

Constitutional Court (MK) Interpretation Of The Element of Urgency In The Formation Of A Government Regulation instead of Law (PERPPU)

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Abstract

The number of government regulations, instead of laws (Perppu), formed by the Government due to urgent circumstances, such as the formation of the Job Creation Perppu, has now become a law. Perppu as Emergency Legislation is based on the reasons of Innerenootstand (internal emergency) in urgent circumstances in terms of substance, and urgent in terms of time. This research uses a normative legal research type, with the approach used being the statute, conceptual, and case study approaches. Based on the results of the research, the legal requirements for the birth of a Perppu are: There is a situation, namely an urgent need to resolve legal problems quickly based on the LawLaw, the required LawLaw does not yet exist so that a legal vacuum occurs, or there is a law but it is inadequate and the legal vacuum cannot be overcome by make ConstitutionConstitution in a way procedure normal Because it will take quite a long time, while these urgent situations need certainty to be resolved. However, it becomes a legal problem when the Perppu was formed but did not comply with the elements for creating a Perppu. The Constitutional Court can carry out the testing. Will, but until the moment. This rule is clear about the Court Constitution, which is entitled to interpret the Law according to a rule or Law.

I. Introduction

A state based on Law (rechtsstaat) is simply a state that places Law as the basis of state power, and the implementation of this power in all its forms is carried out under the authority of Law. Indonesia is a state based on the Law that has a concept of a state based on the Constitution, adheres to the principles of democracy, recognizes and protects the fundamental rights of the individual, and ensures justice, which is free and impartial. Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia states, "The Republic of Indonesia is a State of Law". All aspects of national and state life are based on applicable laws.

Therefore, as a country based on Law, Indonesia has rules and regulations that function as efforts and guidelines in law enforcement. The highest legal basis in Indonesia is the 1945 Constitution of the Republic of Indonesia, or hereinafter written as Constitution 1945. The 1945 Constitution is a law-based document. The basic position and

function of the 1945 Constitution are binding for the Government, state institutions, community institutions, and citizens, and they are fundamental laws containing norms that must be obeyed and implemented. In essence, the substance of the Government Regulation, instead of Law or hereinafter written with the abbreviation Perppu, should be based on Pancasila as the basic norm applicable in Indonesia, and not contradict the Constitution applicable in Indonesia, namely the 1945 Constitution of the Republic of Indonesia, 4th Amendment. The existence of Perppu can be used as a source law for Regulation Legislation, which is under the Perppu, and the Perppu should be sourced from the Regulation Legislation at a higher level.

Concerning the above, the central Government and the House of Representatives (DPR) have passed Law Number 11 of 2020 concerning Job Creation. The Law was drafted using the Omnibus Law. The ratification of this Law aims to increase investment, open up job opportunities, improve the workforce's skills, and reduce the licensing mechanism's complexity, which has been considered one of the obstacles to investment. As a country of Law, as outlined in Chapter 1, paragraph (3) of the Constitution, which was established in 1945, the Indonesian people demanded that the Government improve and implement good, high-quality government performance, while remaining grounded in a principled approach. One of the Indonesian people's struggles was to achieve a just and prosperous society. Based on Pancasila and the 1945 Constitution of the Republic of Indonesia. This aligns with the national development goals of realizing justice for all Indonesians.

The Job Creation Law is also referred to as a universal broom because it can replace norms or statutory regulations in one regulation. The Job Creation Law is still a heated discussion and discourse in various circles. However, on November 25, 2021, a decision was issued in the Formal Review case of Law Number 11 of 2020 concerning Job Creation against the 1945 Constitution of the Republic of Indonesia through Decision Number 91 / PUU-XVIII / 2020. In the decision, it was stated that the formation of Law Number 11 of 2020 concerning Job Creation is contrary to the 1945 Constitution of the Republic of Indonesia because the procedures for the formation of Law Number 11 of 2020 concerning Job Creation are not based on definite, standard and standard methods and systematics for the formation of laws, in addition, the judge in his considerations have an opinion formation Constitution Number 11 year 2020 concerning Job Creation is contrary to the principles of the formation of statutory regulations so that based on several considerations above, the panel of judges issued a decision that Law Number 11 of 2020 concerning Job Creation does not have legally binding force conditionally if no improvements are made within a period of 2 (two) years since the decision was pronounced, the legal basis for Law Number 11 of 2020 concerning Job Creation is permanently unconstitutional.

