

# Reconstruction of Regulation for Government Employees with Employment Agreements on Rights and Obligations as a Value-Based State Civil Apparatus

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**ABSTRACT**--*The issue of the rights of Government Employees with Work Agreements that are not the same as the rights of Civil Servants who are both as State Civil Apparatuses who have the same rights, but their rights are different for Government Employees with Work Agreements which indicate that Legislation in the Field of Personnel is not good enough to regulate the State Civil Apparatus, for this matter. This paper examines the reconstruction of regulations for Government Employees with Work Agreements on their rights and obligations as a State Civil Apparatus based on the value of justice. This research uses normative juridical research, which is a research method carried out by examining library materials using secondary data or better known as library research studies, then supplemented with field research. The results of the study concluded that regulation reconstruction is needed for Government Employees with Work Agreements on the rights and obligations as a State Civil Apparatus based on justice so that there are equal rights between Government Employees and Work Agreements with Civil Servants based on justice values .*

**Keywords:** *reconstruction, regulation, rights and obligations, government employees with fair employment agreements*

## I. INTRODUCTION

The State of Indonesia is a State based on law (rechstaat) not on power (machstaat). this is stated in the 1945 Constitution of the Republic of Indonesia Article 1 paragraph (3). The main purpose of law is to create an orderly community order, creating order and balance. With the achievement of order in society it is hoped that human interests will be protected.

Rights and Obligations of citizens within certain limits have been understood by some citizens, but because each person performs diverse activities in the life of the state then what is his rights and obligations are often forgotten. In the life of the state sometimes the rights of citizens to deal with their obligations are not infrequently even the obligations of more citizens are demanded while the rights of citizens get less attention like the rights of Government Employees with Work Agreements and Civil Servants (PNS). Between the rights and obligations of Civil Servants and Government Servants with Work Agreements the obligations are the same, but their rights differ between Civil Servants and Government Servants

with Work Agreements regulated in Law Number 5 of 2014 concerning State Civil Apparatus .

Whereas in the ASN Law, there are changes in the types of civil servants, as stated in article 6, namely:

- a. Government employees;
- b. Government Employees with a Work Contract.

Civil Servants are Indonesian citizens who meet certain conditions, are appointed as ASN Employees who are appointed as permanent employees by the Employee Trustees Officer to occupy government positions and have a national employee ID number. This understanding is not much different from the understanding as contained in the previous law. Whereas PPPK or Government Employees with a Work Agreement are Indonesian citizens who meet certain conditions, who are appointed based on a work agreement for a certain period of time in order to carry out governmental duties.

Although PPPK and honorary staff have almost the same position, it does not automatically mean that temporary employees can now become PPPK. Because in principle these two types of employees are very different, PPPK is appointed with a clear work agreement so this makes it different from honorary employees. Furthermore, the difference is seen, PPPK cannot be directly appointed as a Civil Servant, this is different from temporary employees who can be appointed directly with the provisions of Government Regulation No. 56/2012 with a minimum service period of one year. Enforcement of government employees with the use of contracts, inevitably the local government must remove the existence of honorary staff in accordance with the mandate of Law Number 5 of 2014.

But this does not create justice, legal certainty and benefits for honorary employees, especially with honorary employees who have worked for decades hoping that one day they can be appointed as civil servant candidates, suddenly with the enactment of new rules they are removed from the government structure.

Regarding the policy given by the government to honorary staff according to Law Number 5 of 2014 concerning State Civil Apparatus, it has not yet come to a light. The existence of honorariums still causes many problems because the government has not been able to

provide guarantees to honorary staff to be appointed as Prospective Civil Servants. This happens because the government, especially regional governments, still have a lot of honorary staff appointments without calculating the amount needed by government agencies, on the other hand in Government Regulation No. 48/2005 the government is prohibited from appointing honorary workers. This is as a result of the administration carried out by the government which has not been maximized, so that there are still many honorary staff whose status is unclear.

