

THE IMPLICATIONS OF GLOBALIZATION ON THE LEGISLATIVE PROCESS IN INDONESIA

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Abstract

Globalization has significantly influenced national legal systems, including the legislative process in Indonesia. This study aims to analyze the impact of globalization on the substance, methods, and standards of national law-making, as well as to identify the challenges and opportunities in maintaining Indonesia's legal sovereignty amid the globalization of law and the integration of international norms. This research employs a normative juridical method using a conceptual and statutory approach. The findings reveal that globalization encourages the adoption of universal values such as human rights, free trade, and environmental protection into Indonesian legislation. However, challenges arise from the potential erosion of national legal authenticity and the dominance of global actors. On the other hand, opportunities emerge for Indonesia to strengthen its position in international legal forums. Therefore, it is essential for Indonesia to strike a balance between global adaptation and national interest to ensure a sovereign yet globally relevant legal system.

Keywords: Globalization, Legislative Process, Legal Sovereignty, International Law, National Legal System

A. INTRODUCTION

Globalization is a social order that influences the economic, political, and legal livelihoods of a country in various parts of the world due to the rapid development of communication, transportation, and information technology, thus facilitating international interactions conducted by countries and international organizations. The term globalization is generally considered to be related to everything concerning the economy, thus involving global relationships that refer to the increasing integration of economic units into a single global economy (Eddy P, 2004).

Globalization is a phenomenon that brings significant changes in various aspects of life, including in the national legal systems of a country. The globalization process has created increasingly intensive cross-border interconnections, leading to the development of international legal standards that indirectly or directly influence the formation of national law, including in Indonesia. Amid the rapid flow of information, technology, and global trade,

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countries can no longer isolate their legal systems from external influences. This demands a normative response from countries, including Indonesia, in order to maintain the existence and effectiveness of national legal systems within the global order.

In the context of Indonesia, the formation of statutory regulations is a key pillar in carrying out the functions of a rule of law state as mandated by the 1945 Constitution of the Republic of Indonesia. However, the law-making process in Indonesia cannot be separated from the influence of globalization, which also affects the substance of the law, the methods of legislation, and the standards used in drafting statutory regulations. For example, many national legal provisions now adopt international principles or standards, such as in the fields of human rights, environmental protection, international trade, and consumer protection and digital technology.

In the global trading system, transnational companies, financial institutions, and international development organizations play an intensive and dominant role in pushing for international agreements aimed at compelling countries to reform their rules and policies in all areas, including the tax system, labor, trade, debt, and investment (Firman M, 2007).

Legal reform in various aspects of life as a result of the globalization wave in Indonesia is a very important matter in the implementation of the national reform agenda. Due to changes in various aspects of community life, legal changes are urgently needed both at the national and regional levels. Legal changes involve renewal in thinking, behavior, and lifestyles that are in line with the demands of the times. In other words, the legal reform agenda in facing this wave of globalization includes institutional reform, instrumental reform, and cultural reform.

Modern society lives in an era of information technology, also known as the informative society, which is currently popularly referred to as the 'disruptive era' or the era of the fourth industrial revolution. This means that the global world has placed human life in the midst of rapidly advancing technology, which simultaneously poses a threat to humanity. Advances in the field of technology (information) are the intellectual achievements of humans that have brought about extraordinary changes in human lifestyles today.

The globalization of law in its development actually grows and develops beyond the boundaries of national sovereignty, and even if it exists within a national state, the changes and adjustments to the legal system arise from an international agreement. From the perspective of the development of legal globalization in this way, it is certainly understandable that in the coming century what is referred to as 'the era of comparative law' will develop, although currently its movement is not yet very strong. However, what is most important in this regard is that it forces us to delve into the globalization of law on one side and the global legal system on the other.

