



IMPLEMENTATION OF REGULATORY POLICY IN GOVERNMENT AGENCY

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ABSTRACT

Legal reform is a necessity. Regulatory arrangement is one aspect of the legal reform program within the framework of national legal development. Regulation is the solution and foundation of law enforcement and government policies, thereby creating legal certainty and order and providing benefits to the community. However, regulation is an obstacle to development due to overlapping regulations, hyper regulations, conflicts of interest and authority. It can be seen that there is a judicial review of existing laws in the Constitutional Court and 1,765 regional regulations have been canceled. The legal reform program is carried out based on the Regulation of the Minister of Administrative and Bureaucratic Reform concerning the Road Map for Bureaucratic Reform 2020-2024. The regulation mandates the need to create a Legal Reform Index to measure the success of Legal Reform. This research was conducted to provide an overview of regulations and the formation of regulations as well as the implementation of regulatory policies for Government Agencies. This research is juridical-empirical and used a qualitative approach. From the results of this study, it was found that there are regulations in Indonesia that require amalgamation, simplification, and revocation. Considering this situation, legal reform is needed. This determination is seen from the Legal Reform Index. Policy Measurement of the legal reform index is useful for ensuring the quality of good laws and regulations following the principles, rules and objectives of the ideal formation and arrangement of laws and regulations.

Keywords: legal reform; regulatory arrangement; success variable

INTRODUCTION

Background

The government has implemented nine priority agendas. The nine programs are called *Nawa Cita*. This program initiates to show the priority of the path of change toward a politically sovereign Indonesia, economic independence, and cultural personality. Based on these nine priority agendas, the government has compiled several strategic

plans. They include revitalization and reform measures in various sectors. One of the measures is to bring back the state to protect the entire nation, provide a sense of security for all citizens and restore public trust. The sector that needs to be re-arranged is the legal sector because it is difficult for the community to obtain legal certainty.

Legislation is a tangible manifestation of the existence of law and its impact is real.¹ However, based on a 2019 a study conducted by the Indonesian Center for Law and Policy Studies (PSHK) in collaboration with the National Development Planning Agency of the Republic of Indonesia (Bappenas RI), there are some fundamental problems in the system of laws and regulations in Indonesia. First, there is a mismatch in the planning of laws and regulations, both at the central and regional levels. Second, there is a tendency for legislation to deviate from the regulated content material. Disobedience to the content material raises the “*hyper-regulation*” issue. Third, the effectiveness of legislation often becomes a problem that arises during the implementation process. It is getting worse by the absence of procedures for monitoring and evaluating laws and regulations and the absence of a specific institution that handles all aspects of the legislation system.²

Legal reform has been one of the primary reform agendas in Indonesia since 1998. In law Number 17 of 2007 concerning the National Long-Term Development Plan for 2005-2025, it states that Legal reform is one way to create Indonesian competitive characters. The nation’s ability to be highly competitive is the key to achieving national progress and prosperity. High competitiveness causes Indonesian people to prepare globalization challenges and take advantage of the opportunities. In this regard, legal reform is one of the crucial elements to support the realization of sustainable economic growth, regulate problems related to the economy,

especially the business and the industrial world, and create investment certainty, especially law enforcement and protection.

National law development must be integrated and synergized with development plans in other fields and requires a sustainable process.³ Legal development aims to eliminating the possibility of criminal acts of corruption and can completely handle and resolve problems related to collusion, corruption, and nepotism (KKN).⁴

Reformation that occurs in the national legal system cannot be separated from the overall national development strategy and goals. It is contained in the National Medium-Term Development Plan (RPJMN) for 2020-2024 as the foundation for the Indonesian nation in carrying out national development. In the legal development process, the purpose of legal development is to create a national legal system that is honest, responsible, and does not discriminate against one another. The legal development must happen in the name of the credibility of the overall consistency of the central and regional laws and regulations, and does not differ in opinion with the other statutory regulations above it, as well as the behavior of law enforcement officers who seek to restore the legal trust of the Indonesian people. In supporting the various efforts made to create the coveted law, planning and legal development are focused on strategic actions to improve the performance of legal formulations. These formulations include diverse written and unwritten legal rules, a legal institution consisting of law enforcement officers, and become aspects of law enforcement. Those needs were initially stated as the prime law, the nation’s ideology, and the Constitution, which was then compiled into a constitution (Huijbers, 2010).

1 Insan Firdaus, “Harmonisasi Undang-Undang Narkotika Dengan Undang-Undang Masyarakatan Terkait Rehabilitasi Narkotika Bagi Warga Binaan Masyarakatan,” *De Jure* 21 (2021): 141–160.

2 Pusat Studi Hukum dan Kebijakan, *Kajian Reformasi Regulasi Di Indonesia: Pokok Permasalahan Dan Strategi Penanganannya* (Jakarta: Jakarta: Pusat Studi Hukum dan Kebijakan Indonesia, 2019).

3 Muhammad Agung Ardiputra, “No Title” (n.d.).

4 Republik Indonesia, *Undang Nomor 17 Tahun 2007 Tentang Rencana Pembangunan Jangka Panjang Nasional Tahun 2005-2025*, 2007.

