JURNAL AKTA
Volume 11 No. 4, December 2024
SINTA 2,
Decree No. 164/E/KPT/2021

Problematics of Legal Politics in the Formation of Legislation in Indonesia

Ali Yusran Gea

Faculty of Law, Universitas Pembangunan Pancabudi Medan, Indonesia, E-mail: aliyusrangea@dosen.pancabudi.ac.id

Abstract. *Legal Politics of Legislation experiences problems both in terms of formation, political aspects, philosophical aspects, sociology and juridical aspects so that the formation of Legislation is greatly influenced by the tug-of-war of interests, both the political interests of the executive power, the political interests of the legislative power and the political interests of the judiciary. The legal implications related to the existence of Legal Politics problems in the formation of Legislation give birth to Legislation that is not of good quality so that the law enforcement process experiences a decline and is not legal certainty. Legislation as the basis for every implementation of government activities where Legislation is a part or subsystem of the legal system. The process of forming Legislation is part of the legal political process and plays a significant role in the development of national law. The formation of Legislation both in the planning, drafting, and discussion stages of the draft Legislation really needs the active role of the community. The problematic factors of legal politics in the formation of legislation include Legal Factors and Non-Legal Factors where legal factors include those that are contrary to the Constitution [1945 Constitution], contrary to the law, overlapping, contrary to legal norms and procedures that are contrary to Law No. 12 of 2011 concerning the Formation of Legislation, while non-legal factors include political factors, economic factors, social factors and cultural factors. Apart from legal and non-legal factors, the content of the legislation is also far from philosophical, sociological and juridical values.*

Keywords: *Legal; Legislation; Politics; Problems.*

1. INTRODUCTION

The Republic of Indonesia is a State of Law, in accordance with Article 1 Paragraph (3) of the 1945 Constitution. According to Article 1 Paragraph 3 of the 1945 Constitution, a State of Law can be interpreted as a State if the actions of the government and its people are based on law, to prevent arbitrary actions from the Government or the Authorities and actions of the people carried out according to their own will. As a State based on law (rechtstaat) and not on the basis of power (machstaat) Indonesia expresses its ideals or goals through law as a means, in other words, law is a means used to achieve the goals of the state that have been aspired to.

The concept of the rule of law used by Indonesia is more directed towards the Continental European legal tradition (civil law) which prioritizes written law in the form of Legislation as the basis for every implementation of government activities. Legislation is a part or subsystem of the legal system. Therefore, discussing the politics of legislation in essence cannot be separated from discussing legal politics. Mahfud MD stated that legal politics includes legal development which is based on the creation and renewal of

legal materials so that they can be in accordance with the needs and implementation of existing legal provisions including the affirmation of the function of institutions and the development of law enforcers.

The Constitution is the legal basis for the formation of Legislation. The Constitution is the basic and highest law for all activities of social, national, and state life. Legislation is formed by the People's Representative Council of the Republic of Indonesia (DPR), with the approval of the President, and ratified by the President as stated in Article 20 of the 1945 Constitution which reads:

1. The House of Representatives holds the power to form laws
2. Each draft law is discussed by the House of Representatives and the President to obtain joint approval.
3. If the draft law does not receive mutual agreement, the draft law may not be submitted again in the session of the House of Representatives at that time.
4. The President passes the draft legislation that has been mutually agreed to become law.
5. In the event that the draft law that has been jointly approved is not ratified by the President within thirty days of the draft law being approved, the draft law shall become law and must be enacted.

Basically, the function of forming laws is also called the legislative function. This means that the DPR as a legislative institution has the task of making laws, planning and compiling programs and priority order of discussion of bills, both for one term of DPR membership and for each year, assisting and facilitating the preparation of bills proposed by the DPR.

The Indonesian government has the responsibility to safeguard the rights and responsibilities of all its citizens through the executive and legislative powers to create valuable, quality and comprehensive national laws in the form of formulation/design, formation, ratification of laws that respond on behalf of every citizen, every country, and every state. The formation of mandatory laws and regulations includes the stages that have been determined in Law No. 12 of 2011 concerning the Formation of Legislation which consists of the stages of planning, drafting, discussion, ratification or determination, and promulgation. In the formation of mandatory laws and regulations, there must be considerations. In the Great Dictionary of the Indonesian Language (KBBI) Edition V, considerations are basic considerations for determining decisions, regulations, and so on. These considerations are divided into 3 (three), namely philosophical foundations, legal foundations, and sociological foundations. These three foundations also apply in the formation of laws.

