

THE INFLUENCE OF MODERNIZATION ON THE FORMATION OF LEGISLATION IN INDONESIA

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Abstract

The existence of laws and regulations in Indonesia reflects the principle of popular sovereignty, realized through a democratic legislative process, stipulated in Law No. 12 of 2011 and organized through the systematic National Legislation Program (Prolegnas) based on scientific studies through Academic Papers. This process involves synergy between the House of Representatives (DPR), the Government, and the Regional Representatives Council (DPD) in deliberative debates aimed at producing quality laws. However, globalization brings challenges in the form of harmonizing national law with international standards, the involvement of non-state actors, and human rights and environmental issues. Therefore, the legal system must adapt to remain responsive and oriented towards the values of Pancasila and local wisdom as the nation's identity in facing global dynamics. This research aims to provide an in-depth analysis. Using a descriptive-analytical approach, this study is expected to provide a comprehensive overview of the legal and regulatory challenges faced.

Keywords: Legislation, Globalization, Sovereignty

A. INTRODUCTION

In a state system, the existence of laws and regulations is a concrete manifestation of the implementation of the principle of popular sovereignty (Ricardo O, 2020). This is because only through democratically formulated regulations can the will and aspirations of the people be accommodated in a binding legal system (Arrahma F, 2025). Therefore, the legislative institution, as the people's representative, has primary authority to establish rules that will bind all citizens, including the reduction of certain rights, the imposition of burdens on public assets, and state expenditures (Putra et al., 2024).

The question of who has the authority to make regulations has become crucial since Indonesia proclaimed itself a state based on law (Isnaeni, 2021). The regulation of the mechanism for the formation of laws and regulations, particularly laws, reflects the importance of the rule of law and broad public involvement (Busroh et al., 2024). Law No. 12 of 2011 serves as the primary foundation for organizing this mechanism, from planning and drafting to discussion, through to ratification and promulgation of legislation. Each stage is regulated in detail to ensure its implementation complies with legal principles

and to ensure that public aspirations are accepted and accommodated in every legislative product (Djafar F, 2024).

The establishment of the National Legislation Program (Prolegnas) is a crucial instrument in the law-making process (Risnain M, 2015). The Prolegnas is designed to ensure that all priority regulatory drafts are prepared systematically and in a planned manner, aligning with the country's long- and medium-term needs (Muhammad N, 2025). The Prolegnas includes strategic stages such as gathering input, gathering opinions, initial determination, joint discussion, and prioritization by the legislature and executive (Muslima S, 2021). Thus, the Prolegnas serves as the primary filter for every proposed law, ensuring it aligns with national needs while remaining responsive to social dynamics.

In the legislative process, the preparation of the Academic Draft is a crucial aspect. The Academic Draft is the result of scientific studies and research used as the basis for drafting a Draft Law (Sauni et al., 2024). The drafting of this draft ensures that every legal product is truly born from real societal needs and is supported by accountable scientific arguments. This ensures that the formation of regulations is not merely a political routine but rather a manifestation of rational, solution-oriented thinking.

The regulation-making process is also influenced by the dynamic relationship between the House of Representatives (DPR), the Government, and the Regional Representatives Council (DPD). All these institutions play a role in initiating, discussing, and ratifying draft laws (Butar Butar D, 2024). During the deliberations, there is dialectic, debate, and a critical exchange of ideas between the executive and legislative branches, as well as among legislative members themselves. This emphasizes that lawmaking is a deliberative process, not merely an administrative formality, but rather aimed at producing quality laws.

However, with the advancement of globalization, the process of national law-making faces significant challenges. Globalization brings international legal standards, values, and practices into the national legal system (Amelia A, 2025). Indonesia cannot ignore these external influences, especially after ratifying several international agreements that require changes and harmonization of national regulations. Consequently, the country must be able to adapt national laws to global demands, maintaining a balance between national legal sovereignty and the influence of international regulations.

The impact of globalization is also evident in the increasing number of regulations that are open and responsive to the global market. The economic, investment, consumer protection, and trade sectors are experiencing accelerated regulatory changes that align with international standards (Aliza et al., 2025). This process requires legislators to continuously improve their capacity to understand global legal practices, while maintaining the local values and identities that characterize the Indonesian legal system.

