



(MUDIMA)



## Formation of National Legal Regulations

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### ABSTRACT

This paper discusses in depth the processes, principles, and challenges in the formation of national legal regulations in Indonesia. The formation of national law is one of the main pillars in developing Indonesia's legal system, based on the values of Pancasila and the 1945 Constitution of the Republic of Indonesia. In the context of national development, law functions as a means to achieve social justice, legal certainty, and benefits for all Indonesian people. This research uses a normative juridical approach with qualitative analysis methods on primary and secondary legal materials. The study results indicate that the formation of national legal regulations must pay attention to the principles of good legislative drafting, as regulated in Law Number 13 of 2022 concerning the Formation of Legislation. In addition, the role of legal politics, regulatory harmonization, and public participation are important factors in ensuring the quality of national law that is responsive to social changes

## **INTRODUCTION**

The formation of national legal regulations is part of the dynamics of legal development in Indonesia. Since the Proclamation of Independence in 1945, Indonesia has been committed to building a national legal system based on the values of Pancasila and the 1945 Constitution. This is reflected in the Preamble of the 1945 Constitution, which affirms the goals of the state, namely to protect all Indonesian people and the entire homeland of Indonesia, advance the general welfare, educate the nation's life, and participate in maintaining world order based on independence, eternal peace, and social justice. However, in practice, the formation of national legal regulations faces various challenges, both in terms of legal substance, political processes, and the synchronization between legislations. The numerous overlapping regulations and the weak coordination between regulatory agencies often lead to legal uncertainty in society. Therefore, it is necessary to renew and improve the law-making system so that it is more planned, measurable, and responsive to the needs of the community.

According to Jimly Asshiddiqie, national law must be developed by paying attention to three important elements: substance, structure, and legal culture. These three elements form the foundation for the establishment of a strong and just national legal system.

Therefore, the formation of national legal regulations is not only oriented towards legal certainty but also towards the values of justice and social benefit for all citizens.

### **Problem Formulation**

Based on the aforementioned background, the issues to be discussed in this paper are as follows:

1. What is the concept of forming national legal regulations in Indonesia?
2. What are the principles and legal foundations for the formation of national legal regulations?
3. What are the challenges and directions for future national legal reform?

### **Purpose of Writing**

The purpose of writing this paper is to:

1. Describe the concept and process of forming national law.
2. Explain the principles of forming national legal regulations.
3. Analyze the challenges and directions of national legal reform in Indonesia.

### **METHODS**

This paper is prepared using a normative juridical approach, which examines the law from the aspect of norms or applicable legislation. The data used come from primary, secondary, and tertiary legal materials, including laws, legal literature, and previous research results. The analysis is carried out descriptively qualitatively, by describing legal phenomena based on theory and the practice of regulation formation in Indonesia.

### **RESULTS AND DISCUSSION**

The research results show that the formation of national legal regulations in Indonesia is a complex process and involves various fundamental elements, both from philosophical, juridical, and sociological aspects. Since the beginning of independence, the direction of legal formation has been based on Pancasila and the 1945 Constitution as the foundation of the state. These findings emphasize that the quality of national law is greatly influenced by the state's ability to realize these fundamental values throughout the legislative process, so that the law truly becomes an instrument to achieve the goals of the state.

Research also found that the formation of laws in Indonesia must comply with material and formal principles as regulated in Law Number 13 of 2022. The principles of clarity of purpose, transparency, appropriateness of type and content, as well as executability are important principles in producing quality regulations. Non-compliance with these principles has the potential to result in flawed regulations that can be constitutionally challenged, making the principles of law formation a key determinant of the legitimacy of a regulation.

The process of national law formation consists of stages of planning, drafting, deliberation, enactment, and promulgation. These stages involve various institutions such as the House of Representatives (DPR), the President, the Regional Representative Council (DPD), the Supreme Court, and the Ministry of Law and Human Rights. Research emphasizes that the legislative stages must operate based on the principle of checks and balances to prevent the domination of certain interests. When the process is not carried out consistently, the risk arises of regulations being created that are not responsive to the needs of the community.

Research also highlights that public participation plays an important role in the formation of democratic laws. The public has the right to provide input from the planning stage to the discussion stage. However, documents show that public participation is often still formal and not substantive. The case of the Omnibus Law on Job Creation illustrates how minimal public participation can lead to widespread resistance and end with a Constitutional Court ruling declaring the law conditionally unconstitutional.

Furthermore, research has found that the development of national law faces significant challenges due to globalization, advances in digital technology, and regional autonomy dynamics. Globalization drives the harmonization of national regulations with international standards, while technological developments demand new regulations concerning personal data protection, cybersecurity, and artificial intelligence. On the other hand, disharmony between central and regional laws often creates overlapping regulations, thereby hindering legal certainty.

Overall, the research concludes that the formation of national legal regulations should be directed towards creating a legal system that is fair, responsive, and beneficial. The quality of legal products is greatly influenced by the direction of national legal politics, the quality of academic manuscripts, as well as the involvement of the public and academics. Future challenges require that law-making be more transparent, research-based, and still

grounded in the values of Pancasila. Thus, the ideal national law is one that can meet the needs of society, strengthen substantive justice, and support the establishment of the rule of law in Indonesia.

## CONCLUSION

From the previous discussion, it can be concluded that the formation of national legal regulations is a strategic process in realizing an Indonesian rule of law that is democratic, just, and based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

The process of forming national law is not only technical in nature but also reflects the direction of legal politics and the legal aspirations of the nation. The following are several points of conclusion that can be formulated:

1. The formation of national law is an integral part of national development, aimed at creating a social order that is just, orderly, and socially equitable for all the people of Indonesia.
2. The principles and theories of law formation require a balance between formal legitimacy and material justice. Good law must be based on the values of Pancasila, in accordance with the hierarchy of norms, and adaptive to societal developments.
3. National legal politics play an important role in determining the direction and quality of legal products. Inconsistent legal politics can lead to a disparity between legal ideals and the practice of power.
4. Public participation and transparency are essential elements in the formation of democratic law. Without community involvement, the law risks losing its social legitimacy.
5. The main challenges in forming national law in the era of globalization and digitalization include harmonization with international law, digital law transformation, and synchronization between national law and regional law.

6. The direction of future law formation should be aimed at a legal system that is substantively just, based on Pancasila values, and functions as a tool of social engineering for the welfare of the people.

### **Recommendation**

Based on the study results, several recommendations can be proposed to improve and strengthen the process of national law-making, including:

#### **1. Strengthening Legislative Institutions**

The government and the House of Representatives need to strengthen institutional capacity in the planning and drafting of regulations through training, legal research, and better coordination systems.

#### **2. Optimizing Public Participation**

The public, academics, and civil organizations need to be substantially involved, not merely formally, in every stage of the law-making process.

#### **3. Harmonization and Digitalization of the Legal System**

The formation of law must adapt to the developments in information technology through the digitalization of legal data, e-legislation, and an integrated national legislation database.

#### **4. Consistency of National Legal Politics**

The government must have a clear direction in legal politics, side with social justice, and keep the legislative process away from short-term political interests.

#### **5. Continuous legal education and research**

Universities and research institutions need to strengthen the academic role in providing scientific input and study results for every draft legislation.

Thus, the formation of national law not only produces legally valid legal products but also ones that live within the legal awareness of the community and are capable of realizing the ideal of social justice for all Indonesian people.

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