As for several factors that hinder the appointment of Honorary Workers into CPNS:

1. Legal umbrella for the appointment of Honorary Workers to become CPNS has ended in 2014, namely the Nonor Government Regulation 56 of 2012 concerning the Second Amendment to Government Regulation Number 48 of 2005 concerning the Appointment of Honorary Workers into CPNS;
2. There are budget limitations for the process of appointing Honorary Workers to become CPNS.
3. Completeness of the existing Honorary Staff Administration does not yet have a complete file so that in the future the appointment of CPNS from Honorary Workers will be an obstacle and will make it difficult for the Honorary Staff concerned to be appointed as CPNS.

Based on the things mentioned above, the writer is interested in researching on "Reconstruction of Government Employee Regulation with Work Agreements on Rights and Obligations as Asn Based on Justice"

#### B. Problem Formulation

Based on the background description above, the questions are formulated as follows:

1. Why is there a problematic protection of the rights and obligations of Government Employees with the Work Agreement as the current State Civil Apparatus?
2. What is the concept of regulation for Government Employees with Work Agreements on the rights and obligations as a State Civil Apparatus that has not been based on justice?
3. What is the concept of the reconstruction of regulations for Government Employees with Work Agreements on the rights and obligations as a civil apparatus based on justice?

## II. RESEARCH METHOD

### 1. Types / Types of Research

The type of legal research chosen is normative juridical research, which conceptualizes the law as norms, rules, principles, or dogmas, using the Statute Approach approach to legislation which is described descriptively based on problems with various legal rules and literature, as well as seeking a legal opinion about the problem that is the object of the problem.

### 2. Research Approach

This research approach is used so that researchers get information on various aspects of legal issues to obtain answers to the completion of the approach in this study include: the statute approach, the case approach, the comparative approach and the conceptual approach Approach).

### 3. Data Sources

Sources of data in this study consisted of primary and secondary / secondary data. Primary data is data obtained from research results in the field directly on the object of research conducted in Pemalang Regency. Primary data in this study are honorary staff, Pemalang Regency Government, Pemalang Regency Regional Representative Council and interviews with academics using supporting data.

Secondary data is data that is used in answering the problems that exist in this study through library research. Secondary data is the main data used in this paper. The author in this study uses 3 (three) legal materials as follows:

- a. Primary legal material, which is binding legal material, derived from:
  - 1) The 1945 Constitution of the Republic of Indonesia;
  - 2) Law Number 8 of 1974 which has been amended by Law Number 43 of 1999 concerning Staffing Principles;
  - 3) Law 5 of 2014 concerning State Civil Apparatus;
  - 4) Government Regulation Number 97 of 2000 concerning Formation of Civil Servants, as amended by Government Regulation Number 54 of 2003 concerning Amendment to Government Regulation Number 97 of 2000 concerning Formation of Civil Servants;
  - 5) Government Regulation Number 98 of 2000 concerning Procurement of Civil Servants as amended several times, the latest by Government Regulation Number 78 of 2013 concerning Second Amendment to Government Regulation Number 98 of 2000 concerning Procurement of Civil Servants;
  - 6) Government Regulation Number 48 of 2005 concerning Appointment of Honorary Workers to Become Prospective Civil Servants as amended several times, the latest by Government Regulation Number 56 of 2012 concerning the Second Amendment to Government Regulation Number 48 of 2005 concerning Appointment of Honorary Workers to be Prospective Civil Servants;
  - 7) Government Regulation Number 11 Year 2017 concerning Management of Civil Servants;
  - 8) Regulation of the Minister of Administrative Reform and Bureaucratic Reform No. 24 of 2013 concerning Additional Policies for Formation and Procurement of 2013 Prospective Civil Servants;
  - 9) Regulation of the Head of the State Civil Service Agency Number 9 of 2012 concerning Guidelines for the Implementation of Procurement of Prospective Civil Servants.
- b. Secondary legal material, legal material that provides an explanation of primary legal material, which consists

of literature, books relating to the appointment of honorary staff into CPNS and implementation of Law 5 of 2014 concerning State Civil Apparatus. Secondary legal material is obtained by studying documents, studying problems from books, literature, papers and legal dictionaries and other materials related to the material coupled with data search activities using the internet.

Tertiary legal materials, i.e. legal materials that provide additional explanation or support existing data on primary and secondary legal materials. Tertiary legal materials used are searches on the internet.

#### 4. Data Collection and Analysis Methods

The secondary data collection method used in this research is the study of literature or the documentation technique which consists of a study of literature. This is obtained from collecting data through library research by studying books / literature relating to the titles and problems discussed in this study. Can also be done by studying documents in the form of data obtained through legal materials in the form of laws or regulations relating to this research.