On December 30, 2022, the Government issued Government Regulation instead of Law (Perppu) Number 2 of 2022 concerning Job Creation. Due to the current urgency, which has now become Law No. 6 of 2023 concerning the Stipulation of Government Regulation instead of Law No. 2 of 2022 concerning Job Creation: 1). The workforce in February 2022 was 144.01 million people, an increase of 4.20 million people compared to February 2021; 2). The working population is 135.61 million, of which 81.33% work in informal activities 3. The Covid-19 pandemic has impacted 11.53 million people or 5.53% of the working-age population. If we break it down, unemployment is 0.96 million people, not in the workforce 0.55 million, unemployed 0.28 million people, and the population, including those who work and experience unemployment, is 9.44 million.

Wage increases are needed to support economic growth and increase worker productivity. The Job Creation Law is undergoing formal review at the Constitutional Court.

The above Perppu aims to fulfill the Law in society, including the rights of citizens to work and a decent living, to absorb the widest possible workforce, to facilitate, protect, and empower cooperatives, to accelerate national strategic projects, and to ensure the safety and welfare of workers. In addition to the contents that need to be considered in the Perppu, some principles must also be applied in forming the Perppu, because, as we all know, principles are principles. Or base formation rules for principles loaded in creating Legislation include clarity of purpose, institutionality, suitability between type and content, implementation, usability, clarity of formulation, and openness. In the issuance or formation of a Perppu, several conditions must be met as in Constitutional Court Decision 138/PUU-VII/2009 Firstly, there is a situation, namely an urgent need to resolve legal problems quickly based on the Law; secondly, the required Law does not yet exist so that a legal vacuum occurs; thirdly, the legal vacuum cannot be overcome by making a law through standard procedures because it will take quite a long time while the urgent situation requires legal certainty to be resolved.

If we look at the reasons for the birth of the Job Creation Perppu as conveyed by the Government, including improving the investment ecosystem and business activities, protection and welfare Work, convenience, empowerment, Protection of Cooperatives and MSMEs, acceleration of strategic projects, and creation of as many job opportunities as possible. Several government reasons state that creating jobs and providing welfare occur when. According to data presented by the Central Statistics Agency (BPS), as of August 2022, 8.42 million unemployed people were spread across Indonesia. Furthermore, data released by BPS on January 16, 2023, shows that the percentage of the poor population in September 2022 was 9.57%, an increase of 0.03%. This contradicts existing facts, as the Central Statistics Agency (BPS) reported, which shows that the poverty rate has increased despite implementing the job creation regulation. Therefore, based on the above, the parameter of urgency itself... It is still open to multiple interpretations; in other words, it is still ambiguous.

2. Research Method

This writing is done using the normative juridical method. Normative juridical writing is a research-based approach that uses various legal materials, such as Legislation, court decisions, journals, and legal theories, even in the form of scholarly input. The Constitutional Court's Interpretation of the Element of Urgency in the Formation of Government Regulations instead of Laws (Perppu), the Problem Approach applied in this writing uses: Statute Approach, Conceptual Approach, and Case Approach.

3. Results and Discussion

A. The Principle of Urgency in the Formation of Government Regulations instead of Laws (Perppu)

The element of urgent necessity must show two general characteristics, namely the existence of a crisis and urgency. According to Bagir Manan, a state of crisis is interpreted as the presence of a disturbance that causes urgency and is sudden (a grave and sudden disturbance). Urgency is defined as a condition not calculated beforehand

and includes an immediate action without waiting for prior deliberation. There may have been clear initial signs, and according to reasonableness, if they are not regulated immediately, they will disrupt both the community and the running of the Government. In line with Bagir Manan, urgent necessity, according to Jimly Asshidiqie, is more emphasized in the aspect of legal needs that are urgent or urgent related to limited time. Then added that there are three material requirements for determining a Perppu, namely:

- a. There is need urgent For act (Reasonable necessity);
- b. The time available is limited, or there is a time crunch (Limited time).
- c. No other alternatives are available, or according to reasonable reasoning, other options are estimated to be unable to overcome the situation, so establishing a Perppu is the only way to overcome the problem (Beyond a reasonable doubt).