Legislation Theory is a written regulation containing generally binding legal norms formed or formed by state institutions or officials, who have the authority through procedures stipulated in the Legislation. The hierarchy of lower Legislation must not conflict with higher Legislation. In order to meet the needs of the community for good legislation, it is necessary to make regulations regarding the formation of legislation that is implemented in a definite, standard, and standard manner and method that binds all institutions authorized to form legislation, to realize Indonesia as a state of law, the state is obliged to carry out national legal development that is carried out in a planned, integrated, and sustainable manner in a national legal system that guarantees the

protection of the rights and obligations of all Indonesian people based on the 1945 Constitution of the Republic of Indonesia

The legal basis for the formation of Legislation in Indonesia is the 1945 Constitution of the Republic of Indonesia and Law No. 12 of 2011 concerning the Formation of Legislation. In the legal system of legislation in Indonesia, the legal force obtained by a legislation is in accordance with the hierarchy of existing Legislation. Which types and hierarchies of Legislation are the 1945 Constitution, MPR Decrees, Laws/Government Regulations in Lieu of Laws, Government Regulations, Presidential Regulations, Provincial Regulations and Regency/City Regulations.

Law No. 12 of 2011 concerning the Formation of Legislation regulates the content of legislation according to its type, function, and hierarchy. The content that must be regulated by law includes human rights, the rights and obligations of citizens, the implementation and enforcement of state sovereignty, state territory and regional divisions, citizenship and population, and state finances.

The process of forming Legislation in Indonesia has been regulated in Law No. 12 of 2011 concerning the Formation of Legislation which is divided into several stages, namely: Planning, Drafting, Discussion, Approval and Promulgation. In forming Legislation, it must be based on the principles of forming Legislation, including the principles of forming Legislation, the principles of the material content of Legislation and other principles in accordance with the legal field of the relevant Legislation. If there is a conflict or conflict of norms in the legal system, then the legal principles will appear to resolve it.

The forms of legislation in a certain period (government) may differ from the forms of legislation in other periods, this is very dependent on the ruler and his authority to form a decision in the form of legislation. One of the mechanisms for creating legislation is formed through the Legal Policy desired by the rulers at that time. So that the mechanism for creating law in Indonesia today is based on the will and authority of the holder of power.

Legislation and its formation process play a significant role in the development of national law. This is because, in Indonesia, legislation is the main way of creating law, legislation is the main pillar of the national legal system. In addition, legislation is a very effective instrument in legal reform because of its binding and coercive legal force. Legislation also provides higher legal certainty than customary law, customary law, or jurisprudence law.

The principles for the formation of laws and regulations in Indonesia have been normatively written in the provisions of the law, namely Law No. 12 of 2011 in conjunction with Law No. 15 of 2019 concerning the Formation of Laws and Regulations. In this law, the principles are divided into two parts, namely the principles for the formation of Laws and Regulations as contained in Article 5, and the principles of the material content of Laws and Regulations in the Republic of Indonesia as contained in Article 6 as follows:

1. The principles of forming regulations include the principle of clarity of purpose, the principle of appropriate institutional or official formation, the principle of suitability between type, hierarchy and content material, the principle of implementability,

the principle of efficacy and usefulness, the principle of clarity of formulation and the principle of openness.
2. The principles of content include the principle of protection, the principle of humanity, the principle of nationality, the principle of kinship, the principle of archipelago, the principle of archipelago, the principle of *Bhinneka Tunggal Ika*, the principle of justice, the principle of equality of position in law and government and the principle of order and legal certainty and the principle of balance, harmony, and harmony of each legal and regulatory content material.

Philosophical, sociological, and legal factors are the foundations used in the formation of legislation. These three factors are the considerations and reasons for the formation of legislation, and are written sequentially. Philosophical, sociological, and legal foundations are used in the preparation of academic papers and are included in the main ideas in the considerations of the Law, Provincial Regulation, or Regency/City Regulation. Philosophical foundations include the philosophical basis of legislation containing legal ideals in accordance with Pancasila and the 1945 Constitution, Sociological foundations include the sociological basis of legislation containing conditions of practice in society and Legal foundations include the legal basis of legislation considering legal reasons and guaranteeing legal certainty.

