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## Normative Juridical Analysis of the Validity of Regulations on the Establishment of Merah Putih Village Cooperatives in the Perspective of the Hierarchy of Laws and Regulations in Indonesia

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**Abstract:** This study aims to analyze the legal validity of the regulations governing the establishment of the Merah Putih Village Cooperative within the framework of the hierarchy of laws and regulations, as well as to examine normative disharmony between cooperative law and village governance regulations. This policy is driven by Presidential Instruction No. 10 of 2025, supported by Ministerial Regulations of Village Affairs and the Ministry of Finance concerning the use and management of village funds, which raises juridical issues related to legitimacy and regulatory authority. This research employs a normative legal method using statutory and conceptual approaches. Legal materials are analyzed qualitatively through legal interpretation to assess the conformity of norms within the legal system. The results indicate that although the regulations have a strategic objective in strengthening the village economy, they remain juridically problematic. The Presidential Instruction does not have generally binding legal force, while ministerial regulations are limited in scope and cannot establish new legal norms. Vertical disharmony with the Village Law and horizontal disharmony among regulations on village funds are also identified, potentially leading to legal uncertainty in policy implementation. This study concludes that regulatory harmonization and stronger legal foundations are necessary to ensure clear legitimacy in the establishment of village cooperatives.

**Keyword:** Legal Disharmony, Hierarchy of Laws, Village Cooperatives, Village Funds

### INTRODUCTION

National economic development within the framework of a welfare state positions cooperatives as a fundamental pillar in achieving community economic independence. This principle is explicitly affirmed in Article 33 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which stipulates that the national economy shall be organized as a collective endeavor based on the principle of kinship. In this context, cooperatives are not merely understood as economic entities, but also as ideological instruments for strengthening the people-centered economic structure. However, in practice, the existence of cooperatives at

the village level continues to face various challenges, including institutional weaknesses, governance issues, and legal uncertainty regarding their establishment.

In recent policy developments, the Government of Indonesia, through Presidential Instruction No. 10 of 2025 concerning the Acceleration of the Development of Merah Putih Village Cooperatives, has encouraged the rapid establishment of village cooperatives as a national strategy to strengthen community-based economic systems. This policy is further reinforced by the issuance of Minister of Villages, Development of Disadvantaged Regions, and Transmigration Regulations No. 10 of 2025 and No. 16 of 2025, which regulate the prioritization of village fund utilization, including for strengthening village economic institutions. Additionally, Minister of Finance Regulation No. 7 of 2026 provides a fiscal framework supporting the financing of such programs.

Nevertheless, significant juridical issues arise regarding the validity of the regulatory framework governing the establishment of Merah Putih Village Cooperatives when viewed from the perspective of the hierarchy of laws and regulations in Indonesia. Within the national legal system, every policy must adhere to the principle of *lex superior derogat legi inferiori*, meaning that lower-level regulations must not contradict higher-level laws. In this regard, cooperative governance has been substantively regulated under Law No. 25 of 1992 on Cooperatives. Consequently, a critical question emerges as to whether policies issued through presidential instructions and ministerial regulations possess sufficient normative legitimacy to serve as a legal basis for establishing new cooperative entities without conflicting with higher statutory provisions (Jurdi, 2020).

This issue becomes increasingly complex when associated with the hierarchical structure of laws and regulations as stipulated in Law No. 12 of 2011 concerning the Formation of Laws and Regulations, as amended by Law No. 13 of 2022. Within this hierarchy, presidential instructions are not explicitly categorized as formal legal instruments, thereby raising debates regarding their general binding force (*regeling*) as opposed to their function as administrative policy instruments (*beleidsregel*). This ambiguity contributes to potential regulatory disharmony, which may ultimately affect legal certainty in the establishment of village cooperatives (Arizona, 2019).

From a theoretical perspective, this study is grounded in several key frameworks. First, the hierarchy of norms (*Stufenbau theory*) proposed by Hans Kelsen, which asserts that the validity of a legal norm is derived from higher norms. Second, the theory of authority, emphasizing that every governmental action must be based on legally recognized authority. Third, the theory of legal certainty, which requires clarity, consistency, and the absence of normative conflicts within the legal system. Fourth, the concept of law as a tool of social engineering as introduced by Roscoe Pound, which views law as an instrument to promote social transformation, including the development of village-based economies through cooperatives.

