


## Authority of the Deputy Minister's Position in the State Government Structure

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### Abstract

**Introduction:** The system of government adopted by Indonesia is the presidential system. Where is the position of the President as the head of state and head of government. In running the wheels of government, the President is assisted by state ministries. The number of state ministries is adjusted to the President's program in the field of government, as well as to support the performance of state ministries.

**Purposes of the Research:** Explain the position of the deputy minister as stated in Article 10 of Law Number 39 of 2008 concerning State Ministries and understand the authority of the Deputy Minister in the organizational structure of the State Ministry.

**Methods of the Research:** The type of research used is normative research. In this research, a statutory-regulatory approach (Statutory Approach) and a conceptual approach (Conceptual Approach) are used. The sources of legal materials used are primary legal materials, secondary legal materials, and tertiary legal materials. Legal materials are qualitative.

**Results Main Findings of the Research:** The position of Deputy Minister does not explicitly shift the position of Secretary to the Minister. The Deputy Minister and the Secretary General/Ministry have the same position as assistants to the Minister, but it is not normatively explained in the statutory regulations regarding whether the Deputy Minister shifts the position of Secretary to the Minister and there is overlapping authority between the position of the Deputy Minister and the Ministry Secretariat or Secretariat General in carrying out the ministry's duties.

**Keywords:** Authority of the Deputy Minister; Government Administration System; Government Structure.

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## INTRODUCTION

The position of the Deputy Minister in Indonesia causes ambiguity, this is when viewed from the authority between the Deputy Minister and the Ministry Secretariat or the Secretariat General as an assistant to the Minister who has the task of assisting the State Ministry in carrying out the coordination of planning, coaching, and control of programs, activities, administration, and resources within his ministry. In addition, the position of the Deputy Minister towards the President and the Minister is still questionable. The President who appoints the Deputy Minister, the pattern of responsibility is not clearly regulated, as well as the responsibility of the Deputy Minister to the Minister.

The Minister, according to the Great Dictionary of the Indonesian Language, is the head of a department (cabinet member), is an assistant to the head of state in carrying out state affairs (work). The Minister of State, hereinafter referred to as a minister according to Law

39 of 2008, is an aide to the President who leads the Ministry.<sup>1</sup> Juridically, Article 10 of Law Number 39 of 2008 has a conflict of norms and inconsistency with Presidential Regulation Number 47 of 2009 concerning the Establishment and Organization of State Ministries, where the positions of Deputy Minister and Secretariat General are both assistants to the Minister. The power to administer government in general nature is the power to administer state administration, while the power to administer government in a special nature is the implementation of government duties and authorities that are constitutionally stated in the president himself who has a prerogative in the field of government.<sup>2</sup>

Hart's thought led to laws made based on the existence of an authority authorized to regulate the life of the Community. The legal authority lies in the orders and sanctions that causally possess.<sup>3</sup> Based on the analysis of the laws and regulations that regulate the organizational structure of the Ministry and the duties of the Deputy Minister, it is clear that the position of the Deputy Minister and the Secretariat of the Ministry or the Secretariat General are both assistants to the minister in carrying out the duties of implementing the ministry. For this reason, there is an overlap of authority between the Deputy Minister and the Ministry Secretariat or the Secretariat General in carrying out the task of implementing the ministry.

The discussion of legal issues will of course be closely related to the issue of power and authority. The existence of deputy ministers also gets pros and cons because the number is increasing day by day.<sup>4</sup> The relationship between law and power can be formulated with the slogan "law without power is wishful thinking, power without law is tyranny".<sup>5</sup> Types of authority that are related to some of the authority of the Deputy Minister before and after the issuance of the Constitutional Court decision No. 79/PUU-IX/2011 as stipulated in Article 69 of Presidential Regulation No. 47 of 2009 concerning the establishment and organization of State Ministries and Articles 69A, 69B, and, 69C of Presidential Regulation No. 91 of 2011 concerning the Third Amendment to Presidential Regulation No. 47 of 2011 concerning the Third Amendment to Presidential Regulation No. 47 of 2011 concerning the Third Amendment to Presidential Regulation No. 47 of 2011 2009 concerning the establishment and organization of state ministries, for prior to the Constitutional Court decision Number 79/PUU-IX/2011.<sup>6</sup>

Based on the description of the legal aspects above, this study will focus on,<sup>7</sup> The position of the Deputy Minister's institution in the organizational structure of the State Ministry is reviewed from his position, which juridically both from the authority, duties, functions, accountability and financial burdens of the State is still a debate. So that in the end it can

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<sup>1</sup> Kelbulan, Jacoba FX, Saartje Sarah Alfons, and Hendry John Piris. "Hak Prerogatif Presiden Dalam Pengangkatan Menteri." *TATOHI: Jurnal Ilmu Hukum*, 2 no 7 (2022): 728-738.