Completing and closing the teachings of these experts, the Constitutional Court, as an interpreter of the Constitution through Decision No. 138/PUU-VII/2009, interprets the phrase of urgent necessity in Article 22 of the 1945 Constitution with three (3) conditions, namely:

- a. There is a situation where there is an urgent need to resolve legal problems quickly based on the Law.
- b. The required laws do not yet exist, resulting in a legal vacuum, or there are laws, but they are inadequate.
- c. This legal vacuum cannot be overcome by making laws. The procedure is standard because it will take a long time, while these urgent situations need certainty to be resolved.

Perppu as Emergency Legislation is based on the reason of Innerenootstand (internal emergency) in urgent circumstances in terms of substance, and critical in terms of time. Meanwhile, the matter of compelling urgency" is a constitutive condition which is the basis of the President's authority in determining Perppu. If he cannot show the real conditions of the situation, the President is not authorized to determine Perppu. The matter of compelling urgency must also show several conditions of crisis, which cause real danger or obstacles to the smooth running of government functions. Therefore, the contents of Perppu are limited only to implementation (Administratiefrechtelijk). Circumstances danger or emergency must can be defined. The purpose of providing this coverage is to prevent abuse of authority by the authorities. Because in such a situation, the state can take any action, including limiting the rights of citizens. So the state must violate the principles it adheres to to save itself from this situation.

As referred to in Article 22 of the 1945 Constitution, which stipulates that:

- a. In matters of crunch, which force, the President has the right to determine
- b. The Government Regulation must receive approval from the People's Representative Council (DPR) in the following session, and
- c. If approval is not obtained, the Government Regulation must be revoked. This provision is emphasized in Article 1 number 4 and Article 25 of Law 10 of 2004 concerning Formation of Legislation.

B. Method Interpretation Court Constitution

The use of the interpretation method by constitutional judges to assess conflicting legal norms is based on the fact that the Constitutional Court is the sole state institution as the interpreter of the Constitution (The Sole Judicial Interpreter of the Constitution), therefore based on the above, the Perppu that was stipulated does not fulfill the urgent matters, so the Constitutional Court can declare the Perppu said to be null and void if it

violates the principle of legality, namely it was made without authority or in other words does not fulfill the elements for the birth of a Perppu as explained in the Constitutional Court's decision. Constitutional testing (material testing) cannot be carried out without the authority to interpret articles in the Constitution with legal force. The basic principle of constitutional justice cannot be achieved if each branch of power is given the power to interpret. Constitution in accordance with the interpretation alone. Interpretation is part of Rechtsvinding (legal discovery), which judges always carry out when examining and adjudicating cases. The extent of the authority to interpret cannot be separated from efforts to fulfill a sense of justice. Still, if this authority cannot be used in a state-like manner, it can harm the community seeking justice.

According to Satjipto Rahardjo, legal interpretation is the heart of Law. Law, almost No Possible law can run without opening the door to interpretation. Legal interpretation is an activity that is open to carrying out, since the law is in written form. An adage has been put forward, "reading the law is interpreting the law," saying that the legal text is clear, that it is only a way for lawmakers to act pragmatically, and that lawmakers have difficulty providing explanations. This means that the Constitutional Court's authority in interpreting the Constitution is considerable, and the Constitutional Court's authority in interpreting the Constitution can enter an unlimited area. John H. Garvey and Alexander Aleinikoff proposed several primary methods in interpreting the Constitution: Interpretivism or Non-Interpretivism, Textualism, Original Intent, Stare Decisis, Neutral Principles, and Balancing.

