

Political and Legal Studies on the Formation of Law Number 12 of 2011 concerning the Establishment of Laws and Regulations

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Abstract

Indonesia is a country of law where all forms of government of this country have been regulated in the 1945 Constitution, the '45 Constitution is the benchmark for all things regarding the hopes and goals of the Indonesian nation. The political aspect of law in the formation of Law Number 12 of 2011 concerning the Formation of Laws and Regulations, focusing on the context, process, and implications of the legislation in the Indonesian national legal system. The normative juridical research method is used to analyze legal documents, laws and regulations, and related academic literature. Research shows that Law No. 12 of 2011 is an important instrument in ensuring the consistency and quality of legislation products in Indonesia. An in-depth study is focused on the background of the formation of the law, which includes philosophical, sociological, and juridical considerations. An analysis was carried out on the process of forming laws and regulations, including the stages of planning, drafting, discussing, ratifying, and promulgating. The results of the study revealed several key findings, including: first, this law was born in response to the need for harmonization and standardization of the post-reform legislation process. Second, there are political dynamics of law in the formation of laws, including the role of state institutions and consideration of the complexity of legislation.

Keywords: Legal Politics, Law Formation, Legislation, Laws and Regulations

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1st International Conference on the Epicentrum of Economic Global Framework (ICEEGLOF)

Theme: Digital Marketing Strategy to Optimize Business Growth in the Modern Era

<https://proceeding.pancabudi.ac.id/index.php/ICEEGLOF>

Introduction

Law No. 12 of 2011 concerning the Establishment of Laws and Regulations (Law No. 12 of 2011) was born as an effort by the government to strengthen a responsive, effective, and efficient national legal system in formulating laws and regulations. One of the main motivations in its formation is to overcome various obstacles in the harmonization of regulations that often cause overlap and conflicts between regulations. This shows how legal politics in Indonesia plays a role in forming legal instruments that provide legal certainty and order for the community and the government.

Law No. 12 of 2011 is an important milestone in regulating the process of forming legislation in Indonesia by introducing a more transparent and participatory system. As democracy develops, the process of drafting laws and regulations in Indonesia requires openness to public input and the involvement of various stakeholders. Thus, this law aims to increase legitimacy and accountability in the formation of regulations, so that every regulation that is produced truly reflects the needs and aspirations of the community (Indriati, 2018).

The legal politics behind Law No. 12 of 2011 reflects the desire to build laws and regulations based on democratic principles and respect for human rights. This law requires lawmakers to pay attention to the principles of good regulation formation, such as clarity of purpose, suitability between types and content materials, and openness. With these principles, it is hoped that laws and regulations can be an effective means of achieving social justice and public order.

In addition, Law No. 12 of 2011 is here to answer various technical problems in the formation of laws and regulations that have occurred in Indonesia. Prior to the existence of this law, the process of drafting regulations was often carried out without clear guidelines, resulting in inconsistencies and disharmony in the legal system. The existence of this law is expected to be a standard guide that clarifies the stages and mechanisms in the preparation of effective regulations (Suparman, 2020).

In its implementation, Law No. 12 of 2011 faces challenges in the application of the principles of openness and public participation. Although formally this law provides space for public participation, in reality public involvement in the process of forming legislation is still limited. This obstacle is caused by various factors, including the lack of public access to information and the lack of effective mechanisms to accommodate public aspirations. Therefore, the implementation of a more comprehensive legal policy is still a challenge in the implementation of this law.

Law No. 12 of 2011 also seeks to overcome the problem of regulatory inconsistency in Indonesia, where many regulations overlap and contradict each other. In the context of legal politics, this step shows the state's commitment to creating legal order through a more orderly and consistent system. In practice, this law introduces a harmonization and synchronization mechanism between regulations so that there are no regulatory conflicts that confuse the public and law enforcement.

In line with the development of technology and information, Law No. 12 of 2011 accommodates the need for the preparation of regulations that are adaptive to changing times. The use of technology in the preparation of regulations, for example by digitizing documents and the online public consultation process, is one of the solutions that can increase efficiency and accessibility in the formation of laws and regulations. This initiative reflects the political response of law to global developments in creating a modern and integrated legal system (Kusuma, 2022).

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The establishment of Law No. 12 of 2011 illustrates a paradigm shift in legal politics in Indonesia that increasingly emphasizes the importance of the principles of openness, public participation, and regulatory harmony. By applying these principles, this law is expected to realize a responsive and democratic legal system. However, to achieve this goal, a strong commitment from all stakeholders and a continuous evaluation mechanism are needed so that the process of forming laws and regulations in Indonesia is truly able to answer the needs of the community.