Furthermore, in the constitution Number 17 of 2007, it is explained that legal reform directs at the realization of a stable national legal system based on Pancasila and the 1945 Constitution of the Republic of Indonesia which includes the development of legal materials, legal structures with the law enforcement officers, legal facilities and infrastructure; the creation of a society that has high awareness and legal culture in the context of creating a rule of law; and the creation of equitable and democratic society. Legal development is held through the renewal of legal materials. The development happens while still paying attention to the plurality of the applicable legal order and the influence of globalization. It is done as an effort to increase legal certainty and protection, law enforcement and human rights (HAM), legal awareness, as well as legal services with the core of justice and truth, order and welfare in the context of an increasingly orderly, smooth, and globally competitive state administration.⁵

According to Muladi as quoted by Satya Arinanto, Legal Reform is a democratic process in terms of making, enforcing, and creating legal awareness. The indicator of democracy in the law-making process is that it must listen to the aspirations of experts, democracy infrastructure, and anyone related to government. In terms of law enforcement, the instrument of discretion should not be allowed, because it will result in a setback in legal reform. Legal awareness should continue to be socialized.⁶

The scope of legal reform is basically in line with the theory of legal effectiveness proposed by legal experts. According to Soerjono Soekanto, there are 5 (five) factors that influence the effectiveness of the law. First, the legal factor itself (constitution).

Second, law enforcement factors, officers, and parties involved in law enforcement. Third, factors or facilities that support law enforcement. Fourth is the community factor. Fifth, the cultural factors as a form of work, creativity and sense based on the ability to realize intention.⁷ Likewise, according to Lawrence Friedman, legal effectiveness is influenced by three subsystems. They are legal substance, legal structure, and legal culture. These three aspects are interrelated and influence each other. Consequently, legal reform cannot be carried out in a sectoral manner.

Problems in the legal field are very complex, causing the implementation of legal reform to require systematic, gradual, and continuous efforts. The legal reform program has become the focus and target of every government regime. Likewise, during the Government of the Onward Indonesia Cabinet (*Kabinet Indonesia Maju*) led by President Joko Widodo and Vice President Ma'ruf Amin, Legal Reform is one of the government's priority agendas. It is a continuation of the Nawacita priority in the 2014-2019 Working Cabinet Government. Legal Reform in *Nawacita* Volume I emphasizes system reform and law enforcement that is free of corruption, with dignity and reliability. And then, President Joko Widodo instructed that regulatory arrangement was a priority in volume II legal reform during a limited meeting at the Presidential Office on January 7, 2017. The President also emphasized that legal reform should not only reach the downstream sector related to public service, but also reach the upstream sector related to improving regulations, procedures, and regulatory arrangements. At the same time, the President directed his cabinet

5 Ibid.

6 Satya Arinanto, "Reformasi Hukum, Demokratisasi, Dan Hak Hak Asasi Manusia," *Jurnal Hukum dan Pembangunan* 28 (1998).

7 Soerjono Soekanto, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*. Jakarta: PT. Raja Grafindo Persada, 2008.

that regulations must be in sync with each other and in line with Pancasila, the 1945 Constitution of the Republic of Indonesia, and national interests.⁸ Following up on the President's directive, the Legal Reform program on the priority agenda of the Onward Indonesia Cabinet (*Kabinet Indonesia Maju*) focuses on simplifying regulations through structuring regulations.

Regulatory structurization is a vital element to achieve legal objectives to provide legal certainty, justice, and benefit. Good regulation will be able to guarantee legal certainty as the basis for law enforcement that provides a sense of justice and benefits for the community. However, various issues will arise if the regulations made are not in accordance with applied general rules and principles, such as land conflicts caused by overlapping laws and regulations related to land⁹ the authority division between the central government and local government,¹⁰ and legal uncertainty¹¹.

Related to this, according to Arfan Faiz Muhlizi, there are at least 8 (eight) reasons why regulation structurization matters, namely:¹²

1. Hyper-regulation
2. Conflicting
3. Overlapping
4. Multi interpretation
5. Inconsistency
6. Ineffectiveness

8 Harian Kompas, "Ini Fokus Jokowi Dalam Reformasi Hukum Jilid II," <https://nasional.kompas.com/read/2017/01/17/17104581/Ini.Fokus.Jokowi.Dalam.Reformasi.Hukum.Jilid.II>.

9 R. S. Y. H. Natanel Lainsampatty, "Omnibus Law Sebagai Strategi Penataan Regulasi Pertanahan," *SANIRI* 1 (2020).

10 R. S. Y. H. Natanel Lainsampatty, "Omnibus Law Sebagai Strategi Penataan Regulasi Pertanahan," *SANIRI* 1 (2020).

11 R. S. Y. H. Natanel Lainsampatty, "Omnibus Law Sebagai Strategi Penataan Regulasi Pertanahan," *SANIRI* 1 (2020).

12 Arfan Faiz Muhlizi, "Penataan Regulasi Dalam Mendukung Pembangunan Ekonomi Nasional," *Jurnal RechtsVinding* 6 (2017).

7. Unnecessary Burden
8. High-Cost Economy

Regulatory structurization is not only for regulations established by the Central Government but also for Regional Regulations. This is because regional autonomy gives the authority to form laws at the regional level to create harmonization of the system and maintain order at the regional level. Each region has its characteristics, so the regulations that are made can be different in each region. However, good supervision is required. As a consequence of the limitations of existing supervision, local regulations problems become more difficult to overcome or detect.¹³

Undoubtedly, regional regulations must not conflict with the regulations above them, including the constitution.¹⁴ In the procedure, the formation of Regional Regulations must follow the provisions and principles as stipulated in the Law of the Republic of Indonesia Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning the Establishment of Law Regulation.

