17 Years Reflection Of Indonesia's Law Development Achievements Through The National Legislation Program

Rudy*

Fakultas Hukum, Universitas Lampung, Indonesia

Email: rudy03613@gmail.com

Candra Perbawati

Fakultas Hukum, Universitas Lampung, Indonesia

Email: perbawaticandra@yahoo.com

Yeti Yuniarsih

Fakultas Hukum, Universitas Lampung, Indonesia,

Email: yetiyuniarsih24@gmail.com

Mochamad Iwan Satriawan

Fakultas Hukum, Universitas Lampung, Indonesia

Email: santri@yahoo.co.id

Abstract

This discussion always draws public criticism whenever the National Mid-Term Legislation Program and annual priorities are set. Mainly to the results of the legislative achievements that are not satisfactory. This is based on the Draft Law's low quantity and declining quality achievements. This failure requires an evaluation and the discovery of models and solutions due to problems that hinder the implementation of the National Legislation Program. These problems include the absence of sanctions and the lack of council responsibility in completing the Prolegnas, deadlines, changes and additions to the current Prolegnas, and technical matters related to preparing the National Legislation Program. The solution to this problem is to emphasize sanctions on legislators who do not meet the achievement threshold of 50%. The next step to improve the achievements of the National Legislation Program is to optimize the monitoring and review design as one of the Prolegnas journeys flows in the Prolegnas evaluation so that it can be used as a reference for the implementation of Prolinase in the future.

Keywords

Achievements, Prolegnas, Monitoring and Review.

Introduction

Background

Law reform in Indonesia is carried out by fostering law (Wu & Vander Beken, 2012), developing jurisprudence (Sellers, 2009), and fostering treaty programs (including ratifying international treaties) through the National Legislation Program (henceforth: Prolegnas). Prolegnas need to be appropriately managed because Prolegnas is a planning element that contributes quite a lot to legal development in Indonesia (Ahmad Ubbe, 2005).

Seeing its existence, the Prolegnas' journey, which has been running for approximately 17 years, has not gone as expected (Sopiani. Zainal Mubaroq, 2020). This can be seen from the proposals for bills submitted annually by the Government, DPR, and DPD, which are always minimally realized.

In the Mid-Term National Legislation Program. Based on the data set, the results of the 2005-2009 Prolegnas resulted in 78 laws out of 284 bills, while the final results of the 2009-2014 Prolegnas achievements resulted in 67 laws out of 262 bills and the 2015-2019 Prolegnas recorded only 33 laws produced out of 183 planned bills (Yuniarsih, Yeti, 2021). Nevertheless, there are still quite a lot of lists of the Prolegnas Bill that have not been handled, giving rise to the assumption that the performance of law-making institutions is still weak.

In fact, if viewed from its existence, Prolegnas as a planning mechanism for the preparation of laws and regulations, Prolegnas should be an ideal program in achieving the process of forming laws that are in line with the politics of legal development in Indonesia (Akbari, 2014). At the implementation stage, this ideal should be managed properly to accelerate national law development.

Prolegna's achievement should be expected to meet the fairness limit determined based on the fairness threshold of 50%, which the Council has determined. In practice, during the 4 (four) current period, the draft bill never reached the 50% fairness threshold (Anesa, 2013; Brinkman, 2017). This is most likely due to the declining enthusiasm for drafting legislation and the background of the absence of firm regulation of the state responsibilities held by the Council in completing the Prolegnas.

This fact encourages the need for a thorough evaluation of the preparation and implementation of the National Legislation Program to see the success that has been achieved. In addition, the demand for the realization of the rule of law provides a follow-up plan for the development of national law through increasing the achievement of the National Legislation Program, which is compiled in an integral, systematic, focused, and multi-sector-oriented manner on national development

From the description above, the authors deem it necessary to conduct a

study on the achievements and evaluations of the National Legislation Program and find a model for preparing the National Legislation Program that is implementable in planning the formation of national laws.

Problem Formulation

Based on the description of the background above, the main problems in this paper are

1. What are the achievements of the National Legislation Program that has been running so far?
2. What obstacles and problems arise in the achievement of the National Legislation Program and what is the description of the right and implementable model in the preparation of the National Legislation Program?

Research Methods

This research is intended to see how the implementation of the Prolegnas has existed from 2004 to 2021 and to map out the appropriate and implementable efforts and models in the preparation of the Prolegnas. The research uses normative research methods (Soekanto & Mamudji, 2013). By using primary legal materials (see Nasrun, Djalil, & Efendi, 2019; Pujiyono, 2015), secondary legal materials (see Nasrun et al., 2019; Pujiyono, 2015), and tertiary legal materials as legal materials used in reviewing the formulation of the problem (Nasrun et al., 2019).