Globalization not only opens up opportunities for adaptation but also brings new challenges in the form of actor pluralism in legal formation. While law was once the product of state discourse, the legislative process now involves non-state actors such as international organizations, NGOs, multinational corporations, and civil society (Danar O, 2022). This phenomenon means that states are no longer the sole producers of law but must build

synergies across sectors and actors to ensure that the resulting regulations remain relevant amidst global trends.

Furthermore, the process of legal harmonization and internationalization has given rise to new issues that require special attention, particularly those related to the protection of human rights, the environment, and transnational crime. The adoption of various international conventions and standards has become an integral part of the legislative process, making national regulations increasingly pluralistic and multidimensional. States must carefully manage national interests with international obligations to ensure legal reform is balanced.

Ultimately, the dynamics of the legislative process in Indonesia today demonstrate a struggle between the demands of global modernity and the desire to maintain national legal identity. The Indonesian legal system is required to continuously improve and innovate, open to global change, while remaining grounded in the values of Pancasila and local wisdom as the foundation of national identity. This combination of openness and local wisdom will determine the future direction of Indonesia's legislative system, amidst the increasingly unstoppable flow of globalization.

The research questions discussed in this paper are:

- 1) How does the process of forming legislation occur?
- 2) How does globalization influence the process of forming legislation?

B. LITERATURE REVIEW

Legal Basis and Mechanism for the Formation of Legislation in Indonesia

Planning begins with the preparation of the National Legislation Program (Prolegnas). The Prolegnas serves as a long- and medium-term roadmap containing a list of priority draft laws (RUU) (Fadli M, 2021). Through the Prolegnas, public aspirations and needs can be filtered and aligned with the national development agenda.

After thorough planning, each bill must be based on an Academic Paper. This paper is not merely a formality, but the result of in-depth, scientific and rational study. With the existence of an Academic Paper, every legal product is guaranteed to be born from strong data, research, and argumentation, not merely short-term political interests. This process ensures that the resulting laws truly function as solutions to real problems in society.

Dynamics of Relationships and Roles of Actors in the Legislative Process

In the legislative process, the House of Representatives (DPR) and the Government are two main, complementary actors. The DPR has legislative, oversight, and budgetary functions. They act as initiators of draft laws (RUU) and final decision makers, together with the Government. Meanwhile, the government, through the relevant ministries, also has the right of initiative and is the main partner of the House of Representatives (DPR) in deliberating bills. Their interactions are often characterized by dialectics and a critical exchange of ideas. The Regional Representative Council (DPD), on the other hand, plays a role in providing input and proposals for bills related to regional autonomy, enriching legislative perspectives with local needs (Heryanto G, 2024).

With the flow of globalization, the legislative process is no longer a state monopoly. Literature reviews need to include the phenomenon of actor pluralism, where non-state

entities also influence legal formation. International organizations, non-governmental organizations (NGOs), and even multinational corporations are now active in providing input, lobbying, and advocacy. Their roles are sometimes significant, particularly in legislation related to global issues such as the environment, human rights, or international trade (Nadya T, 2024). Thus, legal formation is now the result of synergy and multi-actor debate, confirming that law is no longer simply a bureaucratic product, but rather the result of a broader and more complex public discourse.

C. RESEARCH METHODOLOGY

This research uses a normative-juridical approach combined with an empirical-juridical approach. The normative approach is used to analyze laws and regulations relevant to investment in the information technology sector in the context of globalization, such as the Investment Law, BKPM regulations, and the OSS system. Meanwhile, an empirical approach is used to understand the implementation of these regulations in the field and the challenges faced by investors and other stakeholders.

Data was obtained through literature review and interviews. The collected data was analyzed qualitatively to evaluate the alignment between legal norms and investment practices in the field, as well as the extent to which the national legal system is able to respond to the dynamics of globalization in the technology sector.

D. RESULT AND DISCUSSION

The Process of Forming Legislative Regulations

The legislative branch of power is the primary representative of popular sovereignty. In state activities, its purpose is to regulate communal life. Therefore, the authority to establish regulations must be delegated to legislative institutions and representative institutions, or parliaments (Jimly A, 2013). There are at least three important points that must be regulated by the people's representatives: first, regulations that could reduce the freedoms and rights of citizens; second, regulations that could burden citizens' assets; and third, regulations regarding expenditures by state administrators. These three matters will only occur with the support of the citizens themselves, namely through the People's Representative Council (DPR) or parliament.