The problems of legal politics in the formation of legislation include the absence of an integrated and comprehensive system. This is caused by various reasons, such as laws originating from various sources, as well as the lack of coordination, cohesion, and consistency between legal products. Legal politics in the formation of legislation can cause several problems, including:

1. Legal factors include, among others, being contrary to the Constitution [1945 Constitution], being contrary to the law, overlapping, being contrary to legal norms and procedures which are contrary to Law No. 12 of 2011 concerning the Formation of Legislation.
2. Non-legal factors include political factors, economic factors, social factors and cultural factors.

As forthe problem being studied ishow are the problems of legal politics in the formation of Legislation in Indonesia.

2. RESEARCH METHODS

The research methodology for this type of research is normative legal research. Research in the field of law that utilizes secondary sources or literature is known as normative research. To resolve legal disputes, normative legal research conducts studies to identify applicable laws, principles, and doctrines by examining secondary sources and library catalogs, this type of study is also known as doctrinal research. Laws are usually understood either as words on paper (statutes) or as a set of guidelines on how people should act. Secondary and tertiary sources of information were consulted for this investigation. The term "secondary data" refers to information obtained by academics from previously published works or personal papers held in libraries or owned by individuals. However, tertiary data refers to resources such as encyclopedias, dictionaries, book indexes, scales, articles, and other reference materials that can be used to examine primary and secondary data.

3. RESULT AND DISCUSSION

Legal policy is a policy as a basis for organizing a state, especially in the field of law regarding laws that will be implemented, are currently implemented and have been implemented which are taken from values that grow and live and apply in society to achieve the goals of the state as stated in the Preamble to the 1945 Constitution paragraph 4. As a constitution, the 1945 Constitution of the Republic of Indonesia is the basis of written legal sources in the form of Legislation that is inspired by Pancasila as a benchmark for making legal products below it. Therefore, every policy, be it politics, law, economy or defense and security, must be in accordance with the constitution inspired by Pancasila as the philosophical basis of the Indonesian State.

Legal Policy according to Moh. Mahfud MD is a legal policy or legal direction set by the state in order to achieve state goals that can be done through the formation of new laws and the replacement of old laws. The legal policy is divided into 3 (three) groups, which include:

1. *Legal policy* which is the official direction in the implementation of laws aimed at achieving state goals, including replacing existing laws and establishing new laws.
2. The political background and social sub-systems that influence the formation of law, including the official direction in the application of law that will or will not be enforced.
3. Issues surrounding law enforcement, especially in the implementation of established legal policy policies

The process of forming Legislation from a legal political perspective includes two things in changing this law, namely:

1. Addition of Omnibus Method in the Formation of Legislation
   To overcome the excessive number of laws and regulations as explained previously, steps are needed to reduce overlapping regulations and harmonize regulations that hinder the implementation of laws and regulations.
2. Clarifying the Concept of Meaningful Community Participation
   Participation in the legislative process is important so it needs to be considered in practice. In today's era, critical studies of laws are the most important and fundamental things in social interactions in the state because as an instrument to fight for justice, peace and legal certainty it also provides benefits in populist legal development plans. 1 Attention to this is interesting, considering that the relationship between legal subjects in its development requires regulation in modern law, which must be codified, logical, conceptual, universal, and able to respond to social change in order to fulfill the aspect of legal certainty.

In the process of forming laws in order to produce strong and quality laws, Bagir Manan said that the law must have a legal basis (juridische gelding), a sociological basis (sociologische gelding) and a philosophical basis (philosophical gelding).

A legal norm is said to be philosophically valid if the legal norm is in accordance with the philosophical values adopted by a country. According to Hans Kelsen regarding "gerund-norm" or in Hans Nawiasky's view of "staatsfundamentalnorm", in every country there are always determined basic values or the highest philosophical values that are believed to be the source of all sources of noble values in the life of the state concerned. The

philosophical values of the Republic of Indonesia are contained in Pancasila as "staatsfundamentalnorm". The formulation of the five principles of Pancasila contains the values of religiosity of the Almighty God, just and civilized humanity, nationality in the bonds of *Bhinneka Tunggal Ika*, people's sovereignty, and social justice for all Indonesian people. There are two undeniable factors in the process of making laws, philosophical considerations and the application of general principles or paradigmatic standards. Article 6 paragraph [1] of Law No. 12 of 2011 which regulates the making of laws emphasizes the concept related to the contents of the law, namely:

1. The concept of protection, which states that all substantive laws must serve to protect society and promote harmony.
2. The concept of humanity, which states that all laws and regulations in force in Indonesia must fairly and adequately protect human rights and the inherent value and dignity of all Indonesian citizens and permanent residents.
3. The concept of nationality states that laws must accurately represent the diversity of the Indonesian nation while still upholding the values of the Unitary State of the Republic of Indonesia.
4. According to the idea of kinship, all laws should be the result of a thorough process of discussion and consensus.
5. According to the principle of statehood, all laws in Indonesia must take into account the needs of all regions. Laws passed at the regional level are incorporated into the national legal system, which is based on Pancasila and the 1945 Constitution of the Republic of Indonesia.
6. The principle of *Bhinneka Tunggal Ika* states that all laws must comply with the explanation given in Article 6 paragraph (1) letter A of Law No. 12 of 2011, which discusses the existence of cultural diversity in community, national and state life, as well as diversity of religions, ethnicities, groups and regions.
7. The concept of justice emphasizes the need for laws that reflect justice for all citizens in their tangible nature.
8. Legislation does not contain anything that discriminates based on background, including but not limited to religion, ethnicity, race, class, gender, or social status, in accordance with the concept of equal status in law and governance.
9. The need for order and legal certainty, which states that laws must have the power to realize social order by providing guarantees of legal certainty.
10. The principle of balance, harmony and alignment, which states that all substantive laws must represent balance, harmony and alignment, among individual, community, national and state interests.

In legal terms, a legal norm is said to be valid if the legal norm itself is indeed determined as a legal norm based on a superior legal norm or according to Hans Kelsen with his theory "Stuffenbau Theorie des Recht", it is determined to be binding or valid because it shows a mandatory relationship between a condition and its consequences, is determined as a legal norm according to the applicable legal formation procedure and is determined as a legal norm by an institution that is indeed authorized to do so. If these three criteria have been met properly, then the legal norm in question can be said to be valid in legal terms. Legislation is one of the legal products, so that it is generally binding and has effectiveness in terms of imposing sanctions in its formation must pay attention to several legal requirements. Requirements such as these can be used as the legal basis of a statutory regulation. The legal requirements referred to here are:

1. Created or formed by an authorized organ.
   A person or entity that has the power to make laws must do so. A law is invalid if this requirement is not met "van rechtswegen".
2. Whether the structure and content of the proposed law are appropriate or not.
   It may be necessary to repeal the relevant law if it does not comply with this method. For example, if a clause in the 1945 Constitution states that it will be enforced by law, then only law can regulate it.
3. Availability of protocols and guidelines for designated manufacture.
   The House of Representatives and the president meet to review and possibly approve draft legislation. Also included in the structure of the invitation is the process that must be followed.
4. It should not conflict with laws passed at higher levels.
   Ground Norm(basic norms) of the lower level of legislation are the higher level of legislation. This means that lower level laws cannot contradict the rules established by higher level laws.

A legal norm is said to be politically valid if its implementation is supported by real political power factors (riele machtsfactoren). This political validity is related to the theory of power (power theory) which in turn provides legitimacy to the validity of a legal norm solely from the perspective of power. If a legal norm has received the support of power, whatever its form and however the political decision-making process is achieved, it is sufficient to be the basis for legitimacy for the validity of the legal norm in question from a political perspective.

Sociological basis is a consideration or reason that illustrates that regulations are formed to meet the needs of society in various aspects. Sociological basis actually concerns empirical facts regarding the development of problems and needs of society and the state. In other words, sociological basis is a basis consisting of facts that are demands of the needs of society that encourage the need for the creation of legislation, namely that there is something that is basically needed by society so that it needs to be regulated. The sociological view of validity tends to prioritize an empirical approach by prioritizing several criteria, namely recognition criteria (recognition theory), reception criteria (reception theory), or legal factuality criteria.

Soerjono Soekanto and Purnadi Purbacaraka put forward a theoretical basis as a sociological basis for Legislation, namely:

a. The theory of power (Machttheorie) sociologically states that legal rules apply because of coercion from the ruler, regardless of whether they are accepted or not by society.
b. Theory of Recognition (Annerkennungstheorie). Legal rules apply based on acceptance by the community where the law applies.