However, based on the results of an evaluation conducted by the Ministry of Home Affairs in 2016, 1,765 regional regulations (Perda) were canceled by the Central Government. The criteria for the cancellation of the Perda used in the evaluation are due to several reasons. First, the aborted Perda contradicts the constitution, as well as higher legislation (UU). Second, local regulations being canceled are not under the spirit of maintaining the diversity and

13 Eriko Fahri Ginting and Dian Agung Wicaksono, "Dualisme Kewenangan Pengawasan Rancangan Peraturan Daerah Oleh Pemerintah Pusat Dan Dewan Perwakilan," *Jurnal Ilmiah Kebijakan Hukum* 14 (2020): 403-418.

14 Diya UI Akmal, "Penataan Peraturan Perundang-Undangan Sebagai Upaya Penguatan Sistem Hukum Di Indonesia," *Jurnal Legislasi Indonesia* 18 (2021).

unity of Indonesia. Third, local regulations that are being canceled are considered to be able to hamper regional economic growth and lengthen bureaucratic paths, hinder investment, and ease of doing business. The purpose of the cancellation is not only for legal certainty but also to strengthen the nation's competitiveness in the era of competition. The Ministerial Regulation of State Apparatus Empowerment and Bureaucracy Reform Number 25 of 2020 concerning the Road Map of Bureaucratic Reform 2020-2024 (Permenpan Road Map RB 2020-2024) states that regulatory structuring is also one of the scopes of changes to Bureaucratic Reform. Government policy in structuring regulations is intended as a simplification of regulations. Each ministry/institution/local government is asked to eliminate various policies/regulations that will hinder the development of the bureaucracy and the speed of service delivery.

The regulatory structurization process is carried out through the identification and mapping of scope regulation of government agencies (eliminating regulatory overlap); deregulation that hinders bureaucracy; and strengthening the National Regulatory System. Simplification of regulations should be carried out by all ministries/institutions/regional governments to create ease of doing business and economic development, as well as increase the effectiveness of various government programs that require cross-institution collaboration.

The success of structuring regulations according to Permenpan Road Map RB 2020-2024 is measured by the Legal Reform Index (LRI). The LRI measurement is carried out annually and reported to the National Bureaucratic Reform Steering Committee. The LRI measurement is carried out by the Ministry of Law and Human Rights (Kemenkumham) as the leading sector in structuring regulations.

Seeing that there are still potential problems in the legal sector, as well as strengthening government programs through regulatory structurization, it is necessary to measure which produces an index value related to the Legal Reform Index (LRI) to measure a quality regulation, both in terms of the establishment of law regulation, the competence of state's civil servant as the drafters, and disharmonious and overlapping regulation evaluation which until now have not been reviewed to follow up on the regulation implementation. From this description, research was conducted on the Implementation of Regulatory Structurization Policies in Government Institutions.

Research Problem

Starting from the description above, the research problem is formulated as follows:

1. How are the regulation overview and the formation of regulation of government agencies?
2. How is the implementation of the regulatory arrangement policy of the Government Agency?

Objective

This research has objectives and targets as follows:

1. Providing the regulation overview and the regulation formation of the government agency
2. Providing the overview of the implementation of regulatory arrangement of Government Agency.

Research Method

1. Approach

This research applied qualitative approach. A qualitative approach is implemented as a strategy to collect and utilize all information related to the main problem. Moreover, it is supported by quantitative data to strengthen the analysis of the qualitative data.

2. Typology

This research is empirical juridical research to discover the implementation of legal reform in the field of regulatory arrangement by the Government Agency. Reviewed by the implementation angle, this research applied research method that aims to solve the problem practically, applicatively, and to be applicable as an input in policy making for stakeholders.

3. Data Collection and Data Analysis

Regarding data collection technique, primary data collection was conducted by direct interview and Focus Group Discussion (FGD) with the informants including drafters of laws and regulations. The informants are officials in the Legal Bureau/Regional Government Legal Affairs and Regional House of Representatives Secretariat, officials at the Ministry of Law and Human Rights, Ministry of Home Affairs and Kemenpan RB as well as academics. Meanwhile, secondary data collection was conducted by collecting related regulations, scientific papers, and books. Data analysis was conducted on the primary and secondary data. As for the primary data, the completion and clarity are examined. Later, they would be classified systematically and consistently arranged to ease the analysis process. Primary data priorly are connected with the problem of regulatory arrangement policy to solve the most relevant data with the research problem. Meanwhile, the secondary data obtained from literature were selected and systematically collected, so that they could be a reference in performing analysis. From both of the analysis results of literary review and research in the field, later on an analytically descriptive discussion would be performed.