<sup>2</sup> Rahayu Prasetyaningasih, "Menakar Kekuasaan Presiden dalam Pembentukan Peraturan Perundang-undangan Menurut Undang-Undang Dasar 1945", *Ilmu Hukum*, 4 no 2 (2017), p. 268

<sup>3</sup> Cynthia Hadita, "Registrasi Data Pribadi Melalui Kartu Perbayar Dalam Perspektif Human Rights Perspective", *Jurnal HAM*, 9 no 2 (2018): 191-204. <http://dx.doi.org/10.30641/ham.2018.9.191-204>

<sup>4</sup> Ulya, Zaki. "Kedudukan Wakil Menteri Dalam Sistem Penyelenggaraan Pemerintahan Negara Menurut Undang-Undang Dasar Tahun 1945 (Position of Deputy Minister of State in The Sistem Operation of Government Under The 1945 Constitution of The Republic of Indonesia)." *Jurnal Legislasi Indonesia* 13 no 2 (2026): 213-219

<sup>5</sup> Mochtar Kusumaatmadja, *Fungsi dan Perkembangan Hukum Dalam Pembangunan Nasional* (Bandung: Alumni, 1994), p. 75

<sup>6</sup> Benito Asdhie Kodiyat, Candra Pulungan. "Kewenangan Wakil Menteri Di Indonesia Ditinjau Dari Hukum Administrasi Negara". dalam *Grondwet*, 1 no 2 (2022), p. 128-129

<sup>7</sup> Sudarmayanti dan Syarifudin Hidayat, *Metodologi Penelitian*, (Mandar Maju, Bandung, 2011), p. 36.

provide legal views and opinions on the urgency of the establishment of the Deputy Minister institution in the organizational structure of the Ministry of State.

## METHODS OF THE RESEARCH

As a normative science, law has a distinctive *sui generis* way.<sup>8</sup> Data source: in legal research there is no known data, because in legal research, especially Normative Juridical research, the source of legal research is obtained from the literature not from the field, for that the term known is legal material,<sup>9</sup> In normative law research, literature materials are the basic materials that in research science are generally called secondary data sources.<sup>10</sup> The legal materials used in this study are primary, secondary and tertiary legal materials. Primary legal material is authoritative legal material, which is authoritative meaning having authority.<sup>11</sup> The primary legal material in this study is Law number 39 of 2008 concerning State Ministries. Secondary legal materials are legal materials that are helpful and/or support primary legal materials in research that will strengthen their explanations in it. This data is usually used to complement the primary data and provide clues in which direction the researcher is taking. Among the secondary legal materials in this study are books, theses, dissertations, journals and documents that review castration punishment across perspectives, other writings related to this research. Tertiary legal materials are legal materials that provide instructions or explanations of primary and secondary legal materials such as legal dictionaries, encyclopedias, magazines, newspapers and others. The collection of legal materials in this Library Research research is through documentary techniques, which are collected from the study of archives or literature studies such as books, papers, articles, magazines, journals, newspapers or the works of conventional legal experts. Research Approach: A research approach is a method or way of conducting research.<sup>12</sup> From the expression of this concept, it is clear that what is desired is information in the form of a description and wants the meaning behind the legal material. In accordance with the type of research, namely normative legal research (*Juridis-Normatif*), more than one approach can be used,<sup>13</sup> In the study, a statutory approach (*Statute Approach*) and a conceptual approach (*Conceptual Approach*) were used. Data Analysis: in this study, the processing of legal materials by editing is used, namely the re-examination of legal materials obtained mainly from their completeness, clarity of meaning, suitability and relevance. After editing, the next step is coding, which is to provide a note or mark stating the type of source of legal material (legal literature or documents), copyright holder (author's name, year of publication) and the order of problem formulation. Next is material reconstruction (reconstructing), which is rearranging legal materials in an orderly, sequential, logical manner, so that it is easy to understand and interpret. The last step is to systematizing, which is to place legal materials sequentially according to the systematic framework of discussion based on the order of problems. Based on the research objectives to be achieved, it begins by examining all the data that is available from various data sources, namely documentation and data obtained from the library, by reducing data, namely data obtained from the literature and summarized by choosing the main things and compiled more systematically so that it is easy to control. In this case, the author uses qualitative data

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<sup>8</sup> Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Prenada Media Grup), 2005. p. 21.

<sup>9</sup> Peter Mahmud Marzuki, *Penelitian...*, p. 141.

<sup>10</sup> Soerjono Sukanto dan Sri Mamudji, *Penelitian...*, p. 24

<sup>11</sup> Peter Mahmud Marzuki, *Penelitian...*, p. 141.