Data collection techniques with literature study using catalog searches, while the definition of a catalog is a list that provides information about collections that are owned in a library.

Data analysis is also called data processing and interpretation. Data analysis according to Nasution is "the process of compiling data so that it can be interpreted, compiling data means classifying it in patterns, themes or categories." Data analysis should be done from the beginning, as Nasution quoted Sugiyono quoted "analysis has begun since formulating and explaining the problem, before plunging to the field, and continues until the writing of research results.

Data analysis is a process of processing research results, which starts from compiling, grouping, analyzing, and interpreting data in patterns and relationships between concepts and formulating them in the relationships between other elements so that they are easily understood and understood. The data that has been collected is then analyzed by:

##### 1. Data Reduction

The data that researchers obtain from the field are written in the form of detailed descriptions or reports. This report will continue to grow so that it will add to the difficulties for researchers if not immediately analyzed. Therefore, researchers reduce data by compiling data systematically, highlighting important points so that they are easier to control. The data reduction that researchers do is to summarize, and choose the things that are important to then put together, as said Sugiyono "Reducing data means summarizing, choosing the main things, focusing on important things, looking for themes and patterns. Thus the data that has been reduced will provide a clearer picture, and make it easier for researchers to do further data collection, and look for it when needed ". Reduced data will provide a sharper picture of the observations and make it easier for researchers to find back the data obtained when needed, data reduction

can also help provide code to certain aspects. The data reduction that researchers do is to select and sort the data based on the number of informants who mentioned the problem, then the researcher makes it in a narrative and the researcher simplifies it by selecting similar things so that it is easy to present them.

### III. FINDINGS AND DISCUSSION

Researchers use various relevant theories to facilitate and answer the problems in this dissertation research, including:

#### 1. Grand Theory

The Grand Theory is used to solve the answer to the problem of Regulatory Reconstruction for Government Employees with Work Agreements on Rights and Obligations as a State-Based Civil Apparatus based on Justice in this dissertation. The use of relevant theory in this study is the Theory of Justice from John Rawls. John Rawls's thought about justice has become a very interesting conversation with many who make known one of them in the field of philosophy is A Theory of Justice, followed by Political Liberalism, and Justice As Fairness. John Rawls stressed the importance of seeing justice as the "Main Policy" which is only held firmly to the basic spirit of various basic social institutions of a society.

John Rawls's view that as one of the supporters of formal justice. Its consistency in placing the constitution and law as the basis for exercising individual rights and obligations in social interaction can be a signal for that, a rule-based justice. Even formal administration, it is still important because basically it guarantees that everyone in the same case must be treated the same.

Justice as the main substance of legal thought then continued in Roman times to record the name Cicero (106-43 BC) with his great thinking about the state and law with his work entitled *De Republica* and *De Legibus*, namely about the state and the law.

Justice in Pancasila has a very important position in society, because justice in Pancasila must also be achieved by the State. The regulation of the national legal system is intended as an effort to provide legal protection. Indonesia's national legal system as a Pancasila law state is called the Pancasila law which aims to protect people.

The use of the work system of Government Employees with Work Agreements (PPPK) based on fair value is analyzed using the notion of law and justice John Rawls who says that a society is said to be good if it is based on two principles, namely Fairness, which guarantees for all members whatever trust and values - its value, freedom as much as possible, Fairness or propriety in Rawls Conception is more intended as an emphasis on the principle of reciprocity (mutual benefit) but not in the sense of Simple Reciprocity where the distribution of wealth is carried out without observing objective differences between members of the community.

Fairness in the sense of Fairness not only provides more opportunities for people who have better talents or abilities to enjoy various social benefits, but these benefits must also open up opportunities for those who are less fortunate. Whereas Viel Ignorance, only justifies social and economic inequality if the inequality is seen in the long run, it benefits those who are less fortunate.

Law as a means of realizing justice, can be unfair if it conflicts with human welfare, according to Thomas Aquinas, which can be caused by the first few rights, the authorities impose laws that do not bring public welfare, but solely because of the wishes of the authorities themselves. Second, because lawmakers exceed their authority. Third, because the law is imposed on society unequally, even though the reason is for the common good.