DISCUSSION

Overview of Regulation Formation in Indonesia

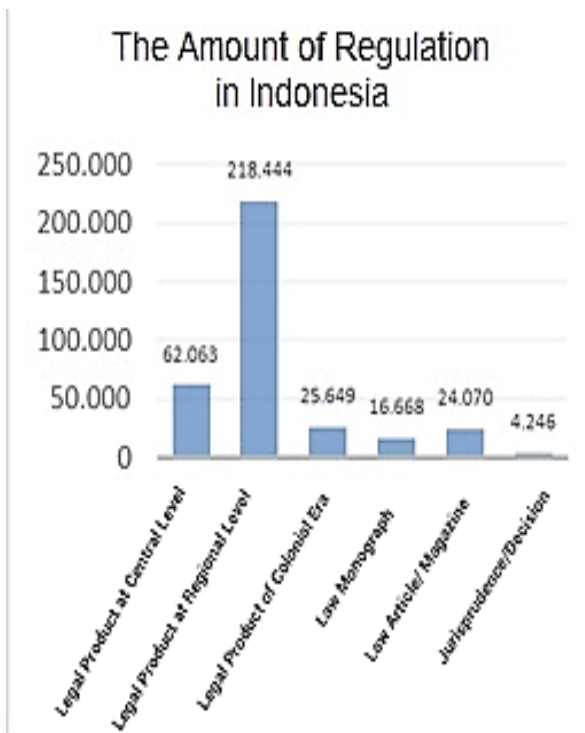
a. Total number of Regulations in Indonesia

The total number of regulations in Indonesia is numerous. One of the issues that occurred in Indonesia related to regulation is the massive number of regulations in Indonesia. Stewary Fenwick in his book *Administrative Law and Judicial Review in Indonesia: The Search for Accountability* stated that Indonesia is heading towards a regulation country.¹⁵ According to the data issued by PSHK, the number of regulations issued throughout the year 2014-2019 peaked at the number of 10.180 new regulations, consisting of 131 Laws, 526 Government Regulations, 839 Presidential Regulations and 8,684 Ministerial Regulations.¹⁶ The number of regulations is getting bigger through years. The data of the National Legal Documentation and Information Network (JDIHN) related to the number of regulations issued in Indonesia showed in the chart below:

15 Zaka Firma Aditya and Abdul Basid Fuadi, "Konseptualisasi Omnibus Law Dalam Pemindahan Ibukota Negara," *Jurnal Ilmiah Kebijakan Hukum* 15 (2021): 149–164.

16 Andrea Lidwina, "Regulasi Terbit Sepanjang 2014-2019," *Lidwina, Andrea. "10.180 Regulasi Terbit Sepanjang 2014-2019." Katadata.Co.Id. Last Modified 2020. Accessed September 9, 2021. <https://Databoks.Katadata.Co.Id/Datapublish/2020/01/21/10180-Regulasi-Terbit-Sepanjang-2014-2019>.*

Chart 1. Total Amount of Regulations
in Indonesia



Source: National Legal Documentation and Information Network (JDIHN), September 2021.

From the data above, as of September 2021, the regulations issued in Indonesia reached the number of 351.140 regulations. They consist of 62,063 Legal Products at the Central Level, 218,444 Legal Products at the Regional Level, 25,649 Legal Products for the Colonial Era, 16,668 Legal Monographs, 24,070 Legal Articles/Journals, and 4,246 Jurisprudence/Judgments. According to the previous data, Indonesia currently can be labeled as hyper-regulation. Potentially, this condition will cause problems due to overlapping rules, both vertically and horizontally, weighing the rule harmonization process and emerging laws disharmony.

In accordance with the data, the potential problems classified is related to regulations in Indonesia. Sadiawati Candranegara classified

the regulation problems as follows:¹⁷

- 1) Regulatory Conflict. Conflict is a condition in which some articles or provisions clearly contradict other regulations.
- 2) Regulatory Inconsistency. These inconsistencies are those inconsistent provisions or arrangements in one statutory regulation and its derivatives.
- 3) Multiple Interpretations of Regulations. Categorized as multi-interpretation if there is ambiguity in the object and subject regulated so that it causes ambiguity in the language formulation (difficult to understand) and unclear systematics.
- 4) Not operational. A regulation is declared non-operational if the regulation has no effect, but it is still valid or the regulation does not yet have an implementing regulation.

Potential problems related to regulations at the regional level are caused by different mechanisms in the preparation of the Regional Regulation Formation program (Propemperda). The mechanism for drafting Propemperda within the Regional People's Representative Council (DPRD) is different from the mechanism within the regional government. In the local government, it is coordinated by the regional apparatus in charge of law (bureau/legal department). Meanwhile in the DPRD, it is coordinated by the Bapemperda. The results of the preparation of the Propemperda within the regional government are submitted by the legal bureau/department to the regional head through the regional secretary. Furthermore, the regional head delivers the draft to Bapemperda through the leadership of DPRD. Meanwhile, within DPRD, the mechanism for the preparation of the Propemperda is regulated in DPRD regulations. This norm gives the DPRD the authority to regulate the mechanism for the

17 Ibnu Sina Chandranegara, "Bentuk-Bentuk Perampangan Dan Harmonisasi Regulasi," *Jurnal Hukum Ius Quia Iustum* 26 (2019): 435-457.

preparation of Propemperda without involving local government elements. And vice versa, the mechanism for the preparation and stipulation of the Propemperda happens without involving the DPRD.¹⁸ Although a separate mechanism is regulated for both DPRD and the Government in the preparation of the Propemperda, the results of the preparation of the Propemperda between DPRD and the regional government are agreed upon in advance by both parties. The agreement from both parties is needed to make the Propemperda and its stipulation in the DPRD plenary meeting as stated in Minister of Home Affairs Regulation Number 120 of 2018.