Whether the global legal system then becomes a part of legal globalization or whether legal globalization gives rise to the global legal system are themes that are the focus of this section. Nationally, it is clear how the influence of globalization permeates the national legal system. Therefore, if legal globalization rolls into the public domain along with the manifestation of globalization, it is not entirely true for Indonesia, because long before

Indonesia gained independence, the importation of legal systems had already occurred in Indonesia.

The globalization of law will cause the regulations of developing countries regarding investment, trade, services, and other economic fields to approach those of developed countries. However, there is no guarantee that these regulations will yield the same results everywhere. This is due to differences in political, economic, and cultural systems. What is referred to as law depends on the perception of its society. Friedman stated that the enforcement of legal regulations depends on the legal culture of the society. The legal culture of a society depends on the legal culture of its members, which is influenced by their educational background, environment, culture, position or status, and even interests.

On one hand, the influence of globalization on the legislative process opens up opportunities to enrich the national legal system with best practices that are internationally recognized, as well as to enhance the competitiveness of Indonesian law on a global scale. Globalization also encourages the importance of legal harmonization in order to guarantee legal certainty for foreign investment and international relations. However, on the other hand, legal globalization also poses challenges, particularly regarding the potential weakening of national legal sovereignty. Dependence on international legal instruments risks displacing local values and national identity if not approached selectively and contextually.

Furthermore, globalization creates new dynamics in the relationships among lawmaking actors. The involvement of international institutions, global non-governmental organizations, and even multinational corporations in the advocacy and drafting processes adds pressure to the national legislative system. Therefore, it is important to examine in greater depth how globalization influences the substance, methods, and standards in the legislative process in Indonesia.

In addition, it is also necessary to analyze how Indonesia can maintain its legal sovereignty while remaining open to global developments. The country needs to ensure that the formation of laws is not only responsive to global demands but also reflects the values of Pancasila, the constitution, and the needs of the Indonesian people. Thus, the urgency of this study is to critically understand the dynamics resulting from globalization in the process of law-making in Indonesia, both in terms of opportunities for the integration of international law, and the risks of disruption to a sovereign national legal system.

Based on the background and legal facts that have been presented above, the author raises several issues as follows:

1. How does globalization affect the substance, methods, and standards in the process of forming laws and regulations in Indonesia?
2. What are the challenges and opportunities faced by Indonesia in maintaining national legal sovereignty amid the waves of legal globalization and the integration of international norms into the national legal system?

B. LITERATURE REVIEW

Globalization and Changes in the National Legal System

Globalization is a social order that influences various aspects of a country's life, including the economy, politics, and law (Estunintyas R, 2018). This phenomenon arises from the rapid development of communication, transportation, and information technology that facilitates interactions between countries and international organizations (Pratama F, 2023). In the legal context, globalization has created intensive cross-border connections, which ultimately affect the process of national law formation (Affan & Rahmah, 2024). Countries, including Indonesia, can no longer isolate their legal systems from external influences, thus demanding an adaptive response (Futuhayah et al., 2024).

Transnational companies and international institutions play a dominant role in pushing for legal reforms in various countries (Kharisma B, 104). They urge countries to adopt international agreements that encompass taxation systems, employment, trade, and investment. Therefore, legal reform in Indonesia has become an urgent agenda, which includes institutional reform, instrumental reform, and culture reform (Ansori L, 2017).

The Influence of Globalization on the Formation of Legislation

The influence of globalization on the formation of law in Indonesia can be seen from several aspects. On one hand, globalization encourages the adoption of universal values, such as human rights, free trade, and environmental protection, into national law (Juliaswara & Muryanto, 2022). This can enrich the legal system and enhance Indonesia's competitiveness on a global level. However, on the other hand, globalization also poses serious challenges, such as the risk of losing the authenticity of national law that reflects local values and national identity. Dependence on international legal instruments has the potential to shift the values of Pancasila and the constitution if not addressed selectively and contextually.

