

## LEGAL POLITICS AS A TOOL OF STATE PURPOSE IN MAKING INDONESIAN LAWS LEGISLATION

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### Abstract

*Indonesia's national legal framework is heavily dependent on legislation. The main way to make laws is through legislation. Due to its coercive and binding legal force, the law is also a very effective tool for legal reform. It is clear that the politics of law is very important for the development of Indonesian legislation, regulations, and the continuity of national law, if you remember that politics An important rule in this process is that the law identifies the principles, structure, and development of the country's legal system. Through this explanatory study with a normative and conceptual approach, the author seeks to restate that lawmakers must adapt to the goals of the state in order to achieve in the production of legitimate goods. So that in making new laws and regulations, always pay attention to the sense of justice, usefulness, and clarity of the law for the community.*

Keywords: *National Law, National Legal Politics, and Legislation*

### 1. INTRODUCTION

According to the state constitutional law, the state is a system of implementing the state apparatus. This system consists of a whole, a way of working that determines the relationship and division of responsibilities among each national apparatus to achieve certain goals. Woodrow Wilson asserted that a state is a group of inhabitants in a certain geographic area that has been determined and subject to the rule of law. On the other hand, Instead of a state, the state serves as a container for territorial boundaries to achieve national goals or objectives. If we look at it from the point of view of the essence of the state, we can also say that the purpose of the state is tied to its essence. Similar to Aristotle's theory, which holds that the state was established and remains because it aims to provide happiness for all its citizens (Soltau, 2023). "The goal of a country that the country seeks to achieve through the systematic legal process or instrument that now exists in the country" is the precise definition of the goal of a country. According to Roger Soltau, the state must give the widest possible freedom to its people to cultivate and express their creativity. According to Harold J. Laski, the state must uphold conditions that allow people to achieve their goals in full (Laski, 2023).

According to Emmanuel Kant, the goal of the state is to create and enforce rules that guarantee that everyone is treated equally under the law and that the government cannot act

arbitrarily. Based on the 1945 Constitution, the Pancasila community is of the view that everyone in Indonesia is treated equally by the law and the government. This shows that government rules must be followed by everyone. in connection with community support. To achieve its goals, the state must enact a system of separation of powers in which each ruler has the same high and low rank, is prohibited from interfering with or influencing the actions of other parties, and is also prohibited from conducting research on them (Kant, 2023).

Why in the Preamble to the Constitution of the Republic of Indonesia in 1945 it is explained how the Unitary State of the Republic of Indonesia was formed (1945 Constitution). The following are the goals set at the time To preserve the entire Indonesian nation and all the bloodshed that exists, the formation of the Unitary State of the Republic of Indonesia is the number one priority. Other priorities include promoting the common good, instructing individuals, and helping to uphold a global order based on freedom, justice, and lasting peace. In other words, legislation is a weapon that the state uses to achieve its goals. Indonesia uses the law as a method to represent the country's ideals or goals. Law (*rechtstaat*), not coercion, is the basis of the Indonesian state (*machstaat*). In Indonesia, there is a formal boundary that separates written law from unwritten law. Customary rules and laws are examples of customary unwritten laws. Legal rules and one written law exist.

In fact, many regulations and legislation still have a confusing hierarchy, and many things that should be regulated by law are instead controlled by executive orders, executive regulations, or government regulations. Some legislative provisions, both in legislative terms and as defined by law, are also not in line with the 1945 Constitution. In order not to interfere with the legal system and procedures regulated in the 1945 Constitution, these irregularities need to be corrected immediately. In accordance with the DPR, the President, and the 1945 Constitution (DPR) are responsible for enforcing laws and regulations. Both the President, who functions as the representative of the government and controls the course of the government, and the House of Representatives, which represents the people and supervises legislation, are anticipated to have political interests that can change. legislation. making certain political goals explicit. The rise of the ambiguity of the purpose of forming the law itself, especially for the benefit of the people, justice, and legal certainty, is very concerning, even though the smell of politics is quite thick in laws and regulations (Wilson, 2023; Soltau, 2023).