An illustration of a low quality of regulations in Indonesia can be seen from the results of an evaluation conducted by the Ministry of Home Affairs in 2016. The evaluation revealed as many as 1,765 regional regulations (Perda) were canceled by the Central Government. Likewise, regarding the quality of regulations related to laws, there is a tendency of an increase in the number of laws that receive Judicial Review submissions to the Constitutional Court (MK). It shows an indication that the development of regulations is not yet optimal.

Regarding this problem, it is essential to carrying out studies and research as the basis for preparing academic texts as material for policy making recommendations. The material and recommendations are related to accurate data and information before establishing policies such as recommending the making, revocation, and revising of existing regulations.¹⁹

18 Asri Lasatu, "Urgensi Peraturan Daerah Tentang Program Pembentukan Peraturan Daerah Terhadap Kinerja DPRD," *Jurnal Ilmiah Kebijakan Hukum* 14 (2020): 201–222.

19 Bappenas, "Strategi Nasional Reformasi Regulasi "Mewujudkan Regulasi Yang Sederhana Dan Terib" (2015).

b. Establishment of Regulations in Indonesia and Their Structuring

The purpose of the laws and regulations is to realize legal certainty, create order, provide benefits, and provide balance of rights and obligations. To produce qualified legislation, it is necessary to fulfill the basic criteria of law, namely²⁰:

1. Philosophical Foundations

The philosophical foundation is a consideration or reason which illustrates the regulations formed and taken into account the perspective on life, consciousness, and legal minds which include the atmosphere of spirituality and philosophy of the Indonesian Nation derived from Pancasila and the Preamble of 1945 Constitution.

2. Sociological Foundation

The sociological foundation is a consideration or reason which illustrates the regulations formed to meet the needs of society in various aspects, as well as concerns empirical facts regarding the development of problems and needs of society and the state.

3. Juridical Basis

The definition of juridical basis is a consideration or reason which describes a regulation formed to overcome legal problems or to fill a legal vacuum taking into account existing rules, which will be changed, or that will be repealed to ensure legal certainty and a sense of justice for the community.

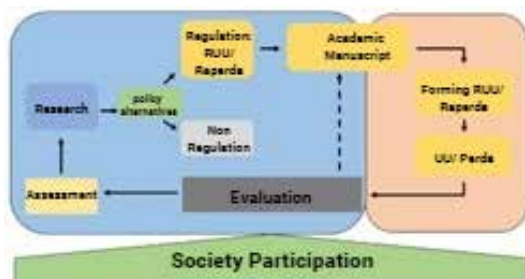
Therefore, in the formation of laws and regulations, it is necessary to have a clear conceptual basis regarding the reasons for the needs to regulate/change regulations, theories/principles and systems that will be made/improved for policy making. It is also important to have the content of regulatory material that does not conflict vertically and

20 Republik Indonesia, *Undang Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan.*, 2011.

horizontally which causes the disharmony of legal norms, conflicts of authority between ministries/institutions, causing injustice for the community and business actors, and hindering the investment climate, business, and national and regional economic activities.²¹

The drafting of laws and regulations is expected to be able to record problems, map problems and causal factors, determine the parties involved (stakeholders) who implement the regulations. The drafting is also important to determine how the approaches are carried out in their enforcement, determine how they are compatible and parallel (comply) with the existing legal system, and the frame of reference for how arrangements should be carried out. It is hoped that the laws and regulations drafted will be able to explain the questions of why a problem needs regulation as its solution. The solution itself is not just for a moment but able to adjust to existing developments in the future. The planning flow of The Draft of the Law and the draft of Regulation of Regency are shown in Figure 1.

Figure 1. The Flow of Drafting Bills and the Regional Regulation Draft (Raperda)



Source: National Legal Development Agency, 2021

Legal research and studies occupy an important position in the preparation of academic manuscripts, considering that academic manuscripts are basically manuscripts resulting from legal research. Appendix I of Law Number 12 of 2011 determines that the preparation of Academic

Manuscripts is basically a research activity. Consequently, the method of preparing Academic Manuscripts is based on legal research methods or another research is used. Academic Manuscripts are needed in the preparation of draft laws, both from the President, House of Representative, and Regional Representative Council (Article 43 paragraph (3) of Law No. 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning the Establishment of Laws and Regulations). Included in the evaluation and review of laws and regulations is periodically carried out by the legislator/ the makers themselves, namely by the House of Representative for legislation (commonly referred to as legislative review) and by the government/local government for regulations under the law (commonly referred to as executive review).

In conducting an evaluation, you will get results that can inform the level of achievement of the purpose of forming a law. It also informs the level of benefits and the impact of the implementation of the law. The information obtained from the results of the evaluation will be an indispensable reference material in the next planning process. Regulating the evaluation mechanism in the formation of laws and regulations will have an impact on the additional duties/obligations of the initiator to routinely evaluate the laws and regulations that have been made. Laws and regulations that have been declared ineffective in society based on the evaluation must be amended or revoked.