In the context of lawmaking, globalization creates a new dynamic in the relationships among actors. International institutions, global non-governmental organizations, and multinational corporations are now involved in the advocacy and formulation of regulations. This creates pressure on national legislative systems, making it important for Indonesia to balance global adaptation with national interests. As expressed by Friedman, the enforcement of the rule of law greatly depends on the legal culture of its society, which is influenced by education, environment, culture, and interests.

C. RESEARCH METHODOLOGY

The type of research used is normative legal research, which is a method of legal research conducted by analyzing legal materials consisting of legal norms, legal principles, and relevant regulations. Normative legal research aims to examine the application of positive legal rules in addressing the legal issues raised, including examining the consistency and harmonization among regulations. In this normative legal research, the data sources used are secondary data consisting of primary legal materials (such as laws, government regulations, and court decisions), secondary legal materials (such as legal doctrines or literature), and tertiary legal materials (such as legal dictionaries and encyclopedias). The data analysis method used is qualitative descriptive analysis, which involves describing and analyzing data obtained from literature studies, and then systematically interpreting it to answer the legal issues formulated.

D. RESULT AND DISCUSSION

The influence of globalization on the substance, methods, and standards in the process of forming legislation in Indonesia.

Globalization has become a dominant phenomenon of the 21st century that affects all aspects of state life, including in the legal aspect. Legal globalization is characterized by the strengthening of interactions between national and international legal systems, leading to an increased influence of global norms, principles, and standards in the formation of national legislation. In the context of Indonesia, as a democratic rule of law country that is open to global changes, the currents of globalization also drive transformation in the way the state formulates regulations, both in terms of substance, methods, and legal standards used.

This adjustment certainly brings dual consequences: on one hand, it provides an opportunity to strengthen the national legal system through the adoption of universal values and international best practices, but on the other hand, it also poses serious challenges to national legal identity and state sovereignty principles. Therefore, it is important to comprehensively analyze how globalization impacts the substance, methods, and standards of legislative formation in Indonesia.

The substance of the law is the content or normative load of a regulation. In the era of globalization, the substance of Indonesian law is no longer fully constructed based solely on local values or merely domestic needs, but is often influenced or even directed by international legal instruments. Some phenomena that reflect the influence of globalization on the substance of national law include:

1. The Application of International Principle

For example, the principles of non-discrimination, human rights protection, transparency, accountability, and the principles of good governance have been widely adopted in national regulations. Law Number 39 of 1999 on Human Rights explicitly incorporates the principles of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR).

2. Adjustment to International Agreements

In the context of trade and investment, the substance of national law often adjusts itself to international agreements. For example, Law Number 11 of 2020 on Job Creation contains several provisions relevant to Indonesia's commitments within the framework of the ASEAN Economic Community (AEC) and the World Trade Organization (WTO).

3. Standardization of Regulations and Harmonization of Laws

Indonesia is also aligning its regulations in environmental protection, health, and consumer protection with international standards. For example, in the field of health, Indonesia ratified the Framework Convention on Tobacco Control (FCTC) and adjusted its national regulations regarding tobacco, advertising, and packaging.

According to Maria Farida Indrati (2013), the development of legal substance cannot be separated from inter-state relations and global pressures, both through formal mechanisms (such as the ratification of international agreements) and informal ones (such as recommendations from international organizations or global market pressures). The method

of law formation refers to the ways or techniques used by legislative and executive bodies in drafting legislation. In the Indonesian legal system, the process of law formation has been formally regulated in Law Number 12 of 2011 jo. Law Number 15 of 2019 concerning the Formation of Legislation. Globalization has an impact on this method, among others in the form of:

1. Transnational participation in the legislative process

The involvement of global actors such as international organizations, donor agencies, and multinational companies in the advocacy process for the formation of laws in Indonesia has increased rapidly. In some cases, draft technical regulations are even prepared with the assistance of foreign experts, for example in the fields of information technology, cyber law, or digital taxation.

2. Benchmarking and Legal Comparison

The Indonesian government often compares its legislative practices with other countries as a reference in drafting new laws. This reflects the method of comparative legal study that characterizes the globalization of law. For example, in the drafting of the ITE Law and the PDP Law (Personal Data Protection), Indonesia refers to the European Union's General Data Protection Regulation (GDPR) as a global standard.