In an effort to create a just law seeking law that comes from a sense of justice in society. To achieve justice in Government Employees with a Work Agreement (PPPK) cannot be built from fair individual behavior, but it requires a legal structure, legal culture and legal substance that contains the values of justice.

## 2. Middle Theory

Middle Theory is used to solve problems and answer problems about Government Employees with Work Agreements (PPPK) which are not based on justice because they have the same obligations but have different rights between Government Employees and Work Agreements (PPPK) and Civil Servants (PNS). Use of Prismatic Theory from Fred. W. Riggs and supported the Theory of Working Law from William J. Chambliss and Robert B. Seidman. This research uses middle theory because there are problems that require an implementative and legal approach to assess the denial of the value of justice in law enforcement.

Theory of the Law's Work by William J. Chambliss and Robert B. Seidman, first order by The Policy Maker Law Making Institutions. The second order of interpretation by The Law Sanctioning Institutions Law Guardian Institutions. The third order is the meaning by Role Occupant. The meaning of the nine phenomena can be different because the perspectives used are different, even the interpretation in an order can also be different.

Chambliss-Seidman describes the system of working of law in society to direct how the behavior of the role of the community in the bureaucratic system since its law making, the influence of the power structure.

Theories and concepts used to address the problem of the impact of deviations in the implementation of Government Employees with Work Agreements (PPPK) as State Civil Apparatus (ASN) which are not based on fair value, will be analyzed using:

- 1) The theory of Rossi and Friedman's policy impact analysis;

- 2) Welfare theory and the role of the state in realizing Government Employees with a Work Agreement (PPPK) based on the value of justice as a State Civil Apparatus (ASN);
- 3) Welfare and state responsibility;
- 4) Ralf Dahrendorf's conflict theory.

Impact assessment by Rossi and Friedman, that policy interventions produce expected or not expected effects.

The basic purpose of an impact assessment is to estimate the "net effect" of a policy intervention that is not interfered with by the influence of the process and events that might affect the behavior that is being targeted by the program being evaluated.

The concept of employment relationships involves elements of support, namely the State Civil Apparatus (ASN) and the Government. These two aspects are interrelated in an effort to establish a work relationship based on justice.

The construction of the theory to be built includes 3 (three) things, namely the legal substance, legal structure and legal culture, as stated by Lawrence W. Friedman. Based on the legal substance, the regulation of the rights and obligations of Government Employees with Work Agreements (PPPK) as stipulated in Law Number 5 of 2014 concerning State Civil Apparatus (ASN) has many weaknesses, as well as the need for reconstruction.

## 3. Applied Theory

Applied Theory is used to solve and answer the problem of implementing Government Employee regulations with the Work Agreement (PPPK) as the State Civil Apparatus (ASN) regarding rights and obligations based on the value of justice. Using the theory of John Rawls, a concept of justice only effectively regulates society if the concept of justice is generally accepted, whereas formal justice tends to be imposed unilaterally by the authorities.

Problems with the implementation of Government Employee Regulation with the Work Agreement (PPPK) as the State Civil Apparatus (ASN) using the conflict theory from Ralf Dahrendorf about interest groups becomes something that can be used to see the interests of each party.

According to Ralf Dahrendorf about antagonistic interest groups, Dahrendorf made a definition between potential groups and actual groups. A number of people have a common interest, both consciously and unconsciously, but they are not yet organized and united, so they are called potential conflict groups. They have the possibility (potential) to become an actual group, but for the time being there is only clean.

According to Hoogvelt, there are two social values that live and influence society, namely the social values of the community which emphasize the common interests and the social values of the patembayan which emphasize the interests and freedoms of individuals. Fred. W. Riggs then proposed the prismatic social values which put the two groups of social values as a basis for establishing a

law whose translation could be adjusted to the stages of the relevant social development.

Problems regarding Government Employees with Work Agreements (PPPK) as State Civil Apparatuses (ASN) fulfillment of their rights that are not the same as Civil Servants (PNS). In line with that to realize the welfare of Government Employees with a Work Agreement (PPPK) there is seriousness from the government. The use of welfare state theory is because the government's position is stronger than Government Employees with weak (subordinate) Work Agreements (PPPK), therefore state intervention is needed. This theory is related to the responsibility of the state as a regulator to realize human development entirely towards a prosperous, just, prosperous and equitable society both materially and spiritually.