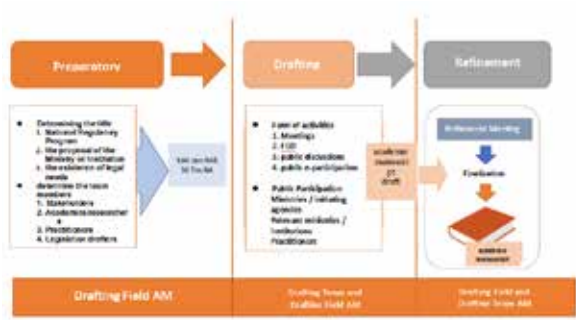
The step that must be taken in evaluating and analyzing laws and regulations is to conduct studies and research. The community is allowed to participate, both from the process of drafting regulations to the enactment of regulations. Regarding community participation in the formation of laws and regulations based on Article 96 of Law Number 12 of 2011, the community has

21 Kementerian Hukum dan HAM, *Permenkumham Nomor 2 Tahun 2019 Tentang Penyelesaian Disharmoni Peraturan Perundang-Undangan Melalui Mediasi*, 2019.

the right to provide input orally or in writing in the formation of laws and regulations.

Analysis and evaluation of a statutory regulation is an effort to assess the laws and regulations. The object of analysis and evaluation includes all types of laws and regulations at the central and regional levels that have been promulgated (ex-post review) to obtain quality and accountable recommendations. Furthermore, the flow of the analysis and evaluation process can be known based on the following figure:

Figure 2. Flow of Analysis and Evaluation of Academic Manuscript Preparation



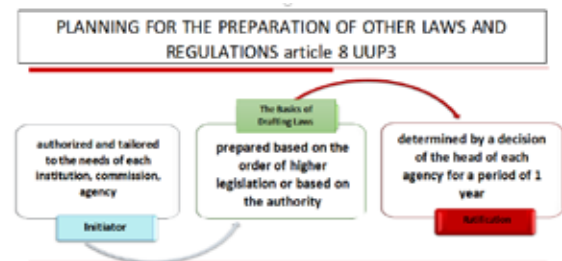
Source: National Legal Development Agency, 2021

Based on the previous drawing, 3 (three) stages are needed to making an academic manuscript. It starts from the preparatory stage, the drafting stage to the refinement stage. The preparatory stage is carried out by determining the title according to the National Regulatory Program, the proposal of the Ministry or Institution, or from the existence of legal needs. Then, it is proceed with the determination of the members of the drafting team to form an academic manuscript framework in which there is a policy direction for formation with the results of research or assessment. The draft preparation stage is carried out by holding meetings, FGD, public discussions, public e-participation including ministries / initiating agencies, relevant ministries / institutions, practitioners, and affected communities. The

draft academic manuscript is then refined through refinement meetings and producing academic manuscripts.

Planning the preparation of other laws and regulations is also illustrated in the flow below. It is an authority and is adjusted to the needs of the respective institutions, commissions, agencies as the basis for preparation by order of laws and regulations or based on the authority possessed.

Figure 3. Legislation Planning - Other Invitations



Source: Directorate General of Legislation, 2021.

Planning for the preparation of other laws and regulations as referred to in Article 8 paragraph (1) is an authority and is adjusted to the needs of their respective institutions, commissions, or agencies. The authority to form laws and regulations certainly depends on the level of these regulations. For the formation of laws, the authority is in the hands of the House of Representatives and together with the President to discuss and approve each draft bill. Subsequently, the President ratifies the draft law that has received joint approval into law. In essence, lawmaking is a shared power between the House of Representatives and the President.

Meanwhile, the authority to form laws and regulations at levels below the law is the authority of the President, Regional Head, or Head of Ministries/Institutions according to their authority. The basics of drafting laws and regulations are the principles of the formation

of laws and regulations, the authority to form laws and regulations, the types and hierarchy of laws and regulations, and the content of laws and regulations.²² Planning for the preparation of other laws and regulations is determined by the decision of the head of the institution, commission, or agency respectively for a period of 1 (one) year.

Figure 4. The Making of Legislation



Source: Directorate General of legislation, 2021.

In making the legislation, there will be the draft of Government Regulation and the draft of Presidents Regulation. Then, the institution initiators form an inter-ministerial committee by submitting a request letter and a draft concept or general description of the substance. In the inter-ministerial committee meeting, the discussion focused on principle issues including preparation, processing, and formulating. Members of the Inter-Ministerial Committee provide input in accordance with the scope of their respective duties and report the developments at the making stage of the Inter-Ministerial Committee.

The harmonization agreement, the draft of legislation and stabilization of the concepts, the harmonization application draft of the

legislation are submitted in writing to the Minister of Law and human rights with a copy to the Director General of legislation. The harmonization application of the legislation draft originating from the Ministry/Institution is submitted by the minister or secretary general on behalf of the minister. The harmonization application for the concepts of legislation draft originating from non-ministerial government institutions is submitted by the minister who coordinates the non-ministerial government institutions.²³ Then, a harmonization meeting is held by paying attention to various procedural aspects, substantial aspects, and technical aspects so that it does not occur or at least reduces the overlap of the legislation formed. Therefore, the legislation can be arranged harmoniously and not contradict each other.

Strengthening the capacity of policy makers and regulatory designers is an effort to improve the quality of Human Resources (HR) of the regulation builders (policy makers and regulatory designers). With the increased capacity of human resources, it is expected that they produce regulations that are able to see the dimensions of statehood more broadly (the form of a unitary state, diversity, and so on) in the formulation of policies and forming regulations.²⁴ In other way around, an understanding improvement of the regulators regarding the policy formulation process will provide the ability for the regulators to develop regulations that are in accordance with the development needs.