<sup>12</sup> Suharsimi Arikunto, *Prosedur Penelitian; Suatu Pendekatan Praktek*, (Jakarta: Rineka Cipta), 2002. p. 23

<sup>13</sup> Jhonny Ibrahim, *Teori, p...*, 300

analysis, where data is analyzed by descriptive analysis method. This method is used with the aim of describing objectively in order to form and find a regulatory instrument for the form of legal protection for prosecutors and their families when carrying out their duties and authorities or when not carrying out their duties and authorities.

## RESULTS AND DISCUSSION

### A. Duties and Authorities of the Deputy Minister

Authority according to the Great Indonesian dictionary,<sup>14</sup> defined as the power to decide, rule, and delegate responsibility to others; functions that can not be performed. Authority in English literature is called authority or competence, while in Dutch it is called gezag or bevoegdheid. The term authority is often simply aligned with the term authority. The term authority is used in the form of a noun often aligned with the term "bevoegdheid" in Dutch legal terms. According to Philipus M. Hadjon, if you look closely at the term authority, there is a slight difference from the term "bevoegdheid". The difference lies in its legal character. The term "bevoegdheid" is used, both in the concept of public law and in the concept of private law. In our law, the term authority or authority should be used in the concept of public law.<sup>15</sup>

Within authority there are authorities (rechtsbevoegdheden). Authority is the scope of public legal action, the scope of government authority, not only includes the authority to make government decisions (besluit), but includes authority in the context of carrying out duties, and the establishment of authority and the distribution of authority are mainly stipulated in the constitution. According to Harjono, when talking about the issue of authority, you must first know what the difference is between functions and duties, then talk about what is meant by authority and when the word obligation is more appropriate to use. The use of these words is not only based on the literal meaning of the word, but it is also necessary to consider the relationship between one and the other in its entirety.<sup>16</sup>

The Deputy Minister is an official who represents the Minister in a particular Ministry appointed by the President in the event that there is a workload that requires special handling. In accordance with the mandate of Law Number 39 of 2008 concerning State Ministries, the appointment of Deputy Ministers has been regulated, but not all Ministers have representatives in carrying out their duties and responsibilities. The Deputy Minister is given the authority to assist in the Minister's leadership duties, including representing the Minister in cabinet sessions if the Minister is unable to attend, as well as attending Ministerial-level sessions in various forums. However, it does not have the right to vote in cabinet meetings and is not authorized to make decisions in various forums. Zaki Ulya explained that: "The Deputy Minister is an official who represents the Minister in a certain ministry appointed by the president who is appointed by the president in the event that there is a workload that requires special handling".<sup>17</sup>

The duties of the Deputy Minister himself are regulated in Article 3 of Presidential Regulation Number 60 of 2012 concerning Deputy Ministers. From this description, it can

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<sup>14</sup> *Kamus Besar Bahasa Indonesia Edisi Kedua*, Jakarta, 1995, f. 523

<sup>15</sup> Philipus M. Hadjon, *Op.Cit*, p. 1

<sup>16</sup> Isra Saldi, "Penataan Lembaga Perwakilan Rakyat, Sistem Trikameral di Tengah Supremasi DPR", *Jurnal Konstitusi*, 1 no 1 (2004).

<sup>17</sup> Zaki Ulya, Kedudukan Wakil Menteri Dalam Sistem Penyelenggaraan Pemerintahan Negara Menurut Undang-Undang Dasar Tahun 1945 (Position of Deputy Minister of State In The System Operation of Government Under The 1945 Constitution of The Republic Of Indonesia), *Jurnal Legislasi Indonesia*, 13 no 2 (2016): p. 214.



be concluded that to carry out his leadership duties in the ministry, the Minister is also assisted by the Deputy Minister as stipulated in Article 10 of Law Number 39 of 2008 concerning State Ministries. Furthermore, the Indonesian Ministry Law does provide a wide opportunity for the president to appoint a Deputy Minister. However, Law Number 39 of 2008 concerning State Ministries does not regulate and describe the Position, and the duties of the Deputy Minister are only explained about the President can appoint the Deputy Minister if there is a workload that requires special handling. According to Achyana, "workload is the amount of work that must be carried by a position/organizational unit and is the result of the time between the volume of work and the time norm"<sup>18</sup>. From the above article, the deputy minister is an elected position and not a must, where if a certain ministry has a heavy workload, then that is when the existence of a deputy minister is needed.<sup>19</sup>

Furthermore, the duties of the deputy minister according to Presidential Regulation Number 60 of 2012 concerning the Deputy Minister are very clear how broad the authority of the Deputy Minister is, but if you refer to Article 10 of Law Number 39 of 2008 concerning State Ministries, this looks contradictory. Where in the Article it is stated that "In the event that there is a workload that requires special handling, the President can appoint a Deputy Minister". This means that the President must and must explain to the public what handling requires the appointment of the Deputy Minister.<sup>20</sup> Article 1 of Presidential Regulation Number 60 of 2012 makes it clear that the Deputy Minister is under the Deputy Minister, the Article reads: The Deputy Minister is different from and responsible to the Minister.<sup>21</sup>