We all know that government laws and regulations can change from time to time, and thus are largely a function of the existing powers and their capacity to make laws as needed. Therefore, even if the power of the state changes, every effort is made to prevent it from escaping for legal reasons that will ultimately complicate the situation to achieve its goals. Political commodities are publicly available in Indonesia, as is known. The President and the House of Representatives consult on each proposed law before approving it. The

power to make laws is in the House of Representatives. The president can introduce bills before the House of Representatives, such as Congress. So, when a bill is passed into law, the President (Executive) and the House of Representatives agree (Legislative).

One way to impose legislative restrictions was through the political laws used at the time by the ruling class. As a result, Indonesia's current legal framework is established by the authority and will of the people in positions of power. The state's attitude towards the law is what is meant by legal politics. In other words, what is the purpose of law, why was it created, and where is it going? Legal politics refers to the government's decision on which laws should be enforced, which laws should be abolished, which should be replaced, and which should be changed? The state uses legal politics to compile and plan the evolution of Indonesia's national legislation. Achievement The achievement of legal goals will be driven by legal progress, and this will result in the development of state goals Upholding justice, utility, order, and clarity of law is one of the legal goals that will not be achieved if all relevant laws and regulations are associated with government goals. The state's objectives are achieved as a result of or concurrently with the achievement of legal objectives. To achieve national goals in the right way, legal objectives must be met. The author of this article will continue to examine the role of the use of political law in Indonesia to make laws and regulations in order to advance official goals.

## **2. IMPLEMENTATION METHOD**

This study uses a normative and historical juridical approach to examine legal politics as a tool to achieve state goals through the formation of laws and regulations in Indonesia. The normative juridical approach emphasizes the study of legal norms and principles in laws and regulations, while the historical approach is used to understand the development of legal politics from time to time in Indonesia. This research is descriptive-analytical, namely describing legal politics as an instrument to achieve state goals and analyzing its effectiveness in the context of laws and regulations. The data used is secondary data, consisting of primary legal materials, such as the 1945 Constitution and other relevant laws and regulations; secondary legal materials in the form of literature, books, journals, and articles that examine legal politics and state objectives; as well as tertiary legal materials, such as encyclopedias and legal dictionaries to support the understanding of basic concepts. Data collection is carried out through literature studies by collecting literature related to politics, law and the process of forming legislation in Indonesia. Furthermore, the data is analyzed qualitatively through the study and interpretation of existing legal sources and literature to understand the role of legal politics in the formation of laws and their relationship with state goals. This research is expected to provide a deep understanding of the function of legal politics in achieving state goals and provide recommendations for policymakers to strengthen legal politics oriented to the interests of the state (Halim, 2020).

### **3. RESULTS AND DISCUSSION**

#### **The Role of Indonesian Legislative and Legal Politics: Legislation - Invitation**

In line with Padmo Wahjono, legal politics is a very decisive constitutional tactic in shaping the breadth, complexity, and content of future rules and regulations as well as relevant standards that will be used to punish unlawful acts. According to Padmo Wahjono, such legal politics related to laws and regulations will take effect in the future (*ius constituendum*). On the contrary, in his article *Renewal in the Context of National Development*, Teuku Mohammad Radhie's Book, *Legal Politics* is described as a declaration of the state authority's views on government regulations in their jurisdiction and the direction in which the law is built. must be created. Legal politics, as stated by Satjipto Rahardjo, is the process of deciding how to advance several social and legal goals (Wahjono, 1986). Political studies emphasized by Satjipto Rahardjo that the law has several fundamental problems, including:

1. What goals should the current legal system pursue;
2. Which approach is considered most successful in achieving that goal;
3. What legal modifications are needed? And when to do it?
4. Can recognized and standardized patterns be created to define the destination selection process?

The desired national legal system can be achieved by the government by using legal politics as a tool, method, and process. Through the realization of the nation's ideals, it is the desired national legal system. Indonesia will be realized. Another justification for legal politics is this.