The principles for the formation of laws and regulations in Indonesia have been normatively written in the provisions of the law, namely Law No. 12 of 2011 in conjunction with Law No. 15 of 2019 concerning the Formation of Laws and Regulations. In this law, the principles are divided into two parts, namely the principles for the formation of Laws and Regulations as contained in Article 5, and the principles of the material content of Laws and Regulations in the Republic of Indonesia as contained in Article 6 as follows:

1. Principles of Establishing Regulations

a. The principle of clarity of purpose is that every formation of legislation must have a clear purpose to be achieved.
b. The principle of the institution or the proper official is that every type of Legislation must be made by a state institution or an authorized Legislation-Making Official. The Legislation can be canceled or null and void by law if it is made by an unauthorized state institution or official.
c. The principle of conformity between type, hierarchy and content is that in the Formation of Legislation, attention must be paid to the appropriate content according to the type and hierarchy of the Legislation.
d. The principle that can be implemented is that every formation of legislation must take into account the effectiveness of the legislation in society, both philosophically, sociologically and legally.
e. The principle of utility and effectiveness is that every statutory regulation is made because it is truly needed and useful in regulating social, national and state life.
f. The principle of clarity of formulation is that every Legislation must meet the technical requirements for compiling Legislation, systematics, choice of words or terms, as well as clear and easy-to-understand legal language so as not to give rise to various interpretations in its implementation.
g. The principle of openness is that in the Formation of Legislation starting from planning, drafting, discussion, ratification or determination, and promulgation is transparent and open. Thus, all levels of society have the widest possible opportunity to provide input in the Formation of Legislation

2. Content Material Principle
   a. The principle of protection is that every legal regulation must function to provide protection in order to create public peace.
   b. The principle of humanity is that every material contained in legislation must reflect the protection and respect for human rights and the dignity and worth of every citizen and resident of Indonesia in a proportional manner.
   c. The principle of nationality is that every material contained in legislation must reflect the pluralistic nature and character of the Indonesian nation (diversity) while maintaining the principle of the unitary state of the Republic of Indonesia.
   d. The principle of family is that every material contained in statutory regulations must reflect deliberation to reach consensus in every decision-making process.
   e. The principle of archipelagic is the content of every material in legal regulations
   f. The principle of archipelagicism is that every material contained in legislation always takes into account the interests of the entire territory of Indonesia and the material contained in legislation made in the regions is part of the national legal system which is based on Pancasila.
   g. The principle of *Bhinneka Tunggal Ika* is that every material contained in legislation must take into account the diversity of the population, religion, ethnicity and social groups, special regional conditions and culture, especially those concerning sensitive issues in community, national and state life.
   h. The principle of justice is that every piece of legislation must reflect proportional justice for every citizen without exception.
   i. The principle of equal standing in law and government is that every material contained in statutory regulations must not contain matters that are discriminatory based on background, including religion, ethnicity, race, social class, gender and social status.

j. The principle of order and legal certainty is that every material contained in statutory regulations must be able to create order in society by guaranteeing legal certainty.
k. The principle of balance, harmony and alignment of every material contained in legislation must reflect balance, harmony and alignment between the interests of individuals and society and the interests of the nation and state.

In forming laws and regulations, there are several theories that need to be understood by the designer, namely the theory of norm levels. Hans Nawiasky, one of Hans Kelsen's students, developed his teacher's theory about the theory of norm levels in relation to a country. Hans Nawiasky in his book "Allgemeine Rechtslehre" states that according to Hans Kelsen's theory, a state legal norm is always layered and tiered, namely the norm below applies, is based on, and originates from a higher norm and so on until the highest norm called the basic norm. From this theory, Hans Nawiasky added that in addition to the norm being layered and tiered, legal norms are also grouped. Nawiasky groups them into 4 large groups, namely:

1. *State fundamental norm* (fundamental norms of the state)
2. *State Policy* (basic rules of the state)
3. *Formal Wear* (formal law)
4. *Verordnung and Autonome Satzung* (implementing rules and autonomous rules).

The House of Representatives holds the power to form laws and every draft law is discussed by the House of Representatives and the President to obtain joint approval. Article 20 paragraph (2) of the 1945 Constitution explicitly stipulates that every bill is discussed by the House of Representatives and the President in order to achieve joint approval. This article means that "joint approval" by the House of Representatives and the President is a logical consequence of "joint discussion" between the two. According to Jimly Asshiddiqie, both the House of Representatives and the government also have the right to withhold approval for a bill. In the process of discussing a law, the government is represented by a minister who acts on behalf of and for the president. Therefore, it is odd if the ministers who act on behalf of the president give their approval without the president's knowledge. The ministers who are involved in the stages of discussing a law should ask for confirmation whether the bill resulting from the discussion is still in line with the president's legal policy. If the president feels that his legal policy is still appropriate, then the minister concerned can give joint approval. Conversely, if the president's legal policy does not require a bill resulting from the discussion, then the minister concerned may not give approval on behalf of the president. The aim is to ensure that the president will ratify the bill in question into a law.