Based on several laws and regulations that regulate the Deputy Minister, there are several laws and regulations that regulate the duties and authorities of the Deputy Minister, including before and after the Constitutional Court Decision number 79/PUU-IX/2011. Prior to the Constitutional Court Decision No. 79/PUU-IX/2011, the duties and authorities of the Deputy Minister were generally regulated through Article 69 of Presidential Regulation No. 47 of 2009 concerning the Establishment and Organization of State Ministries which states: Article 69: "The Deputy Minister as referred to in Article 68 has the duty to assist the Minister in leading the implementation of the Ministry's duties". Meanwhile, specifically regarding the duties and authorities of the Deputy Minister before the Constitutional Court Decision number 79/PUU-IX/2011 is regulated in Article 69A, Article 69B and Article 69C of Presidential Regulation Number 91 of 2011 concerning the Third Amendment to Presidential Regulation Number 47 of 2009 concerning the Establishment and Organization of State Ministries, including: Article 69A "The scope of the Deputy Minister's field of duties as intended in Article 69, namely: a) Assisting the Minister in the formulation and/or implementation of ministry policies; and b) Assisting the Minister in coordinating the achievement of strategic policies across echelon I organizational units within the Ministry". Article 69B: The details of duties as referred to in Article 69A include: a) Assisting the Minister in the process of making ministerial decisions; b) Assist the Minister in carrying out work programmes and performance contracts; c) Provide recommendations and considerations to the Minister in relation to the implementation of the duties and functions of the Ministry; d) Carry out control and monitoring of the

<sup>18</sup> Yana Diana, "Pengaruh Beban Kerja Terhadap Kinerja Karyawan Di Huouse Keeping Departement Pada Hotel Bintang Lagoon Resort", *Jurnal Manajemen Tools*, 11 no 2 (019).

<sup>19</sup> Novira Maharani Sukma, "Kedudukan Wakil Menteri Dalam sistem Ketatanegaraan Indonesia Pasca Putusan Mahkamah Konstitusi Republik Indonesia Nomor 79/PUU-IX/2011". *Law Reform*, 8 no 2 (2013): 113-137.

<sup>20</sup> Rusnan, Kedudukan Wakil Menteri Dan Implikasinya Pada Sistem Ketatanegaraan Indonesia, *Jurnal Ius*, 1 no 1 (2013), p. 185.

<sup>21</sup> Rahmawati, "Tinjauan Hukum Administrasi Negara Tentang Kewenangan Wakil Menteri Dalam Sistem Pemerintahan Di Indonesia" *E-Jurnal Gloria Yuris Prodi Ilmu Hukum UNTAN*, 4 no 2 2016.

implementation of the duties and functions of the Ministry; e) Assisting the Minister in the assessment and determination of filling positions within the Ministry; f) Implementing bureaucratic control and reform within the Ministry; g) Representing the Minister in certain events and/or chairing meetings in accordance with the Minister's Assignment; h) Carry out other duties assigned by the Minister; and (i) In certain cases, the Deputy Minister performs special duties assigned directly by the President or through the Minister.

Therefore, the duties and authorities of the Deputy Minister before the decision of the Constitutional Court number 79/PUU-IX/2011 have the task of assisting.<sup>22</sup> The Minister in leading the implementation of the Ministry's duties, in addition to that in certain cases the President or through the Minister can assign special duties to the Deputy Minister. For this reason, it can be said that the Deputy Minister not only assists the Minister in leading the implementation of the Ministry's duties, but also assists the President as the head of the Government.<sup>23</sup> However, what needs to be questioned is a certain thing so that the President can assign special duties to the Deputy Minister, that is what the President must explain to the public, so that there is no confusion between the tasks carried out by the Minister and the Deputy Minister. In addition, it is also regulated regarding the detailed field of duties of the Deputy Minister that has not been regulated in Article 69A, Article 69B and Article 69C of Presidential Regulation Number 91 of 2011 concerning the Third Amendment to Presidential Regulation Number 47 of 2009 concerning the Establishment and Organization of State Ministries can be further regulated by each Minister concerned.