3. The Us of Global Language and Terminology

Globalization also encourages the use of international legal terms in national regulatory texts, such as 'due diligence', 'compliance', 'risk management', 'corporate social responsibility', and others. This often leads to debates, especially when these terms do not yet have an accurate legal equivalent in the context of national law.

4. Adopting Soft Law Principles

Globalization also introduced the concept of soft law—non-binding norms that have a wide influence. For example, the UN Guiding Principles on Business and Human Rights, which, although not an official treaty, are widely adopted as guidelines in designing corporate regulations and social responsibility in Indonesia.

Globalization also affects the standards used in the formation of legislation, both in formal and material aspects. These standards include technical, procedural, and ethical principles in the drafting of regulations.

1. Procedural Standards and Transparency

In the era of globalization, the process of regulation formation is demanded to be more transparent, participatory, and evidence-based. This is in line with the open government standards advocated by many international organizations, including the OECD and the World Bank. Therefore, Indonesia has begun to implement public consultation in the formation of regulations, although its implementation is still not optimal.

2. Implementation of Regulatory Impact Assesment (RIA)

Regulatory Impact Assessment is an evaluation method for assessing the impact of a regulation prior to its implementation. This concept was introduced by developed countries as a mechanism to prevent overregulation and enhance regulatory effectiveness. Indonesia itself, through Presidential Regulation Number 87 of 2014,

has encouraged the implementation of RIA, although it is still not a mandatory part of every legislation.

3. Openness to Regulatory Audits

Globalization drives the demand for periodic regulatory reviews. Many countries implement sunset clauses or post-legislative scrutiny to assess the effectiveness of regulations. This is also beginning to be tried in Indonesia, especially in the form of deregulation or debureaucratization, which has become an agenda in the Job Creation Law.

4. Standardization of language and legislative techniques

The global influence is also evident in the efforts to harmonize the techniques for drafting regulations. Indonesia has established the General Guidelines for the Formation of Legislation, but its references are now beginning to adopt international standards, especially in terms of systematics, consistency of legal language, and coherence between articles. The Positive Impacts and Risks of Globalization on Law Formation:

1. Opportunities and Benefits

- Improving the quality of national legal substance by referring to global practices and standards.
- Strengthening Indonesia's position in legal diplomacy and international cooperation.
- Helping to shape a legal system that is more adaptive to global changes, particularly in issues of technology, trade, and the environment.

2. Challenges and Risk

- The potential loss of national legal characteristics based on Pancasila and local values.
- Increased dependence on foreign legal models that may not align with the needs of the Indonesian people.
- Gaps in institutional capacity in translating global norms into an effective national legal system.

As stated by Satjipto Rahardjo, law is not just a text, but a social process that lives within society. Therefore, in the face of globalization, it is important to balance the need for adaptation with the importance of maintaining the constitutional and cultural roots of Indonesian law. Globalization has had a significant impact on the substance, methods, and standards in the process of law-making in Indonesia. This influence is reflected in the adoption of international legal values and principles, the renewal of legislative methods, and the implementation of new standards in the technical drafting of regulations. Nevertheless, the response to globalization must be managed wisely and selectively, so that law-making continues to reflect national needs and can uphold the sovereignty of Indonesian law.

The challenges and opportunities faced by Indonesia in maintaining national legal sovereignty amidst the tide of legal globalization and the integration of international norms into the national legal system.

The rule of law is an integral part of the sovereignty of the state. In this context, Indonesia as a law-based state (*rechtstaat*) founded on Pancasila and the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), has full authority to formulate, apply, and enforce laws within its jurisdiction. However, in the era of globalization, the dynamics of international relations and the intensity of interdependence among nations have created conditions where national law no longer stands alone, but rather interacts in complex ways with international legal norms.

