President in the framework of administering state government, which is carried out with the approval of the House of Representatives.

❖ *Verordnung & Autonome Satzung*

These implementing regulations and autonomous regulations are regulations that are located ²⁹ under the law which function to implement the provisions in the law, where the implementing regulations come from the authority of the delegation, while the autonomous regulations originate from the attribution authority (Soeprapto, 2007).

The attribution of authority in forming statutory regulations is the granting of authority to form statutory regulations granted by Grondwet (basic law) or wet (law). ²⁷ To a state/government institution. This authority is inherent continuously and can be exercised on its own initiative whenever necessary, in accordance with the limits given.

Delegation of authority in forming statutory regulations ¹⁰ is the delegation of authority to form statutory regulations carried out by higher statutory regulations to lower statutory regulations, whether the delegation is expressly stated or not. In contrast to attribution, the delegation of authority is not given, but is represented, and besides that this authority is temporary in the sense that this authority can be carried out as long as the delegation still exists.

Against the theory of Hans Kelsen or Hans Nawiasky, Maria Farida Indrati describes it as follows (Soeprapto, 2007):

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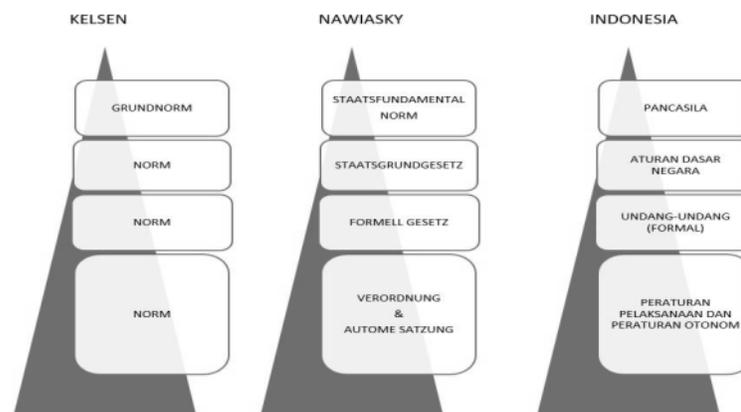
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Legislation in Indonesia

Article 1 paragraph 2 of Law Number 12 of 2011 as amended by Law Number 15 of 2019 concerning Formation of Legislation:

"Legal Regulations are written regulations that contain binding legal norms in general and are formed or stipulated by state institutions or authorized officials through procedures stipulated in Legislation. "

Furthermore, in Article 7 paragraph 1 of Law Number 12 of 2011 as amended by Law Number 15 of 2019, the types and hierarchies of Legislative Regulations are stated, which consist of:

- a. The 1945 Constitution of the Republic of Indonesia;

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- 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. District/City Regional Regulations.

And in Article 8 of Law Number 12 of 2011 as amended by Law Number 15 of 2019 it also regulates statutory regulations other than those specified by Article 7 paragraph 1 of Law Number 12 of 2011, namely:

- (1) Regulations stipulated by the People's Consultative Assembly, the People's Representative Council, the Regional Representatives Council, the Supreme Court, the Constitutional Court, the Audit Board, the Judicial Commission, Bank Indonesia, Ministers, bodies, agencies or commissions of the same level established by law or the government by order of the Law, Provincial Regional People's Legislative Council, Governor, Regency/City Regional People's Legislative Council, Regent/Mayor, Village Head or equivalent.
- (2) Legislation as referred to in paragraph (1) is acknowledged to exist and has binding legal force as long as it is ordered by a higher Legislative Regulation or is formed based on authority.

Looking at the teachings of trias politica put forward by Montesquieu in his book entitled "L'Esprit des Lois", that power in a country must be separated (separation of power) into 3 (three) powers, namely: legislative (law maker), executive (which implements the law), and judiciary (the power to judge) (Asshiddiqie, 2014). Based on Montesquieu's view, it can be seen that the authority to make laws and regulations only belongs to the legislature. However, in constitutional practice Oppenheim's opinion is also known which explains the existence of the state can be divided into two, namely

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the state in a state of rest (staat in rust) and a state in motion (staat in beweging) (HR, 2011). Where a legal state in a state of movement (staats in beweging) requires legal instruments (statutory regulations) as the basis for all state actions (in this case a state organ called the government), and often in government affairs the formation of regulations at the level of laws cannot keep up with the pace of growth in society.