The understanding improvement of policy makers on aspects of regulatory formulation will have a significant impact on the political

22 Sekretariat Kabinet, "Apa Yang Perlu Diketahui Untuk Membuat Peraturan-Perundang-Undangan," <https://Setkab.Go.Id/Apa-Yang-Perlu-Diketahui-Untuk-Membuat-Peraturan-Perundang-Undangan/>.

23 Kementerian Hukum dan HAM, *Peraturan Menteri Hukum Dan HAM Nomor 20 Tahun 2015 Tentang Tata Cara Dan Prosedur Pengharmonisasian, Pembulatan, Dan Pementapan Konsepsi Rancangan Peraturan Prundang-Undangan*, 2015.

24 Bappenas, *Strategi Nasional Reformasi Regulasi: Mewujudkan Regulasi Yang Sederhana Dan Terib*, 2015.

law (legislation) contained in the development planning document.

Therefore, concrete steps are needed to improve the quality of human resources in formulating policies and forming regulations. It is done through increasing analytical competence, political and specific with the synergy of policy and regulatory formation and efforts to improve the competence and workload professionally and accountable designers, policy analyst, legal analyst and researcher in the acceleration of national legal development in the field of regulation. A strategic step is needed in order to achieve the outcome of regulation quality improvement and also policy and regulation synergies. At the regional level, it certainly takes an effort in involving the Ministry of Home Affairs in terms of improving the quality of human resources in the region, not only at the regional executive level but also to invite the regional legislatures.²⁵

Improving the capacity of human resources is a necessity. In improving the capacity of human resources, priority is given to planning units and legal bureaus from ministries/agencies and government agencies outside the executive. However, the implementation of human resource capacity building can certainly be done for other technical units of the ministry/institution. It is done in order to improve the insight and technical ability of policy formulation and regulation formation.

Furthermore, improving the quality of human resources in the short, medium and long term is not only among central and local governments, but can reach the wider community, especially academics, policy and regulatory observers, and the business world.

Re-conceptualizing the procedures for the formation of regulations is done by reviewing and rearranging the procedures

for the formation of regulations. Thus, the process of forming regulations becomes more comprehensive and able to produce good quality regulations. The early analysis showed that the laws were made only oriented to the regulatory design process and did not regulate about the way of a policy should be formulated. In addition, the regulations forming process often does not consider it is necessary to do the evaluation concerning the regulations at that time.

From the regulation perspective, a good quality of regulation and a proportionate quantity of regulation are the answer to the inefficiency matters. To materialize such a regulation system, an action called 'a regulation reformation' is needed.²⁶ A Regulation reformation are the changes intended to improve the quality of individual and integral regulations (integrated in a comprehensive and intact regulatory system). The main goal of regulation reformation is to create a quality, simple, and orderly national regulation system (SRN). Therefore, the regulation will be able to work more effectively and efficiently in supporting efforts to create the goals of the state as stipulated in the Preamble of the 1945 Constitution.²⁷

The Implementation of Regulation Structuring Policies

a. The Base of Structuring Regulations

The structuring regulations carried out is part of the legal reformation which can be seen from the index trend obtained from the Government Institutions. The legal reformation index is one of the parts of measuring the progress of bureaucratic reformation. The measurement of the index is fully within the scope of analysis, arrangement, and regulation evaluation in the government. For this reason, there are two dimensions in the Legal Reformation Index. They include

25 Ibid.

26 Ibid.
27 Ibid.

Institutional (it is about institutions and how the interactions between actor's work) and substantial (about the quality of the content/content material and the success rate of regulation simplification). From these two dimensions, it is then derived into variables and indicators.

In Ministry of State Apparatus Utilization and Bureaucratic Reform number 25 of 2020 concerning the 2020-2024 RB Roadmap, there are micro-Level activities for Bureaucratic Reform 2020-2024 in 8 (eight) areas of change. One of which includes the arrangement of legislative regulations or policy deregulation with formation of the legal reformation index as the indicator. Regarding the variables of regulation mapping, several regulation assessments that produce the index of legal reformation are first, strengthen the coordination to harmonize the regulations; second, encourage the regulations or deregulation of various law regulations based on the results of the review; third, encourage the simplification of regulations at every level of legislation; and fourth, improve the competence of Civil Servant as the designer of legislation (legal drafter) center and regions. These variables were then derived into several indicators along with the weight of the assessment. In the institutional and substantial dimensions, the level of legal reformation index can be measured through strengthening and structuring coordination, process mechanism for materializing the role of tasks and functions as well as the authority of the stakeholders. Therefore it is able to measure the impact of the materialized results in real terms concerning regulatory revitalization by measuring the quality of the current regulation.

b. Regulatory Arrangement Policy

As instructed by the President, Policy of Regulation Arrangement should prioritize its mapping and also implementation. The mapping process is made by preparing performance measurement instrument from government agencies. This instrument is being used to evaluate the government agencies. It will have a result in the form of a regulation performance measurement index, which also a part of Legal Reform. After the evaluation is carried out, guidance program is given to agency according to the result of the evaluation. Regulatory guidance related to Index obtained includes beneficiary such as vice president's secretariat, Bapenas, Ministry of Finance and other agencies. The measurement of the Law Reform Index consists of structure, process and results supported by Agency Thematic Profile, PUU Thematic, Analysis Map and Logical Framework.