Therefore, the primary function of representative institutions is legislation or regulation. More concretely, this regulatory function (*regelende functie*) is manifested in the function of forming laws (*wetgevende functie* or lawmaking function). The regulatory function itself relates to the authority to determine regulations that bind citizens with binding and restrictive legal norms. Thus, the highest regulations under the Constitution must be created and enacted by parliament with the joint approval of the executive branch.

Furthermore, the legislative function encompasses four activities: initiating the creation of laws (legislative initiation), discussing draft laws (lawmaking process), approving the ratification of draft laws (law enactment approval), and providing binding decision-making on international agreements and treaties or other legally binding documents.

Furthermore, Article 1, number 1 of Law No. 12 of 2011 concerning the Formation of

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Legislation stipulates that "The Formation of Legislation is the creation of Legislation, which includes the stages of planning, drafting, discussion, ratification or determination, and promulgation" (Maria F, 2020). This will be explained as follows:

- a. The stages of the formation of legislation are generally regulated in Articles 16 to 87 of Law No. 12 of 2011.
- b. Specifically, the formation of laws begins with Article 16, followed by Articles 43 to 51, which regulate the drafting of laws.
- c. Articles 65 to 74 regulate the discussion and ratification of laws.
- d. Articles 81 to 85 regulate promulgation

Planning for the drafting of laws, according to Articles 16 and 17 of Law No. 12 of 2011 concerning the Formation of Legislation, is carried out in the National Legislation Program (Prolegnas), which is a priority program for the formation of laws to realize a national legal system. According to Article 18 of Law No. 12 of 2011, the drafting of bills in the Prolegnas is based on:

- a. The 1945 Constitution of the Unitary State of the Republic of Indonesia;
- b. The Decree of the People's Consultative Assembly;
- c. The Decree of other laws;
- d. The national development planning system;
- e. The national long-term development plan;
- f. The medium-term development plan;
- g. The government's work program and the DPR's strategic plan;
- h. And, the aspirations and needs of the community.

In terms of the preparation of the National Legislation Program (Prolegnas) between the DPR and the Government, it is coordinated by the DPR through the DPR's supporting apparatus specifically in charge of legislation. Meanwhile, the preparation of the Prolegnas within the DPR is further coordinated by the DPR's supporting apparatus specifically given the authority to handle legislation by considering and accepting proposals from members of the DPR, DPD, factions, commissions, and the public. And if the preparation of the Prolegnas within the Government environment will be coordinated by the ranks of Ministers who violate government affairs in the legal sector as regulated more clearly in Presidential Regulation No. 87 of 2014 concerning the Implementing Regulations of Law No. 12 of 2011 concerning the Formation of Legislation. There are two types of Prolegnas which are then prepared for a 5-year period which are often referred to as the Medium-Term Prolegnas (PJM) and annually (Annual Priority Prolegnas). However, before the bill is submitted in the annual Prolegnas, the DPR and the Government must first prepare the Academic Paper and the bill. However, the Prolegnas is not the only reference in planning the formation of laws. There are several possibilities for discussions on bills not included in the Prolegnas, due to specific circumstances or the country being in a state of emergency that requires an immediate response. Generally, there are five stages in the preparation of the Prolegnas (Roy M, 2017):

- a. Input gathering stage,
- b. Input gathering stage,
- c. Initial determination stage,
- d. Joint discussion stage,
- e. Prolegnas determination stage.

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Furthermore, under Article 22 of Law No. 12 of 2011, the results of the National Legislation Program (Prolegnas) preparation between the DPR and the Government are then jointly agreed upon as the Prolegnas and stipulated in a DPR Plenary Session and enacted by a DPR Decree.

The drafting stage of the bill (RUU) is the preparatory stage before the bill is discussed jointly by the DPR and the Government. This stage consists of:

- a. Preparation of the Academic Paper
- b. Preparation of the Draft Law
- c. Harmonization, Finalization, and Conceptual Consolidation

Article 43 of Law No. 12 of 2011 states that draft laws may originate from the House of Representatives (DPR), the Regional Representative Council (DPD), and the President and must be accompanied by an academic paper. An academic paper is a legal study or research study of a specific issue that can be scientifically justified and relates to the regulation of the issue in a draft regulation as a solution to the legal problems and needs of society. Exceptions to draft laws include the issuance of Government Regulations in Lieu of Laws, the State Budget, and the Revocation of Laws or the Revocation of Government Regulations in Lieu of Laws. At a minimum, a statement must be provided that at least outlines the content and main ideas of the legislation.