#### 4. Originality of Research

Authenticity in research can be interpreted that the problem chosen in the study has never been investigated by the researcher before or must be stated firmly in difference with the research that has been done. Researchers conducted a literature search found a number of studies which had a review of the proposal prepared. Based on searches in various state and private universities that discuss the rights and obligations of Government Employees with Work Agreements (PPPK), there has not been any, there have been discussions about outsourcing. A dissertation that discusses the reconstruction of regulations for Government Employees with Work Agreements (PPPK) on the rights and obligations of the State Civil Apparatus (ASN) based on justice values has never existed.

In this study, it contains novelty and authenticity in accordance with scholarship that can be academically accounted for as follows:

- a. Ike Farida, 2012, Dissertation, Doctor of Medical Sciences Program, University of Indonesia, Depok, Jakarta, with the title of Dissertation "Building Outsourcing with Justice after the Decision of the Constitutional Court No.27 / PUU-IX / 2011". The Results of Previous Dissertation Research Arrangements and Outsourcing Practices in Indonesia have not provided a sense of justice for the actors: Workers, Vendors (Outsourcing Companies), and User Companies. The current law does not yet provide a comprehensive description of the rights and obligations of outsourced actors in a balanced manner. Current Research Presentation "Reconstruction of Regulations for Government Employees with Work Agreements (PPPK) currently does not provide a balance between rights and obligations as a State Value-Based Civil Apparatuses". The Law on Civil Servants between the rights of Government Employees and Work Agreements (PPPK) and Civil

Servants (PNS) is different, but has the same obligations as the State Civil Apparatus.

- b. Agus Riyanto, 2014, Dissertation Program Doctor of Legal Sciences, Bogor Agricultural University, Bogor, with the title of Dissertation "Designing Outsourcing Policy Models in the Perspective of Industrial Relations Systems". The results of previous studies "Design Outsourcing Policy Model in the Perspective of the Industrial Relations System that has not provided a sense of justice for the perpetrators: workers, vendors (Outsourcing Companies) and Service Provider Companies and Service Users". The novelty of the current research "Reconstruction of Regulations for Government Employees with Work Agreements (PPPK) currently does not provide a balance between rights and obligations as a State Civil Apparatus based on the value of justice". The Law on Civil Servants between the rights of Government Employees and Work Agreements (PPPK) and Civil Servants (PNS) is different, but has the same obligations as the State Civil Apparatus.
5. Understanding Government Employees With Work Agreements (PPPK)  
It is an Indonesian citizen who has certain conditions, who are appointed based on a work agreement for a certain period in order to carry out governmental duties.
  6. Definition of State Civil Apparatus (ASN)  
Is a profession for Civil Servants (PNS) and Government Employees with Work Agreements (PPPK) who work at Government Agencies.
  7. Definition of Civil Servants (PNS)  
Is an Indonesian citizen who fulfills certain conditions, is appointed as a State Civil Apparatus (ASN) on a permanent basis by the Staffing Officer in charge of government.
  8. ASN Legal Basis  
The legal basis for the State Civil Apparatus is Law Number 5 of 2014 concerning State Civil Apparatus; Government Regulation Number 11 Year 2017 concerning Management of Civil Servants (PNS); Government Regulation Number 49 Year 2019 concerning Management of Government Employees with Work Agreements (PPPK); Government Regulation Number 30 Year 2019 concerning Performance Evaluation of Civil Servants.
  9. Understanding Justice
    - a) According to Frans Magnis Suseno  
Is a state of human rights which have been needed to be in accordance with their respective obligations and rights.
    - b) According to Notonegoro  
Is a condition where it is fair if according to have applicable legal provisions

c) According to John Rawls

Justice As Fairness is based on the contract doctrine, which contains an agreement consisting of two parts. First an interpretation of the current situation and the selected problem. Second, a principle arrangement.

10. Definition of Reconstruction

Reconstruction in the Big Indonesian Dictionary comes from the word "construction" means development which is then added "re" in the word construction to "Reconstruction" which means return as before.