The guidance that is being carried out certainly requires supporting data concerning document fulfilment for a graded assessment to improve the PUU's continuous improvement. After that, an assessment is performed by the Panel Team and an establishment is arranged so that recommendations for PUU can be implemented properly. Furthermore, it is possible that an electronic certificate for the Legal Reform Index is given. Thus, continuous evaluation and guidance are implemented.

In the first stage, Ministries/Agencies/ Local governments are required to conduct an internal assessment in order to map and review the legal reform profile. It done in the form of laws and regulations that have been or will be produced to see the quality of the results of planning recommendations against the targets of legal reform.

In the second stage, the Foster Agency, in this case the Ministry of Law and Human Rights of the Republic of Indonesia, conducts a national assessment based on the panel team's note by comparing graded assessments with dimensions and aspects of dynamic assessment indicators. So, the Legal Reform Index (IRH Certificate) will be established as well as guidance and recommendations for ongoing evaluation and guidance to Ministries/Agencies/Regional Governments. The next stage, after the foster agency conducts an assessment, it is followed with the evaluation stage of the assessment results.

c. Policy Mechanism for Evaluation of Regulatory Arrangement

The policy mechanism for evaluation of regulatory arrangement system starts with creating an Internal Assessment Team (TPI). TPI assesses the fullness of the indicators and their supporting data. Then, TPI verifies and asks to complete additional supporting data. The completed supporting data is then assessed by the Legal Reform Index Assessment Team (TPIRH). TPIRH itself consists of the Panel Team, Working Group Team. Then, the Minister of Law and Human Rights makes an establishment of the Ministry/Agencies/Regional Government by issuing an electronic certificate along with notes and recommendations on the results of the law reform index evaluation. Several notes that are evaluated still need to be guided in order to determine the next legal reform index achievement target by the Ministry/Agencies/Local Government.

The measurement process is within interval scale with each indicator receiving the lowest score of 0 (zero) to the highest score of 100 (one hundred). The measurement process is accompanied by a logical explanation and fulfilment of supporting data in the form of documents

by looking at the mechanism in IRH Needs. In the IRH measurement, there is a self-assessment process. In this process, each organization unit first conducts an internal assessment before being assessed by an external assessor.

In arranging the regulations, stages are needed to obtain a reliable IRH. The stages of legal reform index system consist of 3 (three) stages, namely:

1. The first stage is creating a dynamic assessment dimensions and indicators, formulation of assessment indicators, logical framework, phasing assessment in accordance with business processes, evaluation areas of Ministries/Agencies/Regional Governments, and thematic mapping. At this stage, each dimension is formed with indicators and assessment weights along with supporting data that supports the implementation of each indicator.
2. The second stage is gap analysis, evaluation results, electronic legal reform index certificate, national analysis map, thematic, ministry/agency/regional government. At this stage, the assessment results are analyzed and evaluated to obtain the determination of the legal reform index.
3. The third stage is system recommendations, trends in legal reform index changes, national, thematic, ministry/agency/regional government legal reform index profiles.

CONCLUSION

Regulatory arrangement starts from the many regulations in Indonesia that require merging, simplifying, and revoking. In doing these arrangements, legal reform is needed. The measure of legal reform will be seen from the Legal Reform Index. Regulatory

management is certainly seen from the formation of laws and regulations. It starts from national (RUU) and local (Raperda) regulation draft. Both are done through Analysis and Evaluation of the Preparation of Academic Manuscripts and from the Planning of the Preparation of Other Legislation.

Legal Reform Index, or the measurement of the regulatory index value, starts from Regulatory Arrangement through Strengthening the Formation of Legislation, Revitalizing the Evaluation of Legislation (PUU) and Structuring the Data Base of Legislation. The right legal reform index measurement policy will be useful in ensuring the quality of good laws and regulations in accordance with the principles, rules of the purpose of forming and structuring ideal laws and regulations.

The main objective is to improve efficiency and effectiveness in a simple and orderly manner. This is done through conducting the principle of better policy/regulation impact with less budget. Regulatory arrangement policies that produce the Legal Reform Index as a benchmark for the reform system and sustainable legal reform guidance are carried out by both the Ministry of Agency/Regional Governments and the Foster Agency of the Ministry of Law and Human Rights.

SUGGESTION

Based on the results of this research regarding the implementation of regulatory arrangement policies, suggestions are given for the need to coordinate between the coach agency and the regulatory stakeholder agencies. At this level of coordination, the coach agency could harmonize regulations by strengthening coordination.

Furthermore, the forming of laws and regulations requires the competence of the Legislative Drafter. For this reason, it is necessary to know the competencies of civil servant (ASN) as a qualified central and

regional legal drafter to produce a quality legal product.

To carry out regulatory arrangement, it is necessary to know the quality of regulations. First, knowing the quality of re-regulation or deregulation of various laws and regulations based on the results of a review of laws and regulations that have been successfully revoked. Then second, knowing the level of simplification of regulations at each level of legislation by knowing how many laws and regulations have been successfully inventoried or identified in simplification or simplified (combined).

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