Testing a law is not only about the material contained in the law, but also the process of its formation. Testing the material of a law can be said to be a material test, while testing the process of forming legislation is called formal testing. in the testing mechanism carried out by the executive institution that can conduct legal evaluations. Testing of legislation carried out by the executive institution itself is carried out by the government with an "internal control" mechanism by the party issuing the legal product. The target of testing by the executive institution itself is in the form of canceling the legal product that is the object so that it remains synchronized, consistent, and provides legal certainty to the community.

Constitutionally, the protection of the interests of citizens as holders of sovereignty has been regulated in Article 1 paragraph (2) of the 1945 Constitution which stipulates that sovereignty lies in the hands of the people and is implemented according to the constitution. Sovereignty is the concept of the highest power (supreme authority) in a country. The form of people's sovereignty is manifested in democracy. In the modern era, democracy tends to emphasize the meaning that in a political context, the highest power lies in the hands of the people.

The formation of democratic laws is marked by the presence of community participation. According to Hardjasoemantri as quoted by Hamza Halim, there are 4 (four) main ideas that underlie the need for community participation, namely:

1. Providing information to the government
   Public participation is essential to provide input to the government regarding problems that may arise from a government action plan with its various consequences.
2. Increasing public willingness to accept decisions
   A citizen who has had the opportunity to participate in the decision-making process tends to show a greater willingness to accept and adapt to the decision. This will reduce the possibility of conflict, provided that the participation is carried out at the right time.
3. Assisting with legal protection
   If a final decision is taken by taking into account objections raised by the community during the decision-making process, then after the decision is taken objections from community members will be reduced or less likely, because all alternatives have been discussed at least to a certain level.
4. Democratizing decision making.

In relation to this public participation, there is an opinion that states that in a government with a representative system, the right to exercise power lies with the people's representatives who are elected by the people. Public participation can be carried out in various ways as stipulated in Article 96 paragraph (2) of Law No. 12 of 2011 concerning the Formation of Legislation, namely through public hearings, work visits, socialization and/or seminars, workshops, and/or discussions. In addition, according to the author, public participation can also be carried out through demonstrations if necessary.

Legal policy in the formation of legislation can give rise to several problems, including:

1. The disproportionate and inappropriate involvement of certain people or groups in the process of forming laws.
2. Lack of transparency in the process of forming legislation, so that the public cannot provide input.
3. There was no serious discussion of the concept of Pancasila as the basis for the national legal system.
4. Legislation that is open to multiple interpretations, has the potential for conflict, overlaps authority, is not principled and is not harmonious

Problematics are obstacles or problems that have not yet been solved so that achieving a goal is hampered and not optimal. Political legal problems in the formation of Legislation include:

1. Legal Factors
   a. Contrary to the Constitution [1945 Constitution]
   The 1945 Constitution is the source of all sources of law within the territory of the Republic of Indonesia, where these sources of law are adjusted to the order of statutory regulations, so that any existing statutory regulations may not conflict with the 1945 Constitution and Pancasila as the basic source of law. If there is an allegation that a regulation is contrary to the 1945 Constitution (UUD), then the institution authorized to test it is the Constitutional Court (MK). Meanwhile, if a regulation under the Law is suspected of being contrary to the Law, then the test is carried out by the Supreme Court.

   b. Contrary to the Law

   If there are any Legislations under the Law that conflict with the Law, then a request for judicial review can be submitted to the Supreme Court. The legal principles used to resolve conflicts between laws and regulations are the principle of lex superior derogat legi inferiori, the principle of lex specialis derogat legi generali and the principle of lex posterior derogat legi priori

   c. Overlap

   The formation of overlapping laws and regulations can be caused by several things, including:

   1. Sectoral ego, namely the assumption that regulation is the solution to every problem.
   2. Institutional problems, namely the absence of an institution that has strong authority to supervise and assess laws and regulations.