Judges use their views or abilities based on their understanding of the law, meaning that judges also differ in interpreting the Constitution, so at times, judges will conflict with each other in interpreting the Constitution in a particular case. Original Intent interpretation is an interpretation that is in accordance with the original meaning of the text or terms contained in the Constitution. This interpretation usually explains the Constitution's text, context, purpose, and structure. This originalist interpretation emphasizes the assessment of conflicting legal norms based on original meaning or original intent that is try presenting the initial spirit of the formation of a written constitution through debates during the drafting of the ConstitutionConstitution, based on the understanding and purpose of the ConstitutionConstitution from the opinions of the drafters of the ConstitutionConstitution, originalists look at several sources including the views of the framers of the ConstitutionConstitution including previous writings on the drafters of the ConstitutionConstitution, articles in newspapers when the ConstitutionConstitution was formed, minutes of the trial in the formation of the ConstitutionConstitution, for example the records of the BPUPKI trial in the formation of the 1945 Constitution, notes on the formulation of the norms of the 1945 Constitution amendments. Justice Antonin Scalia (Supreme Court Justice of the United States), who adheres to the originalist view, argues that the interpretation of the Constitution can only be done through an approach to understanding the Constitution's drafters or the general knowledge of the community towards the Constitution itself.

Originalists believe that the best way to interpret the Constitution is to look at the purpose of the drafters of the Constitution itself. According to Mahfud MD, the unclear benchmark in analyzing the conflict of legal norms based on the meaning, criteria, and the use of original intent interpretation as an interpretative method in testing legal norms, is related to the theory that is the basis and spirit in the formulation of the Constitution and formation of regulatory Legislation. A judge may use the original intent of a legal

product, based on the fact that theoretically the testing of legal norms aims to determine the meaning or primary intention/true intent of the Constitution's contents or Legislation. By understanding a work's original purpose, originality, idea, and spirit, the formulation of statutory regulations can be protected. Testing is carried out because of a conflict between the contents of the Law and the Law. The base, where the content of the Constitution is constituted. What is the background of thought that gave birth to the written contents of the Constitution, without having to be tied to theory, and what applies in other countries?

C. Government Regulation instead of Law (Perppu) as Part of Legislation

The birth of the Perppu is a legal change as conveyed by W. Friedman. This legal change can change the views or attitudes and life of society comes from various stimuli as follows: various evolutionary changes to norms in society, sudden needs of society due to the existence of "special circumstances" or "emergencies" especially in relation to the distribution of resources or in relation to new standards of justice, on the initiative of small groups that can see far into the future which then gradually influence the views and way of life of society, there is technical injustice in the LawLaw that requires the LawLaw was changed, there were inconsistencies in the legal body that also needed change. The development of knowledge and technology in the law has formed new laws in some regions of the law.

Indonesia as a modern legal state (welfare state) to realize the state's goals, namely providing welfare for its people and protecting the rights of its citizens, must adhere to the main principles or basic principles consisting of the principle of legality, the principle of recognition and protection of human rights, the principle of division of state power, the principle of an independent and impartial judiciary, the principle of popular sovereignty, the principle of democracy and the constitutional principle. The Government, as the implementer of state political policies, has the authority as granted by applicable laws and regulations or based on the principle of legality to control the Government's leadership or arrange inhabitants of the country, provide guidance, mobilize potential, provide direction, coordinate activities, supervise, encourage, and protect the community. The President's legislative power is the President's authority in statutory regulations within the framework of governmental power, which means the power to implement laws. The President's power is to enforce rules for statutes and submit draft laws to the DPR. The President's authority to stipulate substitute government regulations, Constitution (Perppu), based on the provision of Chapter 22 Paragraph (1), The 1945 Constitution stipulates that "In the event of a compelling emergency, the President has the right to issue a government regulation instead of law." According to Abdul Ghofar, if at a time when the DPR is not in session, the President needs to issue a regulation, which should be a law, or if the material is a threat of criminal punishment, it must be made in the form of a law. Therefore, the President has the authority to issue a Perppu. The President's courage to issue a Perppu cannot be separated from the debate about the President's subjective (limited) right to interpret "a compelling emergency", which is regulated in Article 22 of the 1945 Constitution.