Previous studies indicate that regulatory disharmony within the people's economic sector is often caused by overlapping institutional authority and weak synchronization between central and local government policies (Redi, 2020). Furthermore, other research highlights that the use of non-legislative instruments, such as presidential instructions, tends to create legitimacy issues when not supported by stronger statutory regulations (Mochtar, 2019). In the context of village cooperatives, recent studies emphasize the importance of strengthening the legal foundation to ensure that economic empowerment programs are not merely administrative in nature but are also supported by robust juridical legitimacy (Nurhayati, 2022).

Based on the foregoing discussion, this study aims to analyze the legal validity of regulations governing the establishment of Merah Putih Village Cooperatives from the perspective of the hierarchy of laws and regulations in Indonesia, as well as to examine the normative disharmony between cooperative regulations and village governance regulations in

their implementation. This research is expected to contribute to the development of constitutional and administrative law, particularly in the areas of regulatory harmonization and the strengthening of community-based economic systems through cooperatives.

## **METHOD**

This study employs a normative legal approach, focusing on the analysis of positive legal norms governing the validity of regulations related to the establishment of Merah Putih Village Cooperatives within the framework of the hierarchy of laws and regulations in Indonesia.

The legal materials utilized in this research consist of primary, secondary, and tertiary legal sources. Primary legal materials include all statutory regulations related to cooperatives, village finance, and the formation of laws and regulations. Secondary legal materials comprise scholarly literature such as legal textbooks, nationally accredited journal articles published within the last ten years, and relevant previous studies. Meanwhile, tertiary legal materials include legal dictionaries, encyclopedias, and other sources that support the understanding of legal terms and concepts.

The research procedure is conducted through several systematic stages. The first stage involves identifying and formulating legal issues concerning the validity of regulations governing the establishment of Merah Putih Village Cooperatives. The second stage consists of collecting legal materials through the examination of statutory regulations and academic literature. The third stage involves classifying legal materials based on their relevance and normative strength within the hierarchy of laws and regulations. The fourth stage is the analysis of legal materials using a normative juridical approach. The final stage involves drawing prescriptive conclusions, namely providing legal arguments regarding the validity of the regulations under study.

The analysis technique applied in this research is qualitative analysis using a legal interpretation approach to assess the consistency and conformity of norms within the legal system.

## **RESULT AND DISCUSSION**

### **Analysis of the Validity of Regulations on the Establishment of Merah Putih Village Cooperatives in the Perspective of the Hierarchy of Laws and Regulations in Indonesia**

The findings of this study indicate that the regulatory framework governing the establishment of Merah Putih Village Cooperatives—based on Presidential Instruction No. 10 of 2025, Minister of Villages Regulations No. 10 and No. 16 of 2025, and Minister of Finance Regulation No. 7 of 2026—normatively aims to strengthen the people-centered economy at the village level. These regulations promote the utilization of village funds for the establishment and development of cooperatives as instruments of community empowerment. However, from the perspective of constitutional law and the hierarchy of laws and regulations, fundamental issues arise concerning normative legitimacy and the conformity of authority in the creation of legal norms.

From a juridical standpoint, the establishment of cooperatives has been explicitly regulated under Law No. 25 of 1992 on Cooperatives, which stipulates the requirements, mechanisms, and fundamental principles governing cooperative formation. In this context, subordinate regulations such as presidential instructions and ministerial regulations should be operational in nature and must not introduce new legal norms that deviate from statutory provisions. However, the analysis reveals that the Merah Putih Village Cooperative policy tends to adopt a top-down approach through governmental intervention, potentially contradicting the cooperative principle as a socio-economic movement rooted in voluntary participation and community awareness.

In Indonesia, laws and regulations are structured within a hierarchical system, culminating in the Constitution as the highest legal norm. Lower-level regulations must not contradict higher-level norms, as reflected in the principle of *lex superior derogat legi inferiori*, whereby higher norms prevail over lower ones (Elfiani & Pater, 2023). This principle aims to prevent regulatory overlap and ensure legal certainty. Furthermore, legal norms must be clear and unambiguous to avoid conflicting interpretations that could undermine Pancasila as the *staatsfundamentalnorm* (Elfiani, 2022).

From the perspective of the hierarchy of laws, as regulated under Law No. 12 of 2011 as amended by Law No. 13 of 2022, presidential instructions are not recognized as part of the formal legislative hierarchy and therefore do not possess generally binding legal force. Rather, they function as internal administrative policies binding only government officials, not the public at large. Consequently, the use of presidential instructions as a legal basis for cooperative formation raises normative legitimacy issues, as they lack *regelend* authority equivalent to statutes or government regulations (Indrati, 2016).