According to Bellefroid, the politics of law govern how to change To achieve its goals, *Ius Constitutum* renamed to *Ius Constituendum* or issuing new laws. The main driving force behind the enactment of social change through regulations (regulations that do not *beschiking*) also encourages the inclusion of new laws and changes to existing ones among the political activities that are allowed (determination). Considering that the law that will be implemented, is being debated, and has been drawn from the principles that are growing, living, and applying, it can be said that a policy is legitimate politics that is the basis of state administration, especially in the field of law. As stated in the Preamble to the 1945 Constitution, the nation's goal is to advance society. In order for Indonesian parliamentarians to know that they can carry out the objectives of national legislation based on it, Article II of the 1945 Transitional Regulations was amended to Article I of the 1945 Transitional Regulations. To understand legal ideas, legal guidance and assistance are needed. The history and future of legal politics are planned to transfer legislative power in relation to the state administrators of the people's wishes. Everything goes as it should to help the country in achieving its goals (Radhie, 1994).

Law is an inseparable rule or custom of society It can be said that law reflects and concretizes the ideals that will one day govern society by saying that it is a reflection and concretization of those values. The basis of their interaction is the interdependence between politics and law in their conception and implementation. Politics and law are interrelated, according to Diponegoro University scholar Soehardjo S.S. in constitutional law This shows that legal goods are greatly influenced by the political environment in Indonesia. All or the

customs of the federal society are a set of regulations This is exclusive to the Unitary State of the Republic of Indonesia. Among them is the legislation of many categories of laws and written rules that exist today. National law is heavily influenced by laws and regulations, as well as the procedures that result in their formulation. This is due to the fact that laws and regulations are the main legislative method in Indonesia and are the main principle of its legal system. In addition, legislation is a very effective tool for legal reform due to its coercive and binding legal force. Compared to case law, jurisprudence, or customary law, legal certainty is enhanced by rules and regulations (Bellefroid, 1983).

The steps to make Law No. 12 of 2011 and its regulations, especially written regulations that contain widely accepted legal standards, must be followed by state institutions or authorities that have the authority to do so. Meanwhile, planning, preparation, discussion, ratification or determination, and announcement are steps when making laws and rules. Legislation is seen from a political perspective as the final result of political discussion and public policy formulation. Politics produces laws, but there is also legal politics, which refers to principles or guidelines that determine which laws should be used to govern the country. The input used to determine the law in democracy is the opinion of the public. These ambitions are then directed through the people's representatives to process it So it seems that *rule of law* as a *outcome*.

Political commodities are publicly available in Indonesia, as is known. The President and the House of Representatives consult on each proposed law before approving it. The House of Representatives has the power to make laws. In addition, the President has the power to send laws to the House of Representatives. So, when a bill is passed into law, the President (Executive) and the House of Representatives agree (Legislative). According to the constitution, this is the current legal political climate.

The legal hierarchy and rules owned by the Indonesian legal system determine the authority of the provisions that govern each law and regulation are laws and regulations. What levels are there? Legal Division:

1. the 1945 Constitution;
2. MPR Decree;
3. Government Laws/Regulations in Lieu of Laws;
4. Government regulations;
5. Presidential Regulation;
6. Regional Regulations;
7. Regional/Regency Regulations;;

As a result, in making the legal regulations and the hierarchy mentioned above must be considered. In this order, nothing is forbidden. Evaluation of existing rules and regulations that are contrary to higher or overlapping hierarchies is already possible. You can ask the Supreme Court to consider laws that violate the Constitution, especially the 1945 Constitution, by filing an application. Meanwhile, the Supreme Court has the ability to examine legal restrictions that are contrary to the law.

However, it should be noted that just because something is hierarchical does not mean that its principles always come from the rules and regulations that are directly in the structure or ranking of laws and regulations, it will only be ready to harmonize or avoid problems with the implementation of one rule and another. Therefore, it is hoped that every law and regulation runs in accordance with the purpose of its creation.