Draft laws submitted by the DPR are more clearly regulated in Article 46 of Law No. 12 of 2011, which states that draft laws from the DPR are submitted by DPR members, commissions, joint commissions, or DPR supporting bodies specifically responsible for legislation. To harmonize, finalize, and consolidate the draft law, it will be further coordinated by the DPR's supporting bodies. Afterward, Article 49 of Law No. 12 of 2011 stipulates that the draft law prepared by the DPR will be submitted to the President, accompanied by a letter from the DPR leadership. The President will then assign a mandate or task to the Minister representing the President in the deliberations of the draft law with the DPR, which will be carried out within a maximum of 60 (sixty) days from the President's receipt of the DPR leadership's letter.

Meanwhile, the draft law submitted by the President is regulated in Article 47 of Law No. 12 of 2011, which states that the draft law to be drafted by the President will be prepared by a Minister or head of a non-ministerial government agency, in accordance with their respective duties and responsibilities, by forming a separate team or committee. For draft laws prepared by the President, Article 50 of Law No. 12 of 2011, will be submitted with a Presidential letter to the leadership of the House of Representatives (DPR), which includes the appointment of a Minister as the President's representative in discussing the Draft Law with the DPR. The DPR will then deliberate on the Draft Law originating from the President within 60 (sixty) days from the date the President's letter is received by the DPR.

Law No. 12 of 2011, Article 64 stipulates that the preparation of Draft Laws shall be carried out in accordance with the techniques for preparing Legislation, as set out in Attachment II, which is an integral part of this Law.

Based on Article 65 of Law No. 12 of 2011, discussions on draft laws are conducted by the House of Representatives (DPR) together with the President or a representative minister,

and the Regional Representative Council (DPD) is included in draft laws relating to central-regional relations, regional autonomy, the formation, expansion, and merger of regions, the management of economic and other natural resources, and the balance of central and regional finances.

The DPD's participation in draft law deliberations is limited to discussions at the first level, represented by the relevant body responsible for the content of the draft law being discussed. In addition, the DPD provides input and considerations to the DPR on draft laws on the State Budget and draft laws related to taxes, education, and religion.

Furthermore, the discussion of draft laws involves mutual criticism and argumentation. If the draft law originates from the President, the DPR and DPD will critique and provide input. If the draft law originates from the House of Representatives (DPR), the President and the Regional Representative Council (DPD) will provide input and criticism. Conversely, if the draft law originates from the DPD, the President and the DPR will provide responses or opinions.

According to Article 72 of Law No. 12 of 2011, a draft law that has been mutually agreed upon by the DPR and the President must then be submitted by the DPR leadership to the President for ratification as law. Submission of the draft law must be made within a maximum period of 7 (seven) days from the date of approval.

However, the explanation to Article 72 paragraph (2) has been amended by Law No. 15 of 2019, to read as follows (Jimly A, 2006): "A period of 7 (seven) working days is considered appropriate for preparing all matters related to the technical aspects of drafting the draft law in the Presidential Official Gazette, up to the signing and ratification of the law by the President, and its signing and promulgation in the State Gazette of the Republic of Indonesia." Furthermore, the Draft Law that has been jointly approved will be ratified by the President by affixing his signature within a maximum period of 30 (thirty) days from the date the Draft Law is jointly approved by the DPR and the President. And if the President does not affix his signature within the specified time limit, the Draft Law will remain valid as a Law..

The discussion of a draft law reaches the point of reaching a mutual agreement (between the House of Representatives and the Minister appointed by the President), which is crucial in the context of legal science. This mutual agreement results in the status of the draft law changing to a law. This mutual agreement is then reinforced by a decision of the House of Representatives in a plenary session, thus automatically resulting in a material act of ratification (Aminudin, K). Therefore, a draft law that has been jointly approved to become a law cannot be amended in principle due to the House's decision to ratify the draft law. Any action that changes the substance of a draft law that has been jointly approved to become a law essentially negates the mutual agreement that was reached in the House plenary session.