Furthermore, regarding the duties and authorities of the Deputy Minister after the Constitutional Court Decision number 79/PUU-IX/2011, it is not much different from before the Constitutional Court Decision number 79/PUU-IX/2011, which is regulated in Article 2 paragraph (1), Article 2 paragraph (2) and Article 3 of Presidential Regulation number 60 of 2012 concerning Deputy Ministers, including: Article 2: (1) "The Deputy Minister has the duty to assist the Minister in leading the implementation of the Ministry's duties; (2) The scope of the Deputy Minister's field of duties as intended in paragraph (1), includes: (a) Assisting the Minister in the formulation and/or implementation of ministerial policies; and (b) Assisting the Minister in coordinating the achievement of strategic policies across echelon I organizational units within the Ministry". Article 3: "The details of duties as intended in Article 2 include: a) Assisting the Minister in the process of making ministerial decisions; b) Assist the Minister in carrying out work programmes and performance contracts; c) Provide recommendations and considerations to the Minister in relation to the implementation of the duties and functions of the Ministry; d) Carry out control and monitoring of the implementation of the duties and functions of the Ministry; e) Assisting the Minister in the assessment and determination of filling positions within the Ministry; f) Implementing bureaucratic control and reform within the Ministry; g) Representing the Minister in certain events and/or chairing meetings in accordance with the Minister's Assignment; h) Carry out other duties assigned by the Minister; and (i) In certain cases, the Deputy Minister performs special duties assigned directly by the President or through the Minister."

## B. Types of Authority of the Deputy Minister

<sup>22</sup> Padmo Wahjono, *Masalah Ketatanegaraan Indonesia Dewasa Ini*, (Jakarta: Ghalia Indonesia, 1985), p. 216-217

<sup>23</sup> Jimly Asshiddiqy, *Konstitusi dan Konstitusionalisme Indonesia*, (Jakarta: Konstitusi Press, 2006), p.204-206

According to Prajudi Atmosudirdjo, distinguish between authority (competence, bevoegdheid) and authority (author, gezag). Although in practice differences are not always necessary. The authority of what is called formal power, power derived from legislative power (given by law) or from administrative executive power, for that the type of authority according to Prajudi Atmosudirdjo is based on its type, namely:<sup>24</sup> a) Procedural Authority, which comes from Laws and Regulations; b) Substantial authority, i.e. derived from tradition, sacral power, personal and instrumental qualities. Meanwhile, the types of authority, based on the source, authority are divided into two, namely personal authority and official authority:<sup>25</sup> a) Personal Authority: Sourced from intelligence, experience, values or normality, and the ability to lead; b) Official Authority: It is the official authority received from the authority above it.

Based on the above description of the types of authority, when it is connected to several authorities of the Deputy Minister both before and after the Constitutional Court Decision Number 79/PUU-IX/2011 as stipulated in Article 69 of Presidential Regulation Number 47 of 2009 concerning the Establishment and Organization of State Ministries and Article 69A, Article 69B and Article 69C of Presidential Regulation Number 91 of 2011 concerning the Third Amendment to Presidential Regulation Number 47 of 2009 concerning the Establishment and Establishment of Organization of the Ministry of State, for before the decision of the Constitutional Court Number 79/PUU-IX/2011. Meanwhile, after the Constitutional Court Decision number 79/PUU-IX/2011, the regulation regarding the authority of the Deputy Minister is regulated in Article 2 paragraph (1), Article 2 paragraph (2) and Article 3 of Presidential Regulation number 60 of 2012 concerning the Deputy Minister. In essence, there is no significant difference between the regulation of the Deputy Minister's authority before and after the Constitutional Court Decision number 79/PUU-IX/2011. However, in Presidential Regulation Number 91 of 2011 concerning the Third Amendment to Presidential Regulation Number 47 of 2009 concerning the Establishment and Organization of State Ministries, the details of the duties of the Deputy Minister have not been regulated in Presidential Regulation No. 91 of 2011 concerning the Third Amendment to Presidential Regulation Number 47 of 2009 concerning the Establishment and Organization of State Ministries, can be further regulated by each Minister concerned. Thus, the Minister can freely assign duties and authority to the Deputy Minister to assist the tasks of the State ministry.

### C. Sources of Authority of the Deputy Minister

The source of authority is in line with the main pillar of the state of law, namely the principle of legality (legaliteitsbeginsel or het beginsel van wetmatigheid van bestuur), based on this principle it is implied that government authority comes from laws and regulations, meaning the source of authority from the government based on legislation. Theoretically, the authority derived from the laws and regulations is obtained through three ways, namely, attribution, delegation, and mandate. With regard to these attributions, delegations, and mandates, H.D. van Wijk/Willem Konijnenbelt defines as follows:<sup>26</sup> a) Attribution: toekenning van een bestuursbevoegdheid door een lawgever aan een bestuursorgaan (attribution is the granting of governmental authority by the lawmaker to the governing body); government authority by lawmakers to government organs); b)

<sup>24</sup> Prajudi Atmosudirdjo, *Hukum Administrasi Negara*, (Jakarta: Ghalia Indonesia, 1966), p. 78

<sup>25</sup> Benny M Yunus, *Intisari Hukum Administrasi Negara*, (Bandung: Alumni, 1980), p. 35

<sup>26</sup> Ridwan H R, *Hukum Administrasi Negara*, (Raja Grafindo Persada, Jakarta, 2006), p. 105

Delegation: overtracht van een bevoegdheid van het ene bestuursorgaan aan een andere (delegation is the delegation of governmental authority from one governing body to the governing body of Iainnya); c) Mandate: a governing body allows its authority to be exercised by another body on behalf of another organ (mandate occurs when a governing body allows its authority to be exercised by another body on its behalf).