The National Legislation Program (Prolegnas) and the Regional Legislation Program have completed the planning for the formation of laws and regulations, and are currently preparing to draft regional regulations (Prolegda). Prolegnas and Prolegda are Indonesia's national legal framework. Even though the Law and Prolegda already exist, the Bill and Raperda could develop independently. The House of Representatives or the President may at any time propose bills outside the National Legislation Program to address unusual events, wars, natural disasters, or other unique situations related to national legal needs. Regarding other parties and in other situations involving the need for the Raperda to act quickly in the affected areas in the event of unusual events, conflicts, or natural disasters, the DPRD or the Governor may propose a Raperda outside the Prolegda. This Raperda can be approved by the Provincial Legal Bureau and the DPRD.

Indonesian legislation must adhere to several important ideas. These recommendations include:

1. The concept of protection, in particular the idea that every law and regulation must serve to protect society and promote peace.;
2. Principles of Humanity, Advancement, Maintenance, and Protection This must show respect for human rights and the intrinsic values of every Indonesian. Fair in every provision of laws and regulations;
3. The Principle of Independence, Every law and regulation, in particular, must show serious thinking and readiness to agree in all decision-making;
4. Nusantara Insight, according to which the interests of all regions of Indonesia must be considered in every regional legislation which is a component of the larger state legal framework stipulated by the 1945 Constitution and Pancasila;
5. Every law and rule must take into account the diversity of society, including ethnic, religious, and class differences, as well as the unique geographical and cultural circumstances that affect society by state.;
6. The principle of justice, that every article in the laws and regulations must ensure that everyone is treated fairly;
7. The Principle of Similarity, that every terminology in laws and regulations, including language based on race, class, gender, or ethnicity, must not be in favor of individuals;
8. According to the idea of order and legal clarity, every law and regulation must be clear and the provisions of laws and regulations must ensure legal clarity to maintain public order;
9. The idea that any law or regulation must strike a balance between the needs of individuals, the needs of society, and the interests of the state and the state.

Various additional ideas have also been adapted for use in certain areas of law. For example, in criminal law, the principle of presumption of innocence, legality, prohibition of unfair punishment, and coaching perpetrators. On the other hand, civil law, specifically contract law, includes the idea of consent, freedom of contract, and good faith.

To implement all rules holistically or completely, legislators must adhere to these principles when drafting laws and regulations. These ideas serve as standards and guidelines for making legislation and rules. The following requirements must also be met when making laws and regulations other than those regulations:

1. The purpose of its establishment;
2. The content must be adequate and appropriate to the type and level;

3. Must be produced by an authorized and authorized institution;
4. The success of its application in society, both philosophical, social, and legal;
5. It is very important and helps to carry out the life of the state, society, and politics;
6. Systematic arrangement of words and language, clear and easy to understand, including legal terms, to avoid creating conflicting interpretations when they are practiced;
7. There are several opportunities for all social strata to assist in the making of laws and regulations.

The right to special public input on the proposed rule has been granted by law. It is regulated about securing community participation in Law Number 12 of 2011 concerning the Formation of Laws and Regulations in Indonesia. The public has the right to participate in the making of laws and regulations through meetings with community leaders, work trips, outreach initiatives, or lectures, workshops, or seminars. The person or group in question is the community, organizations, and organizations that are interested in the content of the bill. Each proposed law must also be simple to be accessed by the general public.

This issue is related to the text of the laws and regulations that are actually in force now containing criminal elements. Criminal provisions are limited to being included in the articles of association, district and city regional regulations, and regional regulations from the province. The thoughts, beliefs, and communities involved in its development are necessary to limit people's rights because punishment and human rights restrictions are intertwined. Because one day people's freedom will be limited.

Additional provisions related to the articles of the 1945 Constitution, instructions that a law and regulation must be controlled by law, a decision of the Constitutional Court, and the ratification of several international agreements must be implemented, and/or the legal standards of the community must be met. Government regulations that replace the law. Meanwhile, the substance of government regulations and presidential regulations each contains information needed to run the government or to enforce the law. Regency/city regulations, like provincial regulations, include the implementation of regional autonomy and assistance duties, changes in regional conditions, and/or the growth of higher laws and regulations.

To advance the Law, it functions as a vehicle for social reform that changes society in the realm that has been chosen by the lawmakers. If the rules and laws are followed correctly or not, then it is argued that legal guidelines apply, which states whether it is in the form of a law or not. This is directly contrary to the state's goals if done incorrectly because it will undoubtedly have a bad impact on society. However, laws and regulations can be seen as beneficial to society and in accordance with government objectives if they are adequately implemented.