The Impact of Globalization on the Process of Formulating Legislation

Globalization is a phenomenon that brings profound changes to various aspects of life, including the legal realm. The process of establishing legislation in Indonesia is now inseparable from the impact of globalization, which has increasingly blurred national boundaries and demanded adjustments to international standards and practices in legal regulation.

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In principle, globalization encourages Indonesia to harmonize its laws. This is evident after Indonesia ratified various international agreements, such as the Agreement Establishing the World Trade Organization (WTO). Consequently, all relevant national regulations, such as those in trade and economics, must align with these global standards. National regulations are no longer fully sovereign but must instead align with global agreements established in international forums (Gunarto S, 2002).

One of the major influences of globalization is the increasing influx of foreign legal ideologies and practices into national legal systems. Globalization accelerates the exchange of information and legal practices between countries, resulting in various legal models from both Continental Europe (civil law) and Anglo-Saxon (common law) being adopted and modified to suit the Indonesian context. For example, the concept of omnibus law, originally associated with the common law system, has now been utilized in the Indonesian legislative process to simplify overlapping regulations.

Furthermore, globalization has led to the phenomenon of legal internationalization, where various global issues such as human rights, the environment, and even transnational crime are now being regulated within the national legal framework. Many new laws in Indonesia related to human rights protection were enacted in response to international conventions, such as the 1998 Rome Statute. Globalization has also given rise to legal pluralism, where states must manage the coexistence of national and global law.

The influx of global influences into national legislation has also expanded the role of non-state actors, such as international organizations (WTO, IMF, World Bank), NGOs, and multinational corporations. They bring certain standards, pressures, and expectations to the national legislative process. States, once the sole law-making actors, now must share roles with numerous parties at the international and transnational levels (Soetandyo W, 2008).

In practice, globalization also demands a process of harmonization of regulations between countries. This is essential to ensure that regulations in the fields of economics, trade, the environment, and human rights adhere to similar standards to ensure smooth and fair cross-border activities. However, this adaptation often presents challenges, particularly in maintaining national legal sovereignty and upholding local values in the drafting of laws.

This shift in the pattern of relations between the national, international, and transnational levels has limited the state's power to formulate laws. States must now be able to negotiate, incorporating basic national legal principles into their collaboration with global legal principles, without losing their national identity.

The impact of globalization on the formation of national legislation can also be seen in the increasing number of regulations in the economic sector that are open and oriented toward the global market. Various regulations in the areas of investment, trade, and consumer protection in Indonesia must now align with international standards to attract foreign investors and protect national interests in global competition (Peter D, 200).

Globalization brings opportunities for more inclusive, efficient, and modern legal reforms, but also poses challenges in terms of the imbalance between traditional and modern law. Indonesia faces significant challenges in synchronizing pluralistic national law with rapid and uniform global demands.

Finally, the influence of globalization on the process of legislative formation is unavoidable. Countries, including Indonesia, will continue to experience interactions between local, national, regional, and global laws. The ideal solution is to create a national legal system that is open to global change, while remaining grounded in the values of Pancasila and local wisdom as the nation's identity and character.

E. CONCLUSION

The process of formulating legislation in Indonesia emphasizes the central role of the legislative body as a representative of the people in determining important rules that bind citizens. This legislative function is outlined in Law No. 12 of 2011, encompassing the stages of planning, drafting, deliberation, ratification, and enactment. Each stage involves coordination between the House of Representatives (DPR), the Regional Representatives Council (DPD), and the government, with a structured process ranging from the development of the National Legislation Program (Prolegnas), the creation and harmonization of academic drafts and bills, to joint deliberation and ratification with the President. The main principles emphasized are participation, transparency, and mutual agreement between the legislature and the executive branch in every drafting of legislation.

Globalization has brought significant changes to the formation of national legislation. Indonesia must adapt and harmonize various regulations with international standards and practices, as evidenced by the ratification of global agreements such as the WTO. New legal models and issues such as omnibus laws and international human rights protection have entered the national legal system, expanding the role of non-state actors in the legislative process. As a result, the state is no longer the sole maker of law, but must collaborate with international organizations, NGOs, and multinational corporations. The main challenge is maintaining national legal sovereignty and identity so that it remains in line with the values of Pancasila and local wisdom amidst demands for global harmonization. Globalization presents opportunities for more inclusive legal reform, but also demands that states be able to adapt selectively without losing their original national character.

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