#### **D. Form of Authority of the Deputy Minister**

Delegation of authority is the handing over of part of the authority of a superior official to the subordinate to assist in carrying out his duties and obligation to act on his own. The form of delegation of signing is: Delegation of authority by using the term in the name (a.n) It is a type of delegation of authority in a mandated manner, in the name used if the signatory of the letter has been authorized by the responsible official based on the field of duties, authority and responsibilities of the official concerned. The responsible official delegated authority to the officials under him, at most only 2 (two) ranges of structural positions under him. The requirements for the delegation of authority are: a) The delegation of authority must be stated in written form, namely in the form of an Official Instruction or Power of Attorney; b) The material that is delegated must be the duties and responsibilities of the delegating official; c) Basically, the signing authority includes letters for external and internal interests of the State institution; d) The use of authority is only limited to the authority delegated to him and the material of such authority must be accounted for by the delegated to the delegate; e) The responsibility as a result of the signing of the letter lies with the official on behalf of the.

#### **E. Problems of the Authority of the Deputy Minister**

The Deputy Minister in exercising his authority, of course, there are several authority problems that will be faced, both according to the normative level of the laws and regulations that regulate the authority of the Deputy Minister which is not specifically given by laws and regulations, as well as technically applicable in the field regarding the implementation of the Deputy Minister's daily duties, at the normative level, of course there are several authorities given to the Deputy Minister also be the authority given by the Secretariat General or the Secretariat of the Ministry, for which it gives rise to a conflict of authority<sup>27</sup> which can damage the synergy between the institutional structures in the Ministry of State. In addition, at the implementation level, it can also cause jealousy, considering that the tasks and functions given are almost intersecting, it's just that the way of responsibility is different.

There are several powers of the Deputy Minister that are also given to the Secretariat General or the Secretariat of the Ministry, it is necessary to look at the juridical view of some of the authorities given by laws and regulations to the Secretariat General or the Secretariat of the Ministry, namely those regulated in Presidential Regulation Number 47 of 2009 concerning the Establishment of the Organization of State Ministries, namely: a) Authority of the Secretariat General: Article 30: "The Secretariat General has duties carry out coordination of the implementation of duties, coaching and providing administrative support to all organizational units within the Ministry". Article 31: "In carrying out the duties as intended in Article 30, the Secretariat General shall carry out the following functions: 1) coordination of the activities of the Ministry; 2) coordination and preparation of Ministry's plans and programs; 3) coaching and providing administrative support which

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<sup>27</sup> Taufiqurrahman Syahuri, *Tafsir Konstitusi Berbagai Aspek Hukum*, (Jakarta: Prenada Media Group, 2011), p. 113-114



includes administration, personnel, finance, housekeeping, archives and documentation of the Ministry; 4) fostering and implementing organizations and governance, cooperation, and public relations; 5) coordination and preparation of laws and regulations and legal aid; 6) the implementation of the management of state property/assets; and 7) the implementation of other duties given by the Minister." b) Authority of the Ministerial Secretariat: Article 3: "The details of the duties as referred to in Article 2 include: 1) Assisting the Minister in the process of making decisions of the Ministry; 2) Assist the Minister in carrying out work programmes and performance contracts; 3) Providing recommendations and considerations to the Minister related to the implementation of the Ministry's duties and functions; 4) Carry out control and monitoring of the implementation of the duties and functions of the Ministry; 5) Assisting the Minister in the assessment and determination of filling positions within the Ministry; 6) Carry out bureaucratic control and reform within the Ministry; 7) Representing the Minister in certain events and/or chairing meetings in accordance with the Minister's Assignment; 8) Carry out other duties given by the Minister; and 9) In certain cases, the Deputy Minister carries out special duties given directly by the President or through the Minister."