Research Methods

This research method uses a qualitative approach with a normative juridical method. Normative legal research is defined as research that refers to legal norms contained in laws and regulations and court decisions. Normative legal research can also be referred to as doctrinal legal research (Effendi & Ibrahim, 2018). This study aims to analyze the process of forming Law No. 12 of 2011 in the context of legal politics, which involves the study of legal documents, related regulations, and scientific literature. Data is collected through literature studies on primary legal materials, such as laws and regulations, as well as secondary legal materials in the form of books, journals, and expert opinions. This research also includes historical analysis to understand the political and social dynamics behind the formation of the law, as well as normative analysis to assess its conformity with applicable legal principles.

Results

Legal Basis for the Establishment of Law Number 12 of 2011 concerning the Formation of Laws and Regulations

Law No. 12 of 2011 concerning the Establishment of Laws and Regulations (Law No. 12 of 2011) was formed on the main basis to create order and uniformity in the process of drafting regulations in Indonesia. The legal basis for its formation can be found in the 1945 Constitution, especially Article 22A which states that further provisions on the procedure for the formation of laws are regulated by law. This article emphasizes that in the preparation of laws and regulations, an orderly and clear system is needed to maintain the integrity of national law.

The philosophical basis of Law No. 12 of 2011 is to realize a legal system based on the principles of the state of law, where the formation of laws and regulations must be in accordance with the values of Pancasila and the 1945 Constitution. As a country of law, Indonesia is obliged to ensure that every regulation made is able to provide legal certainty, justice, and benefits for all Indonesian people. In this context, Law No. 12 of 2011 is present to ensure that the process of forming laws and regulations is in accordance with these basic principles (Syahrudin, 2017).

In addition, Law No. 12 of 2011 is also based on a juridical basis that refers to Article 5 Paragraph (1) of the 1945 Constitution which gives the president the authority to submit a draft law to the House of Representatives (DPR). This shows that there is a division of authority between the executive and legislative institutions in the legislation process, which was then reaffirmed through Law No. 12 of 2011 so that the process runs well and is coordinated.

In terms of sociological foundation, Law No. 12 of 2011 was formed in response to the public's need for more orderly and structured regulations. Prior to the existence of this law, the process of forming laws and regulations often did not have clear guidelines, resulting in inconsistencies in the application of the law. Law No. 12 of 2011 is here to improve this situation by providing standard and standard procedures in the preparation of every law and regulation, so that it can accommodate the legal needs of the community that continues to grow (Suwito, 2020).

Furthermore, the historical basis for the formation of Law No. 12 of 2011 is also inseparable from Indonesia's experience in regulating the legal system after the reform. The

1998 reform demanded greater openness and participation in the legislation process, so that the resulting regulations were more democratic and inclusive. Law No. 12 of 2011 is a manifestation of the implementation of the spirit of reform, by regulating the stages of drafting laws in a transparent manner and providing greater space for public participation.

In the international context, the establishment of Law No. 12 of 2011 is also in line with Indonesia's commitment to the principles of international law, especially in terms of respect for human rights and democracy. The legislation process regulated in this law is expected to create laws and regulations that are not only in accordance with domestic needs, but also do not contradict international legal norms recognized by Indonesia.

Law No. 12 of 2011 also has a strong constitutional foundation because in its formation it involves various state institutions that have a role in legislation. In addition to the president and the House of Representatives, the Constitutional Court (MK) also has a role in testing laws produced through the procedures regulated in this law. The involvement of these various institutions shows that Law No. 12 of 2011 was formed on the basis of the principle of checks and balances, which is one of the main characteristics of a modern democratic country (Pramono, 2021).

With a strong legal foundation, Law No. 12 of 2011 is expected to be an effective guideline in ensuring that the process of forming laws and regulations in Indonesia runs well, in an orderly manner, and in accordance with applicable legal principles. The successful implementation of this law will not only have an impact on the quality of the regulations produced, but also on the effectiveness of law enforcement in Indonesia as a whole.

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The establishment of Law No. 12 of 2011 concerning the Establishment of Laws and Regulations (Law No. 12 of 2011) is part of a systematic effort to improve legal governance in Indonesia. The legal politics behind the formation of these laws reflect the country's need to create a more orderly and well-codified legal system. Legal politics can be understood as a policy taken by the state in determining the direction of legal development, including the legislative process. Law No. 12 of 2011 is here to strengthen the position of the law as the main instrument in regulating people's lives in a fair and orderly manner.

