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Making Legislation Through Omnibus as a Fast Way in Era 5.0

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Abstract

Objective: The objective of this study is to examine the omnibus method in Indonesia in forming laws and regulations. *Theoretical framework:* There have been many studies related to omnibuses as a method for forming laws and regulations. But this research offers the novelty of 5.0 technology which indirectly supports the omnibus method in forming laws and regulations. It is this novelty that makes the omnibus method the best way out. *Method:* In this study of thought, it uses an approach in legal science that prioritizes legal hermeneutics. The reason for using legal hermeneutics is because it is the best way to provide the best legal settlement. Legal hermeneutics is also supported by normative research but not always based on written laws and regulations but there is a combination with the thoughts of legal figures. Hermeneutics is a science or theory of interpretation to explain texts and their characteristics, both objectively (the grammatical meaning of words and their various historical variations) and subjectively (the author's intent). Legal hermeneutics according to Abou El-Fadl is more inter- and multidisciplinary in nature, involving various approaches, such as linguistics, interpretive social sciences, and literary criticism. *Results and Conclusions:* Indonesia was late in passing the law governing the use of the omnibus method because previously the work copyright law was formed based on an urgent need. *Implications of the research:* Researchers suggest that technological developments must be followed by the establishment of practical laws and regulations without leaving their legal characteristics. *Originality/value:* In overcoming technology in the 5.0 era, a country must have the same understanding, especially in legislative power in producing laws. This also becomes the executive power so that in making approval it uses its power which comes from the *trias politica* to further examine the draft law.

Keywords: legislation; omnibus; state

Introduction

The era of technology makes everything change, especially in technology. A country must be able to cope with various changes because if it does not keep up with the changes it will be left behind by other countries. Technology brings a country to know its origins and improve how it can continue its existence. Benati said that there is a relationship between elite and non-elite things. Initially, elites have non-taxable outputs and inputs i.e. either land or control over commercial routes, whereas non-elite can use inputs to produce valuable products by incurring expensive investments and provided geographical conditions are not perfectly observable e.g. soil and temperature. The interaction between the elite and the non-elite must be imagined between two successive and unexpected technological shocks, each providing the non-elite with new technology and leaving the elite early. (Gough, 2016) Of course this understanding

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must be addressed appropriately and measurably. Fortunately in Indonesia it was promulgated in June 2022 with the Law of the Republic of Indonesia Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 Concerning the Formation of Legislation (UU No. 13/2022) that in order to realize the formation of laws and regulations planned, integrated and sustainable legislation requires structuring and improving the mechanism for forming laws and regulations from planning, drafting, discussing, ratifying or stipulating up to promulgation by adding, among other things, arrangements regarding the omnibus method in forming laws and regulations and strengthening community involvement and participation meaning. This progress is the best way out in facing the 5.0 era, especially technological developments that must be regulated in laws and regulations.

Technology must be limited in the perspective of its legal implications. For example, economic development is not always related to traditional buying and selling but can be through currencies other than Rupiah, for example crypto, but there are important events that follow. How can a law guarantee those who carry out crypto transactions while not all people have a good understanding of crypto. From this, it will give rise to thoughts of forming statutory regulations such as the Law of the Republic of Indonesia Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (UU No. 4/2023). Another example, technological developments in the 5.0 era are also not necessarily supported by futuristic regulations but these rules are traditional. For example, there is a car without a driver, but there must be maximum road facilities first. There are roads that are not damaged, there are clear signs and do not regulate how to drive a car without a driver in advance.

In addition, the state's speed in producing statutory regulations must prioritize what is called priority. The state can no longer make legal facts the main point but must imagine through the current empirical situation. Not only crypto but also other things, namely the omnibus method is able to combine one specific thing together. For example, to regulate the form of government, it must be formulated first what form of government is characteristic of Indonesia. As a start, you can start by asking for public opinion using technology applications. For example placing QR in public places but there must be proper data unity so that duplicate data does not appear. This causes invalid answers so that it has an impact on data analysis. global pretensions – is clearly insufficient and exhausted in the face of new transnational scenarios caused by post-modernity, and thus, unable to face the multidimensional and complex elements.(Flores & Cruz, 2021) The interest in the technologization of legal activity is predictably growing in the conditions of digitalization. The authors consider it important to note several works, namely, such aspects of the digitalization of law as the ratio of legal values and digital legal technologies, the impact of digitalization on the emergence of new types of legal relations (Sarpekov, 2020), features of the use of digital technologies in lawmaking.(Livson et al., 2021)

There is one research question, namely how can the formation of laws and regulations, especially omnibuses, be able to synergize with technology in the 5.0 era?