The phenomenon of legal globalization encompasses the process of integrating international values, principles, and standards into national legal systems. This process often occurs through international agreements, the influence of international institutions (such as the UN, WTO, IMF), as well as through the flow of investments, technology, and cross-border cooperation. For Indonesia, this opens up opportunities to strengthen the national legal system and expand international cooperation, but at the same time presents significant challenges in maintaining national legal sovereignty.

Globalization Opportunities for Strengthening the National Legal System:

1. Improving the Quality of Law through International Standardization

The globalization of law provides an opportunity for Indonesia to improve the quality of legislation by adopting universally proven principles internationally. These standards include human rights principles, environmental protection, accountability in governance, anti-corruption, and economic governance. For example, the ratification of international conventions such as the United Nations Convention Against Corruption (UNCAC) strengthens Indonesia's commitment to combating corruption through the adjustment of national laws, such as the establishment of the Corruption Eradication Commission (KPK).

2. Strengthening Legal Diplomacy and Indonesia's Position in the International Arena

The integration of international law into the national legal system also provides space for Indonesia to actively participate in the formulation of global norms. By becoming part of the international legal community, Indonesia can voice national interests in global forums and shape its image as a country that adheres to the rule of law. This is important to support economic, political, and socio-cultural cooperation between nations.

3. Acceleration of Legal Reform

Global pressure often serves as a trigger for the birth of legal reforms domestically. When Indonesia faced an economic crisis in 1998, the push from international institutions such as the IMF and World Bank sparked the emergence of various new laws in the areas of banking, state finance, and regional autonomy. In this regard, globalization acts as a catalyst in promoting legal system renewal to be more responsive to global dynamics.

4. Peningkatan Perlindungan Konsumen dan Investasi

International norms such as WTO Agreements, TRIPS (Trade-Related Aspects of Intellectual Property Rights), and Bilateral Investment Treaties have encouraged Indonesia to formulate regulations that provide legal certainty for business actors and

foreign investors. For example, the establishment of Law Number 11 of 2020 concerning Job Creation is a significant step to create a competitive investment climate, despite being controversial at the domestic level.

The Challenges of Globalization to National Legal Sovereignty:

1. Threats to the Values and Identity of National Law

One of the main challenges in the globalization of law is the potential erosion of local values and cultural wisdom that have been the foundation of national law. Pancasila as the foundation of the state and the source of all legal sources often does not become a priority in harmonization with international law. The adoption of Western liberal principles in some regulations, without a filter against the values of Pancasila, can obscure the character of Indonesian law that is oriented towards social justice and kinship.

2. Limitations of Legislative Institution Capacity

In the process of integrating international norms, it often happens that the substance of international treaties is copy-pasted into national laws without adequate adaptation processes. This reflects the limitations of the technical and institutional capacity of national law-making institutions in understanding and applying international legal principles contextually. As a result, the regulations produced often do not meet the needs of the Indonesian people and fail to be implemented effectively.

3. Dependence on Foreign Interest

In some cases, pressure from donor institutions or international organizations leads to the formulation of regulations based on global interests, rather than national ones. This phenomenon poses a risk of intervention in national sovereignty, especially in strategic policies in the fields of economy, natural resources, and digital technology. For example, the pressure to liberalize certain sectors to meet free trade standards can impact protections for domestic entrepreneurs.

4. Conflict between National and International Law

Although Indonesia has ratified various international agreements, their implementation often clashes with national laws. For example, some international arbitration rulings create legal dilemmas because they contradict national court decisions or exceed the boundaries of state sovereignty. Such conflicts lead to legal uncertainty and open the door for forum shopping by investors or other foreign parties.

5. The Lack of Representation and Public Participation

The process of harmonizing international law does not always involve broad public participation. Many regulations are formed as a result of agreements between technocratic elites and international institutions without adequate public consultation mechanisms. This contradicts the spirit of democratizing law mandated in the formation of legislation based on Law Number 12 of 2011.