If studied carefully, there are several authorities that exist in the Deputy Minister which are also the authority of the Secretariat General or the Secretariat of the Ministry, for that it is possible to have a conflict of authority between the Deputy Minister and the Secretariat General or the Secretariat of the Ministry. In addition, on a practical level, it causes jealousy, considering that the Deputy Minister is a new institution that is formed directly by the President, but has the same or greater authority than the Secretariat General or the Secretariat of the Ministry, for this matter will cause problems in the future, considering that the role and function of the Deputy Minister has previously been carried out by the Secretariat General or the Secretariat of the Ministry. However, with the existence of a new institution formed by the President, the authority is given to the Deputy Minister.<sup>28</sup> Therefore, if there is a conflict of authority or authority dispute between the Deputy Minister and the Secretariat General or the Secretariat of the Ministry, then there are several ways that can be taken to minimize the possibility of a dispute of authority between the Deputy Minister and the Secretariat General or the Secretariat of the Ministry. To get around this, it is by holding meetings and coordinating the division of authority between the Deputy Minister and the Secretariat General or the Secretariat of the Ministry, thus the continuity of authority synergistically will be able to overcome unwanted things as previously expressed. Meanwhile, other ways can be taken through asking for advice and guidance from the Minister regarding the division of the scope of duties, functions and authorities, so as to create a harmonization of authority in the organizational structure of the Ministry of State.

## F. Organizational Structure of the Ministry of State

Organizational structure has a very important position and role in any organization or public position. For this reason, the organizational structure should be formed in such a way that it is in accordance with the authority and level of position owned by each organization, organizational structural position.<sup>29</sup> Secara umum struktur organisasi mendefinisikan cara tugas pekerjaan dibagi, dikelompokkan, dandikoordinasikan secara formal, dengan

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<sup>28</sup> Jimly Asshiddiqie, *Hukum Tata Negara dan Pilar-Pilar Demokrasi, Serpihan Pemikiran Hukum, Media dan HAM*, (Jakarta: Konpress, 2006), p. 119-121

<sup>29</sup> Hendrawan dkk, *Advanced Strategic Management Back to Basic Approach*, (Jakarta: Gramedia Pustaka Utama, 2005), p. 69

demikian maka cirri-ciri dalam organisasi adalah:<sup>30</sup> a) The existence of a group of people who can be known and know each other; b) The existence of different activities, but interrelated with each other which is a unity of activities; c) Each person gives his or her contribution in the form of thoughts, energy, and others; d) The existence of authority, coordination and supervision; e) There is a goal to be achieved. As a form of organization will have certain elements, which among others are as follows:<sup>31</sup> a) As a forum or place to work together; b) The process of cooperation is at least between two people; c) Clear duties and positions of each; d) There is a specific purpose.

Organizational structure can also be defined as a decision taken by the organization itself based on the situation, conditions and needs of the organization. The structure of an organization describes how the organization organizes itself, how to organize relationships between people and between groups. The structure of an organization is related to the goal, because the organizational structure is the way the organization organizes itself to be able to achieve the goals it wants to achieve.<sup>32</sup> Meanwhile, specifically the organizational structure is the arrangement of components (work units) in the organization. Organizational structure shows the division of labor and shows how these different functions or activities are integrated (coordination). In addition, the organizational structure also shows job specializations, command channels and report delivery. Organizational Structure of State Ministries according to Laws and Regulations.

The background of the organizational structure of the Ministry of State is through Article 4 of the 1945 Constitution of the Republic of Indonesia which affirms that the President of the Republic of Indonesia holds governmental power according to the Constitution,<sup>33</sup> In exercising the power of government, the President is assisted by ministers of state who are appointed and dismissed by the President. The ministers of the state are in charge of certain affairs in the government whose establishment, amendment, and dissolution of their ministries are regulated in the law as referred to in Article 17 of the Constitution of the Republic of Indonesia of 1945. Article 17 emphasizes that the President's power is not unlimited, therefore it is required that every establishment, change, and dissolution of state ministries must be based on the law. As Article 17 paragraph (1), paragraph (2), paragraph (3) and paragraph (4) of the Constitution of the Republic of Indonesia for the Basic Year of 1945, which reads: Article 17: (1) The President shall be assisted by the Ministers of State; (2) The Ministers are appointed and dismissed by the President; (3) Each minister is in charge of certain affairs in the government; (4) The establishment, amendment, and dissolution of State ministries shall be regulated in law".

Therefore, the organizational structure of the State Ministry as stipulated in Article 9 Paragraph (1), Paragraph (2) and paragraph (3) of Law Number 39 of 2008 concerning State Ministries juncto Article 8, Article 27 paragraph (1), paragraph (2), paragraph (3) and paragraph (4) as well as Article 51 of Presidential Regulation number 47 of 2009 concerning the Establishment of the Organization of State Ministries, there are several structures that reflect the functions and authorities of each Ministry, For this reason, it is then grouped into

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<sup>30</sup> Direktorat Tenaga Kependidikan Direktorat Jenderal Peningkatan Mutu Pendidik Dan Tenaga Kependidikan Departemen Pendidikan Nasional, *Pengorganisasian Sekolah*. Materi Diklat Calon Kepala Sekolah/ Kepala Sekolah. Jakarta Tahun 2008.