The approach taken in this study uses a statutory approach (see Justice et al., n.d.; Submitted & Studies, 2014) and a conceptual approach (see Bielak, Pawlak, & Mystkowska-Wiertelak, 2013; Fawcett, 2005; Gee & Handford, 2012). The statutory approach is carried out by reviewing the laws and regulations for preparing the National Legislation Program. At the same time, the conceptual approach is carried out by reviewing the evaluation of the Prolegnas achievements and analyzing the appropriate model in the preparation of the National Legislation Program.

The data collection was carried out by identifying the laws and regulations related to the preparation of the Prolegnas, then evaluating the implementation of the Prolegnas, and analyzing the data on the model for the preparation of the Prolegnas.

Discussion

In terms of law formation, legislative function is based on the P3 Law that the DPR, DPD and the Government draw up Prolegnas for one membership period. Then the Prolegnas that have been compiled are outlined in a DPR RI Decree. The Prolegnas that have been outlined are a legal product of planning law formation within the next 5 years. The purpose of the preparation of the National Legislation Program is to accelerate the process of law formation, as well as to improve the function of law as a means of engineering community development (Lathif, 2017) and to improve existing laws and regulations that are no longer relevant to the times.

Evaluation of Prolegnas Achievements 2004-2021

In the 17-Year Prolegnas Journey, there has been a downward trend in the number of bills submitted in the mid-term Prolegnas. This trend raises the question of whether the phenomenon is an effort to improve legislation planning through streamlining or whether the spirit of drafting legislation has decreased. It can be seen that the number of 183 is counted as the minimum total bill in the mid-term Prolegnas compared to the previous two periods. It was recorded that in the first period, the Prolegnas Bill was 284, and in the second period, it was 262. The following is a bar chart showing a downward trend in the number of proposed Prolegnas Bills:
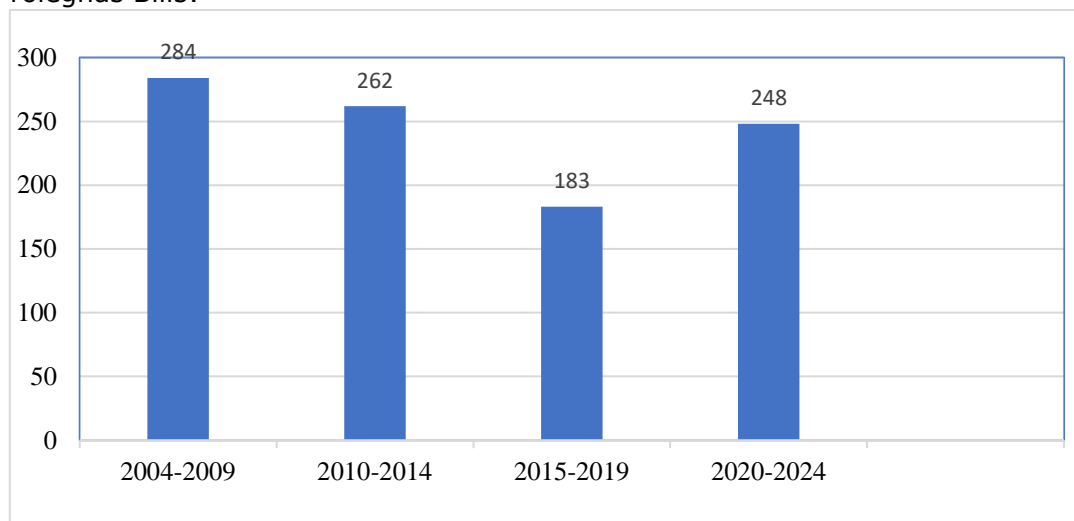

Figure 4. Number of Prolegnas Bills for 2004-2024

Based on the data above, the author captures that the downward trend in the number of the Prolegnas Bill is an optional step taken by the Legislation Forming Body as a form of embodiment of sensibility in the performance achievements that have been achieved. However, when the downward trend in the number of the Prolegnas Bill is elaborated on the achievements, the choices made are not considered sensible enough. Referring to the existence of the National Legislation Program that has existed since the regime of Law Number 10 of 2004 concerning the Establishment of Legislation, the achievement of legislation has never reached 50% of the target set. In fact, the achievement of the mid-term Prolegnas legislation formation so far has never exceeded 27%.