The President's subjective interpretation of Article 22 must be distinguished from the objective interpretation stipulated in Article 12 of the 1945 Constitution. In dangerous or abnormal conditions, the 1945 Constitution of the Republic of Indonesia grants the President the authority to take special action. Special actions given by the Constitution of 1945 are set in Article 12 and Chapter 22. Article 12 states that the President declares a

state of emergency. The conditions and the consequences set a dangerous condition with the Law. UUD In 1945, the Law was firmly mandated to regulate the situation. Danger. Which moment? This is arranged more clearly in Law No. 23 of 1959 about the dangerous condition. Against the condition of danger that is placed in the Law

The President can only objectively interpret Law No. 23 of 1959 of the Republic of Indonesia. The birth of a law fundamentally differs from that of a Perppu (Government Regulation instead of Law). A law emerges from a draft law and must first reach consensus or a mutual agreement between the legislature (DPR) and the executive (President). A Perppu, on the other hand, arises from the executive's (President's) interpretation, as stipulated in Article 22 of the 1945 Constitution, concerning a compelling matter. The existence of the formation of Perppu in Indonesia at this time is relatively high. If calculated in quantity, the number of Perppu births is relatively higher. The higher the height of government regulation, instead of law, the more it is concluded that countries often face difficult conditions of urgency. It will be interpreted that the increasing number of Perppu will be seen as a failure of the state in carrying out its duties and objectives.

An objective interpretation of a president is difficult because the authority given by Legislation to the President to form a proposal is still subjective for the President to interpret, even though the Constitutional Court has issued a reference in its decision. As an emergency regulation, the Perppu contains restrictions. Without these restrictions, it has the potential to become a source of irregularity and deviation in the administration of the state. According to Bagir Manan, the contents of the Government Regulation instead of Law (Perppu) only concern matters related to the administration of the Government (state administration). According to him, it may be that a Government Regulation is issued instead of a Law issued in a state-related manner, or matters related to state institutions, citizenship, territory, the state, and the people's fundamental rights. As emphasized in the provisions of Article 1 paragraph (3) of the Law Base Country Republic Indonesia Year 1945 (UUD Year 1945), Indonesia is a country under the rule of law. A country under the rule of law is a state concept idealized by the nation's founders (the founding fathers). Formulating the 1945 Constitution. The idea or notion of a state based on law is generally intended to prevent the state or Government from acting arbitrarily. The meaning or value of the state based on Law is "that law is the highest source (supremacy) in regulating and determining the mechanism of legal relations between the state and society, as well as between members or groups of society with each other in realizing their goals." In the context of national life, the law must play a role, so that everything runs in an orderly and regular manner, because the law firmly determines the rights and obligations of each. The Law must realize a sense of justice and usefulness for the interests of society, as well as legal certainty. A state of Law must be able to organize legal order by referring to the Law (Rule of Law) and a welfare state (Welfare State). Ensuring that the state is always in a normal state is one of the main tasks of the Government to achieve the state's goals. However, in normal conditions, the government process can only be carried out according to the Constitution's methods, known as the principle of Constitutional Government. This is stated in Article 4, paragraph (1) of the 1945 Constitution, which states, "The President of the Republic of Indonesia holds government power according to the Constitution.

Apart from the condition of a country in an ordinary condition or (normal condition), sometimes abnormal conditions arise or occur. Conditions that affect a country that are unusual or abnormal require special arrangements so that state functions can work effectively under abnormal circumstances. However, system norms intended for normal circumstances cannot be expected to effectively achieve legal objectives that guarantee justice, certainty, and utility. Therefore, from the outset, abnormal circumstances and the main points of their regulations formulated in the 1945 Constitution should have been anticipated. In fact, because of the importance of this matter, rules in the form of a separate law are also needed. The determination of a state of danger or emergency by the President is intended to determine further steps that are capable of overcoming the situation in question, including limiting the human rights of citizens and other exceptional measures, to save the country, for example exceptions on function power legislative like stated in Chapter 22 paragraph (1) of the 1945 Constitution "in the event of urgent circumstances, the President entitled set regulation government as replacement Law". The President must determine the implementation of the state of emergency as head of state per the provisions of the applicable Law, namely Perppu No. 23 of 1959. The President's considerable powers based on the 1945 Constitution impact the delegation of extraordinary powers to the President in Perppu No. 23 of 1959. 1959.