From a political and legal perspective, Law No. 12 of 2011 aims to overcome the problem of regulatory inconsistencies that often arise in Indonesia. Prior to this law, the process of forming regulations often did not have a solid legal framework, causing overlap between one regulation and another. The legal politics underlying the formation of this law aims to affirm the principle of a clear hierarchy of laws and regulations, so that conflicts between regulations can be minimized. It also aims to ensure that every regulation formed is in line with the constitution and does not contradict other legal norms (Sutjipto, 2015).

Law No. 12 of 2011 also reflects the state's commitment to democratic principles in the formation of regulations. The legal politics behind this law show the state's efforts to involve wider public participation in the legislation process. Openness and transparency in the drafting of laws are expected to produce regulations that are more legitimate and responsive to the needs of the community. This process is a manifestation of legal politics that prioritizes social justice.

In addition to the democratic aspect, the politics of law in Law No. 12 of 2011 are also greatly influenced by the principle of the state of law (*rechtstaat*). This law introduces clear and systematic procedures in every stage of the formation of laws and regulations, starting from planning, drafting, discussion, to promulgation. This legal politics shows that the state wants to build a legislation system that is in accordance with the principle of due process of law, so that every rule formed really has a strong and procedural legal basis.

The formation of Law No. 12 of 2011 is also influenced by political factors related to

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the dynamics between executive and legislative powers. One of the purposes of the formation of this law is to clarify the role of each state institution in the legislation process, so that effective checks and balances occur. This legal politics aims to avoid the dominance of one branch of power in the formation of laws, by ensuring that the legislation process is carried out collectively and transparently (Supriyadi, 2021).

In addition, in the framework of legal politics, Law No. 12 of 2011 was also presented to respond to criticism of the quality of existing laws and regulations. Before the existence of this law, many regulations were considered irrelevant or even contrary to the needs of the community. With the presence of Law No. 12 of 2011, the legal politics that are built is to create regulations that have substantive qualities, namely in accordance with the principles of justice, legal certainty, and benefits for the community.

The legal politics that underlie the formation of Law No. 12 of 2011 are also inseparable from the influence of globalization and the development of international law. As a country involved in various international agreements, Indonesia must ensure that its rule-making system is in line with international legal standards. Therefore, this law also serves as a tool to adjust domestic regulations to global needs, including in the aspects of human rights protection and international law enforcement.

Thus, Law No. 12/2011 is a product of legal politics which aims to create a more orderly, fair, and responsive legal system to the development of the times. The success of the implementation of this legal policy is highly dependent on the commitment of all parties, both the government and the community, to implement the rules in accordance with the spirit of the law. Periodic evaluations of the implementation of this law are needed to ensure that the legal policies applied can continue to be adjusted to the changing needs of the community.

Conclusion

Based on the description of the results of the previous discussion, the author draws the conclusion, that:

1. Law No. 12 of 2011 concerning the Establishment of Laws and Regulations (Law No. 12 of 2011) was formed on the main basis to create order and uniformity in the process of drafting regulations in Indonesia. The legal basis for its formation can be found in the 1945 Constitution, especially Article 22A which states that further provisions on the procedure for the formation of laws are regulated by law. This article emphasizes that in the preparation of laws and regulations, an orderly and clear system is needed to maintain the integrity of national law. The philosophical basis of Law No. 12 of 2011 is to realize a legal system based on the principles of the state of law, where the formation of laws and regulations must be in accordance with the values of Pancasila and the 1945 Constitution. As a country of law, Indonesia is obliged to ensure that every regulation made is able to provide legal certainty, justice, and benefits for all Indonesian people. In this context, Law No. 12 of 2011 is present to ensure that the process of forming laws and regulations is in accordance with these basic principles.
2. From a political and legal perspective, Law No. 12 of 2011 aims to overcome the problem of regulatory inconsistencies that often arise in Indonesia. Prior to this law, the process of forming regulations often did not have a solid legal framework, causing overlap between one regulation and another. The legal politics underlying the formation of this law aims to affirm the principle of a clear hierarchy of laws and regulations, so that conflicts between regulations can be minimized. It also aims to ensure that every regulation formed is in line with the constitution and does not conflict with other legal norms. Law No. 12 of 2011 also reflects the state's commitment to democratic principles in the formation of regulations. The legal politics behind this law show the state's efforts to involve wider public participation in the legislation process. Openness and transparency in the drafting of laws are expected to produce regulations that are more legitimate and responsive to the

needs of the community. This process is a manifestation of legal politics that prioritizes social justice.

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