In Indonesia this is regulated in ³⁵ Article 5 paragraph 2 of the 1945 Constitution, namely the President establishes government regulations to implement the law as it should. Thus, several regulations made by the Government (executive) are known which are ³⁷ regulated in Law Number 12 of 2011 as amended by Law Number 15 of 2019, namely:

- ¹⁸ • Government Regulation in Lieu of Law;
- Government regulations;
- Presidential decree;
- Provincial Regulation; And
- District/City Regional Regulations.

So ^{it} is real, not all laws and regulations are made by the legislature. Hamid S Attamimi stated:

¹⁰ “Only the developments that came later led to the recognition of the formation of state regulations based on a regular function and based on an executive function. While in general, regulatory authority arising from the regulatory and executive functions is always based on higher state regulations in the form of attribution or delegation authority.

Policy Regulations (policy rules)

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In daily activities, acts of state administration (State Administrative Agencies or officials) often take certain policy steps, including creating what are often called policy rules (beleidsregel, policy rules). This kind of product is inseparable from the use of Ermessen freies. In the State Administrative Law freis ermesen (discretionary power) is defined as one of the means that provides space for officials or state administrative bodies to take action without having to be fully bound by the Law (HR, 2011). Policies that are independent are determined and carried out by state administration officials in order to resolve a situation (concrete problem) which basically has no rules or has not been regulated in law (statutory regulations).

A policy rule is essentially a product of state administrative actions, but without the authority to make regulations from the state administration body or official. The policy rules referred to in fact have been part of government activities (Arifin, 2021). These policy rules are often known as pseudowetgeving or pseudo legislation. Philipus M. Hadjon further stated:

"Policy regulations are not statutory regulations. The agency that issues policy regulations in casu does not have the authority to make regulations, policy regulations are also not legally binding, but have legal relevance. Policy regulations provide opportunities for how a state administrative body exercises governmental authority. This in itself must be linked to governmental authority on the basis of discretionary use..." (Hadjon, 2005)

According to Bagir Manan, policy regulations (pseudo-legislation) have the following characteristics (Manan, 1992):

1. policy rules are not statutory regulations;
2. the principles of limitation and review of laws and regulations cannot be applied to policy rules;

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3. policy rules cannot be tested ⁶ *wetmatigheid*, because there is indeed no statutory basis for making decisions on said policy rules;
4. policy rules are made ⁶ based on *freies ermessen* and the absence of relevant administrative authority to make laws and regulations;
5. the testing of a policy rule is more left to the *doelmatigheid* so that the test stones are the general principles of proper governance;
6. in practice it is formatted ⁶ in various forms and types of rules, namely decisions, instructions, circulars, announcements, etc., and can even be found in the form of regulations.

Bagir Manan further revealed that policy rules are basically aimed at the state administration itself, so that the first to implement these provisions are state administrative bodies or officials. Even so, these provisions will indirectly affect the general public.

Talking about quasi-legislation in Indonesia is closely related to official document guidelines for government agencies which have a long way to go in their formation through written law. Using the latest written rules when this research was conducted, the authors based on the Republic of Indonesia National Archives Regulation Number 5 of 2021 concerning General Guidelines for Service Documents, in the archive regulations it is stated that Service Documents are written information as official communication tools made and/or received by authorized officials within the State Institutions and Regional Governments in the context of carrying out government and development tasks. that deep ³ Regulation of the National Archives of the Republic of Indonesia Number 5 of 2021 General Guidelines for Official Documents Arrangement is a general reference in formulating policies for Official Documents Arrangement in State Institutions and Regional Governments. So that it

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can be understood that the existence of the Republic of Indonesia National Archives Regulation Number 5 of 2021 concerning General Guidelines for Official Document Administration applies as a "Lex Generalis" to several official document regulations formed by each Government Agency.

In the Regulation³ of the National Archives of the Republic of Indonesia Number 5 of 2021 concerning General Guidelines for Official Document Administration, the types of official document consist of:

- a. Directive Service Manuscripts;
- b. Correspondence Service Manuscripts; And
- c. Special Service Documents.

In the Regulation³ of the National Archives of the Republic of Indonesia Number 5 of 2021 concerning General Guidelines for Official Document Management, it is explained that for correspondence official scripts and special official scripts, they are intended as official communication tools (the author himself believes that both correspondence official scripts and special official scripts are the governance of government affairs internally). However, what needs to be explained is the existence of a directive official document, because part of this directive official document is directly related to the notion of pseudo-legislation (pseudowetgeving) as a regulation. policies (beleidsregels).