<sup>31</sup> *Ibid*

<sup>32</sup> Thoha Miftah. (1987). *Behavioral Perspective of Bureaucracy (Primary Dimensions of Administration Science of the State)*, Volume II. (Jakarta: Rajawali Press), p 35

<sup>33</sup> Saldi Isra, *Pergeseran Fungsi Legislasi, Menguatnya Model Legislasi Parlemen dalam System Presidential Indonesia*, (Jakarta: Rajawali Pers, 2010), p. 31-32

an organizational structure in the form of Leaders, Assistant Leaders, Implementers, Supervisors, and even Supporters and there are also main task implementers in the regions and/or foreign representatives in accordance with laws and regulations. The organizational structure of the Ministry of State is also in addition to several organs such as Leaders, Assistant Leaders, Implementers, Supervisors, and even Supporters and there are also main task executors in the regions and/or foreign representatives in accordance with laws and regulations, as mentioned above.

### **G. Organizational Structure of State Ministries based on the Field**

In the previous subchapter, as described above, it tries to provide an overview of the organizational structure in the Ministry of State. In this subchapter, the author will try to see several State Ministries about their organizational structure, whether there are similarities with the organizational structure as stipulated in Article 9 Paragraph (1), Paragraph (2) and paragraph (3) of Law Number 39 of 2008 concerning State Ministries in conjunction with Article 8, Article 27 paragraph (1), paragraph (2), paragraph (3) and paragraph (4) as well as Article 51 of Presidential Regulation number 47 of 2009 concerning the Establishment of the Organization of State Ministries, or there is a difference with the structure that the author has described in the previous subchapter.

At the level of practice in the field, there are various kinds of models and types regarding the organizational structure of the Ministry of State, to be able to review further, we can look at the existing organizational structure models in the Ministry of State, including: a) First Model: In this first model, there is a very striking difference with the chart as described earlier, where in the model and form of the first organizational structure of the Ministry there is the position of Deputy Minister under the Minister as the Leader of a particular Ministry. After that, there is only an Assistant Leader, namely the Ministry secretariat which oversees several bureaus, after that it is the Expert Staff, then the Supervisor and continued with the Implementing element. In the first model, it can be seen through the following organizational structure drawings: b) Second Model: In this second model, it is almost the same as the previous model, namely the top structure, namely the Leader, namely the Minister, at the next level there are 2 (two) Deputy Ministers while the next position is aligned are the elements of Assistant Minister by the Secretariat General, Supervisor by the Inspectorate General and Special Staff. While the next element is the implementing and supporting elements. For more details, see the following structure;<sup>34</sup> c) Third Model: In the third model, this is actually almost the same as the first and second models, only in this model the Minister is the leader, then there are expert staff directly related to the Minister, while under the Minister there is the Deputy Minister as in the first and second models, next is the Assistant Leader element, namely the General Secretariat, the Supervisory element, namely the inspectorate and the last is the Implementing element and the technical support of the Ministry.<sup>35</sup>

## **CONCLUSION**

The need for the appointment of Deputy Ministers is not in all existing Ministries, besides that the President is obliged to provide an explanation to the public about the urgency of the appointment of Deputy Ministers in certain Ministries, so that political factors and public

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<sup>34</sup> Struktur organisasi model kedua ini diambil dari website <http://www.depkeu.go.id/>, pada tanggal 1 November 2023

<sup>35</sup> 230 Model struktur organisasi model ketiga, diambil dari website dan melihat langsung Kementerian Pariwisata dan Ekonomi Kreatif, <http://www.budpar.go.id/>, pada tanggal 1 November 2023

perceptions regarding the appointment of Deputy Ministers in certain Ministries are not interpreted negatively. The position of the Deputy Minister can be seen from the perspective of his authority, his appointment, his organizational structure, his rank level, and the relationship of the Deputy Minister with other institutions in the Ministry. When viewed from his authority, the position of the Deputy Minister is under the President, besides that it is also under the Minister, because the Deputy Minister is not only responsible to the Minister, but also as an assistant to the Minister, while the Deputy Minister and the Secretariat General/Ministry can be said to be the same, this is because both are equally as assistants to the Minister, in the perspective of his appointment the position of the Deputy Minister is under the President, while the Minister and Deputy Minister are in the same position, namely they are both appointed and dismissed by the President through the same procedures and procedures, while in the case of the Secretariat General/Ministry, the position of the Deputy Minister is above the Secretariat General/Ministry. The perspective of the Deputy Minister's organizational structure is not normatively explained in the laws and regulations regarding the Deputy Minister, even though in practice it is positioned under the Minister and below or above the Secretariat General/Ministry. From the perspective of the rank level of the Deputy Minister, it is under the President and Ministers, and is above the Secretariat General/Ministry. Meanwhile, in the relationship between the Deputy Minister and the President, the Minister and the Secretariat General/Ministry, the Deputy Minister is under the President and Minister and is above the Secretariat General/Ministry.

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