Theoretical Framework

Omnibus is a way out in forming laws and regulations. Omnibus is one way besides conducting a judicial review to the Constitutional Court. Another way is to conduct a public examination of the laws that have been passed.(Jonathan et al., 2023) The purpose of the public test is through research on the law in question, comparison with similar laws in other countries. In

another perspective, the omnibus is often interpreted as an arena for the power of a country. Compare that with the statement that Entrepreneurs do not go into business by accident, but do it intentionally as a result of choice, often incurring substantial personal and professional risks and costs in the process.(Mohammed Althuwaybi & Saleh Badawi, 2023) This shows that the form of democratic government is a reference that burdens the community. Even though the omnibus is used as a tool of state power, that is the best way. Separation of powers requires power that stands alone but actually shows power that cannot be contested. Separation of powers is a continuation in carrying out the social contract of society. The separation of powers then turned into a division of powers. Another argument Currently, global payment systems are through a period of change, during which the most creative and cost-effective technologies have developed.(Kesavan et al., 2023) The division of power ultimately provides justice in power. After that comes the limitation of power which creates a system of checks and balances. Limitation of power has legal implications for state institutions within it. The formation of laws and regulations has a close relationship with the state institutions in it. there are state institutions affiliated with power, namely executive power, legislative power and judicial power. In practice, executive power and legislative power are one unit, even though the powers are actually separate. It is said to be one unit because it is the two powers that have the authority to form laws and regulations. Judicial power is synonymous with independent power because a judge is God's representative. Judges can issue jurisprudence that is binding on anyone or only both parties to the dispute.(Dung & Thanh, 2023)

Methodology

The materials used in this article include scientific articles published in periodicals (journals) and collections of conferences of various levels and different topics, educational literature (textbooks and manuals), abstracts from monographs (chapters and sections), as well as Internet sources and sources from legal e-reference systems on issues of legislation.(Chechel et al., 2023)

In this study of thought, it uses an approach in legal science that prioritizes legal hermeneutics.(Michael, 2022) The reason for using legal hermeneutics is because it is the best way to provide the best legal settlement. Legal hermeneutics is also supported by normative research but not always based on written laws and regulations but there is a combination with the thoughts of legal figures. Hermeneutics is a science or theory of interpretation to explain texts and their characteristics, both objectively (the grammatical meaning of words and their various historical variations) and subjectively (the author's intent). Legal hermeneutics according to Abou El-Fadl is more inter- and multidisciplinary in nature, involving various approaches, such as linguistics, interpretive social sciences, and literary criticism.(Zayyadi, 2012) This research method will provide prior validation of legal objectives. The purpose of law cannot be determined in advance because it is abstract in nature and everyone can interpret it.(Deva & Michael, 2023)

Results and Discussion

Initially, the omnibus was interpreted as a country's political turmoil when the country was unable to resolve its legal issues. Omnibus in Indonesia has played an important role in the formation of the Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation which has raised many objections. Omnibus as one of the methods or techniques

used to draft laws has special characteristics. Omnibus is actually a feature of the Anglo Saxon country which tends to use law as a tool to protect society in detail. The special features referred to in full include multi-sectors and consist of lots of content material with the same theme; consists of many articles due to the many sectors covered; consists of many statutory regulations collected in one new statutory regulation; independent, independent, and without being bound or at least bound by other regulations; and reformulating, confirming, or revoking part or all of other regulations. (Juaningsih & Hidayat, 2022) Such an omnibus has been carried out in Indonesia in the form of codification which actually has similarities.

Table 1. Comparison of Omnibus and Codification

Omnibus	Codification
Making the interest of community in its formation	Making the interests of community as the end result.
Combining many laws into one law.	It consists of a specific, detailed arrangement such as the Criminal Code (before the Republic of Indonesia Law Number 1 of 2023 concerning the Criminal Code).
Does not give priority to legal certainty because the old laws may still apply.	Prioritizing legal certainty because there is only one validity.
The involvement of the state will provide protection to the community.	The involvement of the state will provide protection to the community specifically.

When looking at Law No. 4/2023 it is known that the financial system is a unit consisting of financial service institutions, financial markets, and financial infrastructure, including payment systems, which interact in facilitating the collection of public funds and their allocation to support national economic activities, as well as connected corporations and households with financial services institutions. From here the financial system will actually affect the presence of technology in Indonesia.