### **The Function of Using National Legal Politics to Achieve State Goals**

Undoubtedly, Every nation has their individual goals. Many domestic and international challenges of a certain will make it increasingly difficult for a country to achieve its goals. A nation's social and legal problems have a significant impact on its ability to meet its goals. The goals of a country are usually based on the concept of a state or ideal. Every country must abide by the guiding principles and values of its constitution.

Each country's aspirations are significantly influenced by various elements, including social beliefs, geographical characteristics, the nation's history, and the political influence of its leaders. The country's broad destinations are listed below:

1. Increase one's own authority;
2. Upholding public peace;
3. Becoming prosperous overall.

The foundation of all national legal politics in Indonesia is the 1945 Constitution. Law often reflects the political ambitions of those in positions of power, despite the common misconception that law and political goals are the same. Although in the 1945 Constitution the interests of the community take precedence over individual interests, individual freedoms and rights, especially property rights, are still recognized as fundamental.

Meanwhile, any legal and political strategy that has been done or will be implemented by the Indonesian government at the federal level, includes:

1. Legal advancement, with the main focus on the creation and improvement of legal materials to suit needs;
2. Implement current legislation, including reaffirming the role of institutions and supporting law enforcement.

The political foundation of law is the policy of the administration of the nation, especially in the field of law regarding laws that will be enforced, implemented, and implemented based on these values, as stated in the Preamble to the 1945 Constitution, paragraph 4, which is widely accepted, sustainable, and applied in society to achieve government goals. The fourth paragraph claims that achieving independence does not mean that the administration of the Indonesian state will defend all of Indonesia and all its atrocities, work to advance social welfare, provide knowledge to the people, or participate in upholding the global order based on social justice, freedom, and eternity. Because of Indonesia's independence, the country is known as the sovereign Unitary State of the Republic of Indonesia. In addition to moving towards better general welfare, improving the quality of life of the community, and safeguarding the entire Indonesian nation, the administration of the Indonesian state works to maintain a world order based on self-determination, lasting peace, and social justice. To achieve the political goals of the Indonesian nation, institutions in the Indonesian government system cooperate and support each other. To succeed its goal, the state must be able to make federal laws. This is consistent with the idea that the law can be used to advance political goals. Once the national laws are passed, it will be easier for our nation to act to achieve national goals because existing national laws can be used to achieve national goals. A nation must continue to work towards its national goals, usually referred to as state goals, in order to achieve them. The preamble to the 1945 Constitution in the fourth paragraph explains Indonesia's national goals (Bellefroid, 1983).

Written legal sources, such as decrees and regulations that contain the spirit of Pancasila as a criterion for producing legal goods are based on the 1945 Constitution of the Republic of Indonesia. Pancasila as the pillar of the Indonesian state was built, the constitution must be followed in all decisions, whether it is political, legal, economic, or related to security and defense. Actually, the RPJP (Long-Term Development Plan) and RPJM show how the politics, laws and government objectives are related (Medium-Term



Development Plan). To achieve the state's objectives, the ruler and other administrative authorities must comply with the RPJP or RPJM. Because of their written nature, RPJP and RPJM are benchmarks for the effectiveness of government resource management in achieving state goals. It is clear from the previous definition that national legal politics comes from the people's ideals to fulfill the state's goals as desired, becoming the basis for the state constitutional policy (NKRI), which is, and will be in the field of law. Political and legal changes are in line and closely related to the goal of the state, namely the path to national progress. For example, various changes have been made to the 1945 Constitution of the Republic of Indonesia which changes a number of aspects of a significant portion of the executive branch (ruler) to be seen as too broad and have the nature of tyrannical leaders. Consequently, the government will not simply violate the rights of citizens in the name of the public interest, which is disproportionately unfair (Soehardjo, 1987).