11. Definition of Regulatory Reconstruction

The formation of the law which has been transformed in the form of laws and regulations, in fact in the context of contemporary Indonesia has raised the concern of a number of parties, especially those suspected of having an impact on economic aspects. As stated by Thomas Lembong (news.detik.com) that one of the factors causing investment hampering in Indonesia today is partly due to the swelling regulation obesity

12. Protection of the Rights and Obligations of Government Employees with a Work Agreement (PPPK) as the current State Civil Apparatus

Provisions for the legal protection of Government Employees with a Work Agreement (PPPK) as a State Civil Apparatus have not been specifically regulated by the Pemalang District Government. However, in the 1945 Constitution of the Republic of Indonesia, Article 28 d paragraph (1) states that "everyone has the right to recognition, guarantee, protection and fair legal certainty and equal treatment before the law". In the constitution that legal protection and fair legal certainty and equal legal treatment before the law are clearly regulated in article 28 d paragraph (1) of the Constitution of the Republic of Indonesia. In line with that it is strengthened by Law Number 5 of 2014 Article 92 paragraph (1) letter d states that "The Government is obliged to provide protection in the form of legal assistance". Legal aid as referred to in paragraph (1) letter d, is in the form of providing legal assistance in cases faced in a court regarding the implementation of their duties. So legal protection for the State Civil Apparatus especially nurses is very necessary and is the state's obligation to support health services in the community. In line with that, it is also strengthened by Law Number 5 of 2014 Article 22 concerning State Civil Apparatus which regulates the Rights of Government Employees with Work Agreements (PPPK) which states that Government Employees with Work Agreements obtain rights including:

- 1) Salary and Allowances;
- 2) Leave;
- 3) Protection; and
- 4) Competency Development.

In terms of rights regarding Government Employees with Work Agreements (PPPK) are different from Civil Servants which are regulated in Law Number 5

of 2014 Article 21 concerning State Civil Apparatus which states that a civil servant has the right to obtain rights including:

- 1) Salary, Allowances and Facilities;
- 2) Leave;
- 3) Pension and Old Age Insurance;
- 4) Protection; and
- 5) Competency Development.

In terms of rights between Government Employees and Work Agreements (PPPK) and Civil Servants (PNS) their rights are different. Government Employees with a Work Agreement (PPPK) do not get facilities, pension guarantees and old age savings. Whereas Government Employees with Work Agreements (PPPK) and Civil Servants have the same obligations, i.e.

- 1) Faithful and obedient to Pancasila, the 1945 Constitution of the Republic of Indonesia, the Republic of Indonesia, and the Government that is legal;
- 2) Maintaining National Unity and Unity;
- 3) Implement policies formulated by authorized government officials;
- 4) Comply with statutory provisions;
- 5) Carry out official duties with dedication, honesty, awareness, and responsibility;
- 6) Demonstrate integrity and example in attitudes, behavior, speech and actions to everyone, both inside and outside the agency;
- 7) Keeping office secrets and can only disclose office secrets in accordance with statutory provisions; and
- 8) Willing to be placed in all regions of the Unitary Republic of Indonesia.

In terms of obligations between Government Employees with Work Agreements (PPPK) and Civil Servants (PNS) have the same obligations. In line with that that Government Employees with Work Agreements (PPPK) and Civil Servants (PNS) are both as State Civil Apparatus that is regulated in Law Number 5 of 2014 Article 6 concerning State Civil Apparatus stating that ASN Employees consist of Public Servants Civil Servants (PNS) and Government Employees with Work Agreements (PPPK).

Seeing the explanation above in terms of status and position between Government Employees with Work Agreements (PPPK) and Civil Servants (PNS) have the same position as State Civil Apparatus. Therefore it is necessary to get the same attention, especially Government Employees with Work Agreements (PPPK) concerning the rights of Government Employees with Work Agreements (PPPK). The status and position of Government Employees with Work Agreements (PPPK) and Civil Servants are both appointed by the Civil Service Guiding Officer (PPK), therefore naturally Government Employees with a Work Agreement have pension and old age benefits such as Civil Servants (PNS). The shape and model are adjusted according to the work mass that is aligned

with the Civil Servants (PNS), this is to reflect aspects of justice.