There is an offer put forward in support by omnibus, namely the existence of an application where the public can immediately provide comments and responses on the draft legislation that will exist. This supports that community participation is an absolute thing where the transfer of sovereignty behavior will be the main reference. Through the application, it will force the state to prepare algorithms for answering and collaborating with artificial intelligence. Artificial intelligence system has been gradually applied in judicial practice such as courts. (Ning, 2022)

In practice, people only comment on social media for each state institution and tend to deviate from what is expected. This application can be divided into three different powers namely executive power, legislative power and judicial power. The three powers will eventually provide a summary which will also be disseminated to the public. This means that public participation must be limited by time so that legal certainty will be achieved.

The second manifestation is the authenticity of academic texts, bills and laws in circulation. For example, until now, laws that have been signed by the president can be promulgated by anyone. This means what form of state accountability in providing education to the public. It could be given the wrong letters or how to verify that the publication is true to the original. Another way is to scan the original printed document by country and distribute it in PDF format. This further shows that the state guarantees what it has issued. Legal and technological developments will not be able to reach technology but will predict what will happen. (Rizaldi et al., 2023)

For example, when an advocate can use various practical steps to protect client data. There are things that must be considered in making technology-related contracts, namely make sure the contract is made in writing; keep agreements simple to understand; when agreeing, dealing with persons who have the authority to conclude contracts; correctly identify each party to the contract; state specifically all the details of bargain; determine payment obligations for all parties; agree on the circumstances under which the contract can be terminated; decide the way or method to settle the dispute; select the state laws that will govern the contract; and maintain the confidentiality of the contract. (Ning, 2022; O'Connor, 2020) Will what is done make an advocate have no clients? The answer to this question is the rejection of someone who does not accept technological advances.

Another example is the application of fines through high-tech cameras used by the Police in Indonesia. Law enforcement no longer uses manual ticketing which brings motorists and police together but creates a unilateral relationship. This means that legal arguments are no longer needed in peninganan. Legal arguments will disappear with the existence of technology so that consent actually exists when the camera captures violating motorists. The existence of this technology will eliminate human nature which actually has the ability to argue to reject things that are not in accordance with him. This principle is in line with natural law which recognizes that humans need tools to overcome themselves. Such an evaluation would require further analysis and argument. Indeed, there is nothing in my argument here that excludes the possibility of natural laws contradicting technology or technology overriding natural laws. This means that there is motivation from law enforcement that is wanted from law enforcement in Indonesia.

Figure 1. Law enforcement



Natural law supposes a realist epistemology, that asserts the real to be the measure of knowledge, and also asserts the possibility of intelligence reaching the real, i.e. The nature of things—in this case, the nature of man as a unitary and constant concept beneath the individual differences. Secondly, it supposes a metaphysic of nature, especially the idea that nature is a teleological concept, that the 'form' of a thing is its 'final cause', the goal of its becoming; in the case, that there is a natural inclination in man to become what in nature and destination he is—to achieve the fullness of his own being. Thirdly, it supposes a natural theology, asserting that there is a God, Who is Eternal Reason, Nous, at the summit of the order of being, Who is the author of all nature, and Who wills that the order of nature be fulfilled in all its purposes, as these are inherent in the natures found in the order. Finally, it supposes a morality, especially the principle that for man, a rational being, the order of nature is not an order of necessity, to be fulfilled blindly, but an order of reason and therefore of freedom. (O'Connor, 2020)

The last manifestation is law enforcement which tends to override the virtues of society. This means that people's habits cannot always be normalized because it will isolate what has been agreed upon by community. As a rule of law country, written law in Indonesia originates from customary law or customary law so that it will provide a good understanding in creating norms. Failure to achieve law enforcement means disruption to law enforcement. The factor causing disruption to law enforcement is the lack of relevance between the values reflected in each rule and actions that are not directed so as to disturb public peace. Meanwhile, according to Soerjono Soekanto's opinion, the main problem of law enforcement is influenced by the legal factors themselves in this case laws, law enforcement factors, law enforcement facilities or facilities, community factors and cultural factors.(TOMY MICHAEL, 2023)

Conclusion

In overcoming technology in the 5.0 era, a country must have the same understanding, especially in legislative power in producing laws. This also becomes the executive power so that in making approval it uses its power which comes from the trias politica to further examine the draft law. On that basis, the omnibus cannot be used as a final solution but must still be informed to the public, especially the existence of community participation. The existence of community participation will provide holistic input on existing laws and regulations. Another thing is that the judicial power still has the power to cancel a statutory regulation that is actually in favor of the community. So indirectly, judicial power is higher than executive power and legislative power.

Limitations

This research has several weaknesses, namely it cannot be used when a country is in a state of urgency because in a state of urgency, all the methods in this study cannot be used. This research can be used when there are government issues that must be resolved quickly where the country is in a state of peace such as Covid-19 or the implementation of a world football match.

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