   Overlapping laws and regulations can cause several problems, such as: Horizontal conflict of legal norms, The emergence of individuals who commit extortion, Regulations become biased. To overcome overlapping laws and regulations, it is necessary to make changes or strengthen the legal regulation system.

   d. Contrary to Legal Norms

   Legislation is a written regulation that contains generally binding legal norms. Legal norms can be imperative, namely orders that must be obeyed, or optional, namely not binding or not mandatory to be obeyed. If there are laws and regulations that conflict with legal norms, then several legal measures can be taken, namely:

   1. Material review to the Supreme Court
      If the statutory regulations under the Act (UU) are suspected of being in conflict with the Act, then a request for a judicial review can be submitted to the Supreme Court.
   2. Non-litigation settlement
      If there is a conflict or contradiction between legal norms, it can be resolved through non-litigation channels. In this channel, the relevant Ministry/Institution will be mediated by the examination panel.
   3. Polite and constructive criticism

If you find legal norms that conflict with Pancasila, the 1945 Constitution of the Republic of Indonesia, or the laws above it, you can provide criticism politely and constructively.

e. Procedures contrary to Law No. 12 of 2011 concerning the Formation of Legislation

The Law on the Formation of Legislation is the implementation of the order of Article 22A of the 1945 Constitution of the Republic of Indonesia which states that "Further provisions regarding the procedures for the formation of laws are further regulated by law". The Law on the Formation of Legislation is based on the idea that the State of Indonesia is a state of law. As a state of law, all aspects of life in the fields of society, nationhood, and statehood including government must be based on laws that are in accordance with the national legal system.

The stages of planning, drafting, discussion, ratification and determination, and promulgation are steps that must basically be taken in the Formation of Legislation. However, these stages are certainly implemented according to the needs or conditions as well as the types and hierarchies of certain Legislation whose formation is not regulated by Law No. 12 of 2011 concerning the Formation of Legislation.

2. Non-Legal Factors

Law No. 10 of 2004 concerning the Formation of Legislation, in Chapter X, emphasizes the existence of community participation, which is regulated in Article 53: "The community has the right to provide input verbally or in writing in the context of preparing or discussing Draft Laws and Draft Regional Regulations."

a. Political factors
   Political factors that influence the formation of legislation include:
   1. Conceptions and structures of political power.
      Formal political power, such as political institutions, and political power from political infrastructure, such as political parties, community leaders, and community organizations.
   2. Political process.
      Political institutions have the authority to form laws, and the role of political power in these political institutions is very important.
   3. Interest groups.
      Other interest groups can also influence the legal products produced by political institutions.
   4. Community participation.
      The public can provide input verbally or in writing in the context of preparing or discussing Draft Laws and Draft Regional Regulations.
   5. Demands for a sense of justice and social order
      The intensity of the influence of community demands on the formation of laws can occur if the demands of a sense of justice and public order are not met or are disturbed.

b. Economic Factors
   Economic factors that influence the formation of statutory law are:
   1. Economic development

Economic developments can influence the legal map.

2. Social group interests

   Social groups that have power in society can influence government policies, especially those related to business security.

3. Request for guarantee of legal order

   Groups that play a role in the economic sector demand a legal system that guarantees legal order.

   Law and economics have a close relationship and influence each other. Economic law provides certainty to society, protects economic rights, and supports economic growth.

c. Social Factors

Social factors that influence the formation of statutory law are sociological foundations, namely considerations or reasons that illustrate that regulations are formed to meet the needs of society. This sociological foundation concerns empirical facts regarding the development of problems and the needs of society and the state.

d. Cultural Factors

Cultural factors include: habits, opinions, ways of working and thinking.Legal culture refers to the values, norms, and traditions that are accepted and practiced in a society. The legal culture that differs from one society to another can influence how the law is understood and applied.

4. CONCLUSION

The problems of legal politics in the formation of legislation include the absence of an integrated and comprehensive system. This is caused by various reasons, such as laws originating from various sources, as well as the lack of coordination, cohesion, and consistency between legal products. Legal politics in the formation of legislation can cause several problems. The problematic factors of legal politics in the formation of legislation include Legal Factors and Non-Legal Factors where legal factors include those that are contrary to the Constitution [1945 Constitution], contrary to the law, overlapping, contrary to legal norms and procedures that are contrary to Law No. 12 of 2011 concerning the Formation of Legislation, while non-legal factors include political factors, economic factors, social factors and cultural factors. Apart from legal and non-legal factors, the content of the legislation is also far from philosophical, sociological and juridical values.

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