Strategy to Maintain National Legal Sovereignty:

1. Strengthening Ideological Filters in Legal Harmonization

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Indonesia needs to establish clear boundaries in adopting international norms so as not to clash with the values of Pancasila and the constitution. Legal harmonization must take a contextual and ideological approach, rather than merely a normative-formalistic one. In this regard, the Constitutional Court and legislative bodies play a crucial role as guardians of the constitutionality of legal norms.

2. Improvement of National Legislative Capacity

The government and the parliament need to enhance institutional capacity in absorbing and translating international law into a form of national law that meets local needs. Intensive training, improving the quality of academic texts, and collaboration with international legal research institutions can be strategic steps to strengthen the capacity of lawmakers.

3. Revitalization of the Role of Civil Society

Public participation in the formation of regulations needs to be strengthened as a form of social control against the potential dominance of foreign interests. The processes of public hearings, open consultations, and the involvement of academics and non-governmental organizations will strengthen legal legitimacy and avoid elitist legislative practices.

4. Building a Robust Testing System

Indonesia needs to strengthen the mechanisms for testing legislation, both through the Constitutional Court (for laws) and the Supreme Court (for regulations under laws), in order to balance global and local interests. A progressive judicial review system will be the last bastion in upholding the rule of law.

5. Development of Local Soft Law

To balance the influence of international soft law, Indonesia can also develop ethical guidelines based on local values. This is important to prevent the dominance of global legal discourse that may not necessarily fit the characteristics of Indonesian society.

Legal globalization is an unavoidable phenomenon. It arises as a logical consequence of increasing interactions among countries in the fields of trade, investment, human rights, and other global issues. For Indonesia, the currents of globalization bring two opposing sides: opportunities to strengthen the national legal system and risks to legal sovereignty. Therefore, the main challenge ahead is how Indonesia can selectively, critically, and contextually absorb global values without losing its identity and constitutional character. The national legal strategy must be directed towards strengthening the values of Pancasila, protecting national interests, and adjustments that do not undermine the integrity of the domestic legal system. Thus, the integration of international norms does not become a threat but rather a reinforcement of the supremacy of sovereign Indonesian law.

E. CONCLUSION

In an increasingly intensive globalization era, Indonesia's national legal system cannot stand alone without being influenced by the dynamics of international law. Globalization has brought significant effects on the process of law-making, in terms of substance, methods, and standards. The substance of national law now increasingly includes universal principles such

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as human rights, environmental protection, and good governance. Various international instruments that have been ratified or referenced by Indonesia have also enriched the content of national regulations, while encouraging the creation of a legal openness that is more adaptive to global developments. From the perspective of law-making methods, globalization has also changed the way legislative and executive institutions work in drafting regulations. The adoption of international legislative practices, benchmarking from other countries, and the use of global terminology have become common in the modern legislative process. This reflects a transformation towards more inclusive and participatory methods, although on the other hand, it also presents its own challenges when not all foreign elements are suitable for the social and cultural context of Indonesia. Standards in regulatory drafting have also evolved, emphasizing principles such as transparency, accountability, and the application of regulatory impact assessment as tools to measure the effectiveness of regulations before they are enacted. Nevertheless, in practice, Indonesia still faces technical and institutional challenges in implementing these standards comprehensively and consistently.

Globalization also provides great opportunities for strengthening the national legal system. Through active involvement in international legal cooperation, Indonesia can expand its influence in formulating global norms and demonstrate its commitment to the principle of rule of law. In addition, international influence can serve as a catalyst to accelerate legal reform and improve the quality of national regulations, as long as those norms are absorbed selectively, contextually, and remain grounded in constitutional values. The strategy of legal harmonization must be carried out critically and carefully to avoid the dominance of foreign values that obscure the character of national law. At the same time, strengthening institutional capacity, engaging civil society, and applying the principles of progressive law will be important foundations to ensure that Indonesian law remains sovereign, just, and contextual amidst the evolving global currents.

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