Furthermore, ministerial regulations governing village fund allocation and financial management indeed hold a formal position within the regulatory framework; however, their authority is delegative and limited to technical implementation. In practice, these regulations are used to encourage the formation of village cooperatives through the allocation of village funds, indirectly creating administrative pressure on village governments. This condition potentially exceeds delegated authority, as the establishment of cooperative legal entities should remain grounded in community autonomy and statutory provisions (Redi, 2020).

The interpretation of these findings reveals a lack of synchronization between policy objectives and the existing legal framework. From the perspective of Kelsen's hierarchy of norms theory, a legal norm derives its validity from higher norms. Therefore, lower-level regulations promoting village cooperative formation must conform to the Cooperative Law. Any inconsistency may result in the loss of legal validity.

From the perspective of authority theory, governmental actions must be based on clear attribution, delegation, or mandate. Presidential instructions, as administrative policy instruments, cannot serve as a legal basis for creating broadly binding norms affecting the public. This aligns with the view that the use of non-legislative instruments outside the formal regulatory framework may generate legal uncertainty and potential abuse of authority (Mochtar, 2019).

Meanwhile, from the standpoint of legal certainty theory, unsynchronized regulations create ambiguity in policy implementation. Village governments face a dilemma between complying with central government policies through presidential instructions and ministerial regulations, or adhering to statutory provisions governing cooperatives. This condition may lead to regulatory disharmony in village governance practices and reduce the effectiveness of community empowerment programs.

In addressing the research problem, it can be concluded that the legal validity of the regulations governing the establishment of Merah Putih Village Cooperatives remains juridically problematic when assessed from the perspective of the hierarchy of laws and regulations. These regulations do not fully comply with the principle of *lex superior derogat legi inferiori*, as there are indications of normative expansion without clear statutory authority. Moreover, the reliance on presidential instructions as a basis for public policy affecting the broader community reflects weaknesses in regulatory design that should be strengthened through higher-level legal instruments.

This discussion reinforces findings from contemporary legal studies, which identify regulatory disharmony as a major obstacle in public policy implementation in Indonesia. The inconsistency between legal norms and administrative policies often leads to implementation conflicts at the local level, particularly in community-based empowerment programs.

Furthermore, other studies highlight that strengthening legal legitimacy through regulatory harmonization is essential to ensure the sustainability of people-centered economic policies (Prasetianingsih, 2022).

Therefore, a policy reconstruction grounded in strong legal principles is required, including the establishment of regulations at the statutory level or amendments to the Cooperative Law to comprehensively accommodate village cooperative models. Such an approach will not only enhance legal certainty but also ensure that policy implementation aligns with the principles of economic democracy and community participation.

### **Normative Disharmony between Cooperative Regulations and Village Governance Regulations in the Establishment of Merah Putih Village Cooperatives**

UU No. 6 of 2014 on Villages constitutes the primary legislation that serves as the fundamental legal basis for village governance in Indonesia. This law comprehensively regulates village authority, institutional structures, village finance, and community empowerment. Within the context of the village economy, the Village Law provides space for the establishment of economic institutions, including Village-Owned Enterprises (*BUMDes*), as instruments for improving community welfare.

Normatively, the Village Law emphasizes that villages possess authority derived from original rights and local-scale competencies, meaning that any establishment of economic institutions must be rooted in the needs and initiatives of the local community. Consequently, the approach adopted is inherently bottom-up, rather than based on direct intervention from the central government.

The implication of this principle is that the establishment of village cooperatives, including the Merah Putih Village Cooperatives, must adhere to the principles of village autonomy and community participation. If cooperative formation is carried out through a centrally driven, instructive approach, it risks contradicting the spirit of decentralization embedded in the Village Law.

Meanwhile, Presidential Instruction No. 10 of 2025 represents a strategic government policy aimed at accelerating the development of village cooperatives as part of strengthening the people-centered economy. However, from a juridical standpoint, the position of a presidential instruction must be critically examined. Within the Indonesian legal system, as stipulated in Law No. 12 of 2011 in conjunction with Law No. 13 of 2022, presidential instructions are not included in the formal hierarchy of laws and regulations. Therefore, they do not possess generally binding legal force (*regeling*), but rather function as internal administrative policies (*beleidsregel*) directed at government officials.