According to Gustav Radbrugh, a law must have three basic values, namely:

- 1) Justice aspect;
- 2) Legal Certainty Aspects; and
- 3) Benefit Aspects for the Community.

From the aspect of justice, it must contain the following matters:

- 1) No discrimination;
- 2) Protect Human Rights;
- 3) Can Be Implemented; and
- 4) Match the Situation.

From the aspect of justice between Government Employees with Work Agreements (PPPK) and Civil Servants (PNS) discrimination occurs, because the obligations are the same, but their rights are different. Therefore, it does not protect human rights, so Law Number 5 of 2014 concerning State Civil Apparatuses needs to be reconstructed to fit the situation and conditions in the community especially the State Civil Apparatus which involves Government Employees with Work Agreements (PPPK).

13. The concept of regulation for Government Employees with Work Agreements (PPPK) on Rights and Obligations as a State Civil Apparatus that is not yet Justice Based

As explained above, the legal liability of Government Employees with Work Agreements (PPPK) is regulated in Law Number 5 of 2014 concerning State Civil Apparatus more specifically listed in article 23 concerning Obligations of Government Employees with Work Agreements (PPPK) and article 6 of the Law No. 5 of 2014 concerning State Civil Apparatus that the ASN consists of Civil Servants and Government Employees with a Work Agreement (PPPK). In terms of legal liability, Government Employees with Work Agreements (PPPK) in carrying out the assignment of assignments are the same as Civil Servants (PNS), because between Civil Servants and Government Servants with Work Agreements (PPPK) are both as State Apparatus (Civil Servants) ASN). Government Employees with a Work Agreement (PPPK) are also appointed by the Employee Assistance Officer (PPK). In terms of the rights of Government Employees with Work Agreements (PPPK) in article 22 of Law Number 5 of 2014 concerning State Civil Apparatus, state that Government Employees with Work Agreements (PPPK) are entitled to obtain, namely:

- 1) Salary and Allowances;
- 2) Leave;
- 3) Protection; and
- 4) Competency Development.

From the description above, the legal liability of Government Employees with Work Agreements (PPPK) in carrying out governmental tasks has been regulated in Law Number 5 of 2014 Article 6, Article 22 and Article 23 as a legal basis to guarantee aspects of legal certainty. A rule must reflect legal certainty in

accordance with that the State of the Republic of Indonesia is a State of Law (Recht State) not a State of power (Macht State). A law is implemented and implemented in order to achieve the welfare of the people (Welfare State).

14. Concept of Reconstruction of Regulations for Government Employees with Work Agreements (PPPK) on Rights and Obligations as a State-Based Justice Apparatus.

Reconstruction in the Big Indonesian Dictionary comes from the word "construction" means development which is then added "re" in the word construction to "Reconstruction" which means return as before. In the Black Law Dictionary, reconstruction is the act or process of rebuilding, recreating, or reorganizing something, reconstruction here means the process of rebuilding or re-creating or reorganizing something.

According to B.N. Marbun in the Political Dictionary defines reconstruction as returning something to its original place, rearranging or re-drawing from existing materials and rearranging as they were or the original event.

Reconstruction which means to build or return something based on the original event, where in the reconstruction contained primary values that must remain in the activity of rebuilding something in accordance with the original conditions. For the sake of rebuilding something, whether it is an event, historical phenomena of the past, up to the conception of thought that has been issued by previous thinkers, the obligation of the reconstructors is to look on all sides, so that later something that is tried to be rebuilt according to the circumstances actually and avoid excessive subjectivity, which later can obscure the substance of something we want to build. So the reconstruction in this study is an effort to make an improvement to Law Number 5 of 2014 concerning State Civil Apparatus.

Regulation on the formation of law which has been transformed in the form of laws and regulations, in fact in the context of contemporary Indonesia has raised the concern of a number of parties, especially those suspected of having an impact on economic aspects. As stated by Thomas Lembong (news.detik.com) that one of the factors causing investment hampering in Indonesia today is partly due to the swelling regulatory obesity.

Based on this reality, the principle of the government in advance has been trying to prevent as well as tackle the occurrence of regulatory obesity. Among other things, it can be examined through political will in the second-volume legal reform policy, focusing on structuring regulations. As stated by Wiranto (cnnindonesia.com) that currently there are forty-one thousand regulations that are suspected to overlap, even many of which are absurd in nature, so it needs to be evaluated and reorganized.