The state of the country that allows the formation of a Perppu is an abnormal state (emergency), where in an emergency state, legal norms apply which are also special in nature and require separate regulations regarding the conditions, procedures for their implementation, as well as things that may and may not be done in an emergency state, which need to be regulated clearly so as not to provide an opportunity/chance for the emergence of abuse of authority that is contrary to the 1945 Constitution. The authority to form a Perppu lies entirely in the hands of the President without interference from the DPR, and the President carries out its implementation. And all over its ranks. This shows the President's immense power as head of Government. Holder of executive power. However, such a situation occurs if there is an urgent situation (a compelling emergency) as stated in Article 22 paragraph (1) of the 1945 Constitution, "In the event of a compelling emergency, the president has the right to determine regulations of government as a Replacement Law". Use of Chapter 22 of the 1945 Constitution in the practice of governance in Indonesia, 3 (three) fundamental reasons were found: the existence of dangerous elements, the existence of an element of necessity that requires, and the existence of a component of time constraints.

These three elements are logical requirements for implementing or categorizing matters of urgent necessity, to take legal actions to anticipate existing conditions, so that state functions can run, where the President has the authority to form a Perppu as mandated by Article 22 of the 1945 Constitution. According to Bagir Manan, the criteria for issuing a Perppu by the President are; "issued in matters of urgent necessity; does not regulate matters regulated in the Constitution; does not regulate the existence and duties of state institutions, and there must not be a Perppu that can delay or eliminate the authority of state institutions; may only regulate provisions of laws relating to the administration of Government. Therefore, the use of legal instruments in forming a Perppu is very much determined by conditions and needs that require urgent regulations where the legal regulations do not yet exist or the law can no longer accommodate the interests of the implementation. Government country. With its validity, Government Regulation instead of Law, the DPR must continue to carry out its supervisory function as a form of state based on Law.

The regulations regarding the Perppu Law can be seen in Article 5, Article 20, and Article 22 of the 1945 Constitution. The Law is a legal product. This is made by the Board Representative People (DPR) with joint approval of the President or vice versa. This is different from the Perppu, which is made unilaterally by the President, without obtaining approval from the DPR. However, the Perppu is only temporary because the President has a legal obligation to submit the Perppu to the DPR before the Perppu is passed into law.

Regarding the theories of urgency explained by the experts above, they do not clearly and in detail describe the urgent situation referred to in the Law. So, it seems there is no limit regarding "urgent circumstances," Or is the limit only directed or focused on the Presidential Decree (Keppres) because there is no indicator of emergency in the Law? Concerning the existence of government regulations instead of laws, it is closely related to legal changes as conveyed by W. Friedman because there is a "compelling situation", but it is essential to remember that the birth of a change law needs to measure its effectiveness. Hence, a rule is not just formed without thinking about its effectiveness.

Several examples of Government Regulations instead of Laws have been tested in MK and granted by the panel of judges of the Constitutional Court. The Perppu was cancelled as stated in the Constitutional Court Decision 1-2/PUU-XII/2014 in the panel's legal considerations. The judge explained that the relationship between Law and social dynamics that move centrifugally, then the Law must automatically develop and balance its centripetal movement towards forming substantive values directly proportional to these social dynamics. The Law is not just an empty box (empty box) without meaning and benefit. At this level, the Law must have the spirit of the values of the human community based on justice, guaranteeing certainty, and its own mark of usefulness.

Because of that, Law No is understood as a norm that guarantees certainty and justice, but must also be viewed from the utility perspective. Perppu must have a "Prompt Immediately" effect, namely "immediately" to solve legal problems. According to the Constitutional Court, Perppu 1/2013 has no "immediate" legal effect. This is proven by the fact that even though the Perppu has become a law, the Perppu has never produced any legal product; The considerations of the Perppu do not reflect such immediacy, namely, what can only be addressed immediately. The expert panel has not yet been formed, and constitutional justices have not been recruited to replace M. Akil Mochtar. It has been further delayed due to the provisions contained in the Perppu. The Honorary Council of Constitutional Justices has not been formed; even if it were formed, there would be no urgent problems to resolve. MK Decision Number 048/PUU-XV/2017 which states in its considerations that the element of urgency is contained in the MK Decision itself 138/PUU-VII/2009, namely the existence of an urgent need to resolve legal problems quickly based on applicable provisions, the existence of a legal vacuum or in other words the absence of regulatory provisions and the occurrence of circumstances that urge or critical (emptiness law the No overcome by making laws procedurally. The Constitutional Court Decision Number 048/PUU-XV/2017 is in line with the Constitutional Court Decision 128/PUU-XII/2014, in which the panel of judges also adhered to the parameters of the element of urgency, referring to Decision 138/PUU-VII/2009.