National legislation is one of the factors that affects how successfully a country achieves its goals. National law is either a law based on trade or innovation based on the culture and preferences of the country itself, or a law based on ideological ideas and the country's constitution, especially Pancasila and the 1945 Constitution. National law can also be interpreted as all laws and regulations, both written and unwritten, that govern the Unitary State of the Republic of Indonesia. According to the Preamble to the 1945 Constitution, the state's goal is to improve the welfare of its citizens. The state, or in this case the government, has the ability to pass laws, in this case national laws, to ensure the smooth running of community activities. The Unitary State of the Republic of Indonesia can achieve its goals thanks to the growth of national legal politics based on national legal politics striving to be as follows:

1. As a tool or means that the government can use to establish the desired national legal framework;
2. With the formation of the national legal framework, the greater ideals of the Indonesian nation will be achieved.

Since the representative legal system in Indonesia does not yet exist, it is recommended that the national law established should:

1. Based on Pancasila (philosophical framework) and the 1945 Constitution (legal framework);
2. It functions to maintain, enforce public order, assist in the implementation of development, and ensure the results of progress.

Arif Sidharta added the characteristics of the national legal system as follows:

1. Have sensitivity to the legal needs of tribal groups and local religious beliefs;
2. Nationalistic and archipelago-oriented;
3. Whenever possible, in written and unified form;
4. It is logical, including efficiency, fairness, rules, and respecting objectivity;
5. Transparency norms are guaranteed by procedural rules, which allow governments to rationally assess decision-making processes;
6. Be aware of the shift in people's ideals and expectations.

Three systems of customary law—Indonesian, Islamic, and Western (Dutch) — will be implemented as the basis of the new national justice system, according to policies adopted by the Indonesian government. The goal of welfare will be achieved.

In several planning papers that have been determined, Indonesia's national legal politics are formulated. This is stated in Article II of the 1945 Constitution Transitional Regulation for the early period of independence, the Political Manifest of the Old Order at that time, the Decree of the People's Consultative Assembly (MPR) on GBHN for the New Order period, and the 1945 Constitution on the definition of the reform period. . Decree of Law No. 25 of 2000 and MPR Development Program (Propenas) No. IV of 1999. The RPJP is the actual goal of the Unitary State of the Republic of Indonesia, as stated in the Preamble to the 1945 Constitution, in accordance with Law No. 25 of 2004, which regulates the National Development Planning System. This legislation is a reflection of Indonesia's current legal politics (Long-Term Development Plan). After that, the RPJP became the RPJM (Medium-Term Development Plan), a planning document that has a period of 20 years and five years, and combines the president's vision, selected missions, and development plans led by the President. RPJP. By using the national RPJP as a model, local governments must create their own RPJP and regional RPJM.

#### **4. CONCLUSION**

How to change *As Ius Constituendum*, *Ius Constitutum* now. or pass fresh laws to achieve their goals governed by the politics of law. The main driving force behind the enactment of social change through regulations (non-beschiking regulations) also encourages the inclusion of new laws and changes to existing ones among the political activities that are allowed (determination). Legal politics clearly plays a role in many areas of production Law Number 12 of 2011 concerning the Development of Laws and Regulations in Indonesia serves as evidence of laws and regulations. When the procedures for arguing, assigning, approving and even establishing are revealed, this is evident. Federal law is heavily influenced by the laws, regulations, and procedures that resulted in its formulation. Since laws and regulations are made mainly using this method in Indonesia, this problem exists. Law is also a very powerful weapon for legal change because of its coercive and binding legal force. More legal certainty is provided by laws and regulations than by case law, jurisprudence, or customary law. To realize the country's ideals, societal norms are the basis of the legal principles of National Legal Politics which are the basis of the Unitary State of the Republic of Indonesia. It was, is, and always will be. The goals of the state that determine the pace of nation development are in line with and closely related to the ongoing and ever-changing legal politics. In order to achieve the government's goals, the political function of national legislation is very important. This is because the basic basis for deciding on laws that must be obeyed, issued, proclaimed, and developed are national laws and regulations that will, are, or have been accepted in the territory of the Republic of Indonesia. The RPJP

and RPJM require state administrators to implement national legal politics. to enforce national laws and achieve state goals.

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