Accordingly, a presidential instruction cannot serve as a normative legal basis for creating new legal obligations for the public. Its role is limited to coordination and policy acceleration. However, in practice, Presidential Instruction No. 10 of 2025 has driven the large-scale establishment of village cooperatives, resulting in administrative actions at the village level. This situation gives rise to several juridical issues, including the expansion of norms without statutory basis, executive overreach, and ambiguity regarding its binding force on village communities.

Furthermore, Minister of Villages Regulations No. 10 of 2025 and No. 16 of 2025 regulate the prioritization of village fund allocation, including for community economic empowerment programs. In practice, these regulations function as key instruments for financing the establishment of Merah Putih Village Cooperatives. From a legal perspective, ministerial regulations are implementing regulations with delegated authority, meaning they must not contradict statutory provisions and must not create new norms beyond their delegated scope.

The analysis indicates that these ministerial regulations tend to broaden the interpretation of village fund utilization to support cooperative formation, leading to the implicit positioning of Merah Putih Village Cooperatives as a quasi-mandatory program. Several juridical issues emerge from this condition:

1. A potential deviation from the principle of village autonomy, where villages are positioned as objects rather than subjects of development.
2. The existence of implicit coercive norms, whereby villages are administratively compelled to comply despite the absence of explicit legal obligations.
3. Disharmony with the Village Law, which does not mandate cooperative formation but instead guarantees institutional flexibility for village economic development.

Subsequently, Minister of Finance Regulation No. 7 of 2026 governs the management and accountability of village funds, including aspects of transparency and budget utilization. Within the context of this study, this regulation serves as a fiscal instrument supporting the implementation of village economic policies. However, from a legal standpoint, it is limited to financial administration and does not provide legitimacy for the establishment of cooperative institutions. Therefore, using this regulation as a direct legal basis for cooperative formation is juridically inappropriate, as it exceeds the scope of state financial regulation.

From the perspective of regulatory harmonization and normative hierarchy, vertical disharmony is evident between the Village Law as a higher-level norm and subordinate regulations such as presidential instructions and ministerial regulations. The core issue lies in the contradiction between the Village Law's emphasis on autonomy and participation, and the top-down, instructive nature of subordinate policies, thereby violating the principle of *lex superior derogat legi inferiori*.

Horizontally, potential disharmony is identified between the Minister of Villages Regulations, which focus on programmatic policy priorities, and the Minister of Finance Regulation, which emphasizes financial governance. This lack of synchronization creates ambiguity in implementation at the village level and increases the risk of misallocation or misuse of funds.

In terms of authority, the Village Law provides attribution of power to villages, while presidential instructions lack normative authority, ministerial regulations possess limited delegated authority, and the Ministry of Finance regulation is confined to fiscal administration. This configuration reflects overlapping authority and indicates the presence of *ultra vires* actions at the level of subordinate regulations.

The findings suggest that the policy for establishing Merah Putih Village Cooperatives holds political and economic legitimacy; however, it remains juridically weak. There is a clear tendency to rely on administrative legal instruments to achieve public policy objectives that should ideally be grounded in statutory-level regulations

## CONCLUSION

The legal validity of the regulatory framework governing the establishment of Merah Putih Village Cooperatives, when viewed from the perspective of the hierarchy of laws and regulations in Indonesia, remains juridically problematic. Although the policy carries a strategic objective in strengthening the people-centered economy at the village level, its normative foundation does not fully comply with the principle of *lex superior derogat legi inferiori*. Presidential Instruction No. 10 of 2025 does not possess generally binding legal force, as it is not included within the formal hierarchy of laws and regulations. Consequently, it cannot serve as a legal basis for creating norms that bind the public. Meanwhile, ministerial regulations, as implementing instruments, are inherently delegative and limited in scope, and therefore lack the authority to establish new legal norms beyond statutory provisions. Furthermore, this study identifies the existence of both vertical and horizontal normative

disharmony. Vertically, there is a clear inconsistency between Law No. 6 of 2014 on Villages which emphasizes the principles of autonomy and community participation—and subordinate regulations that tend to adopt an instructive, top-down approach. Horizontally, there is a lack of synchronization between ministerial regulations governing the prioritization of village fund utilization and those regulating village financial management, which may lead to ambiguity in policy implementation at the village level. Accordingly, regulatory harmonization and the strengthening of the legal foundation are imperative, particularly through the formulation or revision of statutory-level regulations that explicitly govern the model of village cooperatives. Such efforts are essential to ensure legal certainty, clarity of authority, and alignment between government policies and the principles of the rule of law, thereby supporting sustainable village economic development.

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