Directive service document consisting of regulatory official documents, designation official documents, and assignment official documents. In the explanation that the types of regulatory Official Manuscripts consist of:

- a. legislation;
- b. instructions;
- c. circular letter; And

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d. standard operating procedures for government administration.

It is explained that the provisions concerning the official document for the formation of laws and regulations, and the techniques for preparing laws and regulations refer to the provisions of laws and regulations regarding the formation of laws and regulations themselves. So it can be understood that this regulatory official document is the embodiment of what is meant by pseudo-legislation (pseudowetgeving). Furthermore, regarding Instructions, it is explained that instructions are Official Documents which contain orders in the form of technical instructions/directions regarding the implementation of a policy regulated in statutory regulations, so that it can be said that instructions become an integral part of the main regulations.

But different from the meaning of a circular letter which is an official document which contains notifications about certain matters that are considered important and urgent, from this understanding it can be understood that the meaning of a circular letter is as an official document which is a notification in nature, so it is not in the form of policy regulations (beleidsregels). Hereinafter, the Official Document of Determination is known as an Official Document compiled in the form of a decree. The decision referred to is a written decision stipulated by the Agency and/or Government Officials in administering government.

Regarding decisions issued by State Administrative officials in the context of quasi-legislation including general state administrative decisions, this refers to Article 97 and Article 100 of Law Number 12 of 2011:

“The drafting techniques and/or forms regulated in this Law apply mutatis mutandis to the drafting techniques and/or forms of Presidential Decrees, Decisions of the Leaders of the People's Consultative Assembly, Decisions of the Leaders of the House of Representatives, Decisions of the Leaders of the Regional

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Representative Council, Decisions of the Chief Justice of the Supreme Court, Decisions of the Chief Justice Constitution, Decree of the Chairman of the Judicial Commission, Decree of the Head of the Audit Board, Decree of the Governor of Bank Indonesia, Decree of the Minister, Decree of the Head of Agency, Decree of the Head of Institution, or Decree of the Chair of the Commission at the same level, Decree of the Leaders of the Provincial Regional People's Representative Assembly, Governor's Decree, Decree of the Regency/Municipal Regional People's Representative Assembly Leadership, Decree of the Regent/Mayor, Decree of the Village Head or equivalent. “

“All Presidential Decrees, Ministerial Decrees, Governor Decrees, Regent/Mayor Decrees, or other official decisions as referred to in Article 97 which are regulatory in nature, which existed before this Law came into force, must be interpreted as regulations, as long as they do not conflict with the Laws Invite this.”

From what is regulated in Law Number 12 of 2011, it appears that general State Administration decisions are equated with other statutory regulations. This indicates that general State Administration decisions can also be one of the legal bases for issuing a decision or decree (in the sense of *beschikking*).

CONCLUSION

First, Indonesia as a rule of law country with the characteristics of a continental European legal system, in this case the civil law system, where the characteristics of civil law show a high intensity in administrative activities in the administration of government (this is based on a historical comparison between civil law and the common law system). This fact has consequences for the diversity of regulatory

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products issued by the executive body (including in the form of pseudo-legislation or policy regulations). Second, laws and regulations that are known theoretically or doctrinally are contained in the stufenbau theory (theory of legal norms), where norms are grouped from the highest to the lowest arrangement. Indonesia embodied this theory in Law of the Republic of Indonesia Number 12 of 2011 concerning Formation of Legislation which has been amended by Law of the Republic of Indonesia Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning Formation of Legislation. From the law, the types of regulations can be classified into 2 namely, regulations issued by the legislature and non-legislative bodies (in this case the executive body and the judiciary body). Third, pseudo-legislation or policy regulations are in essence a product of state administrative actions (regulations issued by the executive body).

In Law Number 12 of 2011 itself, it is not explicitly regulated regarding pseudo policies or the formation mechanism and the force of its application at the level of laws and regulations in Indonesia. However, the existence of a quasi-policy is implied in the Republic of Indonesia's national archives regulation Number 5 of 2021 concerning General Guidelines for Official Document Administration, specifically in the sections "regulatory official document" and "determination official document". "For the official document of determination" it is necessary to pay attention to the nature of the decree issued because the decree is a form of regulation (pseudo-legislation) when the stipulation is abstract and general in nature.

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