D. Legal Resolution of Government Regulations Replacing Laws (Perppu) That Do Not Meet the Elements of Urgency

Suppose we pay attention to the hierarchy of statutory regulations. In that case, the Government Regulation, instead of Law (Perppu), is placed parallel with the Constitution (has a position at the same level as the Law). Therefore, the Perppu can also implement the orders of the 1945 Constitution. Article 1, paragraph (4) of Law No. 12 of 2011 concerning the Formation of Legislation, states that the Government Regulation, instead of Law, is "Legislation stipulated by the President in matters concerning which force." Condition country: What allows the formation of a Perppu is an abnormal situation (emergency), where, in an emergency, legal norms apply that are also special in nature and require separate regulations regarding the conditions, procedures for implementation, and things that are permitted and not permitted. It may be carried out in emergencies, but it needs to be regulated clearly so as not to provide an opportunity/chance for the emergence of abuse of authority contrary to the 1945 Constitution. Based on Law Number 12 of 2011 concerning the Formation of Legislation, the conditions for the formation of Legislation are as follows: Chapter 6, paragraph (1). The bill's content contains the principles of: a. protection, b. humanity c. nationality d. family e. archipelago f. unity in diversity g. Justice H. equality before the Law and Government; i. order and legal certainty; and/or j. balance, harmony, and harmony. Article 6 paragraph (2) Apart from the principles referred to in paragraph (1), specific Legislation may contain other principles per the legal field of the Legislation in question.

If referring to the formation of Government Regulation instead of the Law principle or principle, the method used is in accordance with the decision of the Constitutional Court of the Republic of Indonesia Number 138/PUU-VII/2009, which explains three conditions that must be met in cases of urgent need, namely:

- a. Based on the law, there is an urgent need to resolve the problem legally.
- b. The required laws do not yet exist, resulting in a legal vacuum, or there are laws, but they are inadequate; and
- c. This legal vacuum cannot be overcome by making laws through procedures because it takes a long time, while this urgent situation requires certainty to be resolved immediately.

Let's consider the position of a Perppu to be equal to a law, as explained in Law of the Republic of Indonesia Number 12 of 2011 concerning the Formation of Legislation. The Constitutional Court has the right to review it. Therefore, if there is a regulation that... No fulfil principle or principle is appropriate if a rule is rejected /revoked.

4. Conclusion

Based on the above, the author can conclude that the Constitutional Court has the right to interpret a rule that applies in Indonesia, the Replacement Government Regulation. In addition, the Constitutional Court is "The constitutional court as the Final Interpreter of the Constitution." Still, a clear rule must be established stating that the Constitutional Court has the right to interpret so that multiple interpretations do not arise. In addition, there are several ways for the Constitutional Court to interpret, as explained above. success or failure of a change if we look at the history of the formation of the Job Creation Perppu because there is an urgency for employment, which is inversely proportional to the existing facts. After all, the poverty rate continues to increase even though the Job Creation Program

was formed. As the author stated above, the increasing number of Perpetrators formed will be considered a state failure in carrying out its duties and objectives. State. Example, subsequent formation of Government Regulation instead of Law, Organization Community (Ormas), on the side, other rules of Mass organizations, That Alone have been arranged in the Constitution.

The mass organization itself, however, the Government, in this case the President, issued a Perppu on mass organizations without a clear basis. Considering the Perppu's status as equivalent to a law, as explained in Law No. 12 of 2011 concerning the Formation of Legislation, the Constitutional Court has the authority to review it. As a legal consequence, if the Perppu is not revoked, it is null and void. Based on the above matters relating to the interpretation made by the Constitutional Court, the author gives suggestions:

- a. Judge MK can find LawLaw new about elements urgency does not only refer to the Constitutional Court Decision No. 138/PUU-VII/2009, the parameters of the urgency element must be regulated and clear so as not to be open to multiple interpretations. In forming a Perppu, the President must also have a legal basis/legal reasons when forming a Perppu, because a regulation must have a practical value, as explained by William Evan regarding several factors that influence the success or failure of a legal change.

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