With regard to the various dynamics that have occurred recently, it is appropriate to be used as

momentum in evaluating and reconstructing regulations, especially through structuring types and hierarchies of legislation, as an effort to respond to slow economic growth, and encourage effectiveness in carrying out public services in a manner maximum.

The nature of the laws and regulations has a tiered and layered legal norms, Hans Nawiasky in Maria Farida Indrati (2007) asserted that a legal norm from any country is always layered and tiered. The level of legal norms, including: First, the fundamental norms of the state, the highest norm in a country are norms that are not formed by a higher norm, but are "pre-supposed" or "predetermined" by the people in a country and is the norm on which legal norms are dependent.

Second, the basic rules of the state, according to Hans Nawiasky that a basic rule of the state can be set forth in a state document called "staasverfassung" or it can also be set forth in a number of scattered state documents and referred to as "Staatsgrundgesetz". Third, formal law, is the norm in a law that is more concrete and detailed, and can directly apply in society. Thus in a law, norms that can be sanctioned, such as criminal sanctions can be included. Fourth, implementing regulations and autonomous regulations, are types of regulations that are located under the Act and function to implement the provisions in the Act. The implementing regulations are sourced from the delegation's authority, while the autonomous regulations come from the attribution authority.

One effort that can be done to reduce the symptoms of obesity in laws and regulations, including encouraging the political will of the government to conduct regulatory reconstruction, by re-actualizing the nature of the norm hierarchy, as outlined by Hans Nawiasky about the theory of overlapping laws and norms. That is only positioning the legislation for the four classification levels of legislation, among others: First, the fundamental norms of the state. Second, the basic rules of the state. Third, formal law. Fourth, implementing regulations and autonomous regulations.

Various classification of statutory levels described by Hans Nawiasky, if analogous in the context of the Unitary State of the Republic of Indonesia, then at least will be described through four levels of norms, namely: First, Pancasila. Second, the 1945 Constitution of the Republic of Indonesia. Third, the Law and Government Regulations in lieu of Laws (Perppu). Fourth, implementing regulations and legal rules, such as Government Regulations, Presidential Regulations, and Regional Regulations (Provincial, Regency, City).

#### IV. CONCLUSION

Based on the description of the discussion above, the conclusion can be drawn as follows:

- a. Protection of the rights and obligations of Government Employees with Work Agreements (PPPK) in Law Number 5 of 2014 concerning State Civil Apparatuses

(ASN) there is no equality of rights between Government Employees and Work Agreements (PPPK) with Civil Servants (PNS), even though their obligations the same between Civil Servants (PNS) and Government Employees with Work Agreements (PPPK), it is necessary to revise the Act to fulfill the element of justice.

- b. Regulations for Government Employees with Work Agreements (PPPK) on the rights and obligations as a State Civil Apparatus in carrying out the tasks of government have been regulated in Law Number 5 of 2014 Article 6, Article 22 and Article 23 as a legal basis to guarantee aspects of legal compliance . A rule must reflect legal certainty in accordance with the State of the Republic of Indonesia is a State of Law (Recht State) not a state of power (Macht State). A law is stipulated and implemented in order to move towards the welfare of the people (Welfare State).
- c. Reconstructing regulations for Government Employees with Work Agreements (PPPK) on the rights and obligations of justice as a State Civil Apparatus based on justice, the government is to balance the rights of Government Employees with Work Agreements (PPPK) with Civil Servants (PNS) on the basis of fair values, because between Government Employees by Agreement (PPPK) and Civil Servants (PNS) have the same obligations as State Civil Apparatus. Changes in regulation between the revision of Law Number 5 of 2014 concerning State Civil Apparatus and Government Regulation Number 11 of 2017 concerning Management of Civil Servants and Government Regulation Number 49 of 2019 concerning Management of Government Employees with Work Agreements (PPPK). In line with that, it is also necessary to apply provisions on employment (Law Number 13 of 2003 concerning Manpower) and Presidential Regulation Number 54 of 2010 concerning Procurement of Government Goods / Services in order to create equal rights of Government Employees with Work Agreements (PPPK) as State Civil Apparatuses with based on the value of justice.

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