For example, the achievements of the 2010-2014 Mid-term Prolegnas, out of the total 262 bills enacted, only 67 or 26% were successfully passed into law. Then in the next period, instead of meeting the target for the formation of the Bill in the 2015-2019 Medium-Term Prolegnas, the existing Legislation-forming Body was more focused on realizing the list of Cumulative open Bills, rather than focusing on realizing the list of Prolegnas Bills. This can be seen in the number of Cumulative Open Bills passed more than the Prolegnas Bill. Meanwhile, a total of 183 bills were included in the 2015-2019 Medium Term Prolegnas; the realization only reached 34 bills, or 19%, that could be passed.
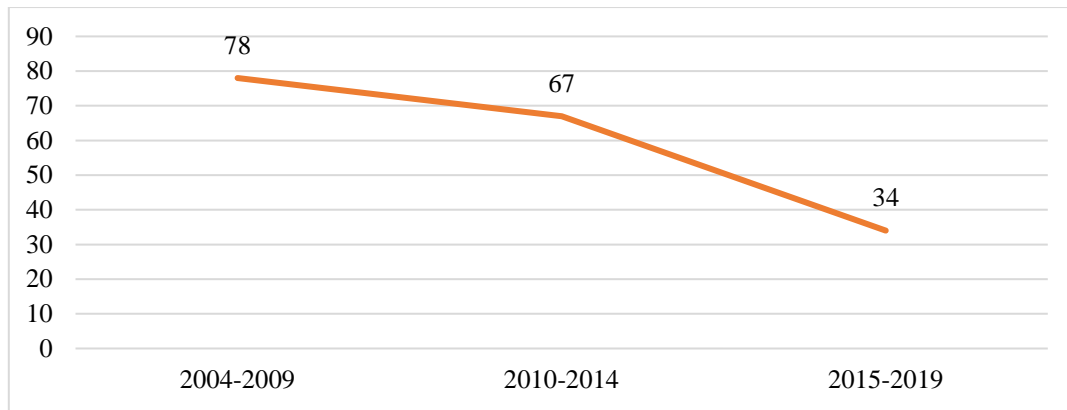
Figure 5. Achievements of the National Legislation Program for 3 Decades.

In line with the diagram above, it is very clear that the achievements of the Legislative Body are minimal in carrying out the legislative function. Suppose we calculate the average achievement of the board towards the realization of the National Legislation Program for three periods, which is only 24%, of course. In that case, this value is far from the target set in the Medium Term Prolegnas. The chairman of the DPR RI stated that one of the causes of the decline in the performance of legislation in this third period was the occurrence of covid-19. If expectations in crisis conditions are used to tolerate bad trends in legislative achievements, then the Council should include inhibiting factors when drafting the 2020-2024 Prolegnas. From this note, the author questions whether the choice of the Legislative Body in placing 248 the Mid-Term Prolegnas Bill for the year 2020-2024 is a rational choice. Seeing the reality that has happened, the Legislative Body should be from the government as well as from the DPR and DPD, able to pay attention to the capacity limit of his ability in carrying out the role of legislation.

The pandemic condition that has occurred since 2019, the Legislative Body has only been able to produce 18% of the Priority Bills in 2019 while the following year experienced a 50% decline in achievement, which only reached 8% of the Bills that were realized from Priority 2020. The increase reached 100 % of the achievements in 2020, which amounted to 16% of the realization of Prolegnas achievements, namely, six laws were passed out of 37 Prolegnas Bills. The 2020 achievement figure is below the average number of bills passed during the years 2005-2021, reaching an average of 11 laws passed per year. It needs to be appreciated in the following year.

One of the records that the achievement of the Legislative Body in 2020 has decreased is that all law-making bodies focused on drafting the *Omnibus Law Bill.* Conceptually, the Omnibus Law is a comprehensive arrangement not tied to a particular regime (Henry, 2017). Thus, the Omnibus Law is intended to resolve the problem of overlapping regulations arising from the complexity of the existing statutory regulations.

Omnibus Law was only known in Indonesia after the President of the Republic of Indonesia delivered it in his state speech at his inauguration before the MPR session on October 20, 2019 (Fitryantica and Agnes, 2019). However, if we

look back, the Omnibus Law is not something new for Indonesia either. Law, even though at the MPR Decree No. I/MPR/2003 on Reviewing the Material and Legal Status of MPRS Decrees and MPR Decrees of the Republic of Indonesia from 1960 to 2002.

The omnibus-Indonesian invitation cannot be done immediately (Fitryantica and Agnes, 2019). This happened because of the influence of the Indonesian legal system itself. As is well known, the Indonesian legal system is based on the continental European legal tradition, also known as civil law. Meanwhile, Omnibus Law is a method of simplifying regulations in countries with a common law system (Prabowo, Triputra, Junaidi, & Purwoleksono, 2020). The omnibus law itself is the president's focus to solve the problem of overlapping regulations and bureaucracy.

Saldi Isra said that if the number of regulations that are out of control is the main problem that must be resolved, the first step that must be taken is to find the form and source of regulations that cause *overregulated*. According to Saldi, the problem's point is not the current law's quantity. Without properly detecting these forms and sources, efforts to streamline regulations can potentially undermine the building of our rule of law. For example, the move by the Ministry of Home Affairs to cancel around 3,000 regional legal products some time ago does not necessarily have a positive impact on the administration of local government.

If we compare it with other countries, the number of laws produced by the Council each year is very small. For example, Japan, with a smaller area and population than Indonesia, has produced no less than 100 laws in one year, both completely new and revised. Likewise, the Netherlands, with its diverse territory and population far from Indonesia, in one year, the country produced laws with more or less the same number as Japan.

This is inversely proportional to the achievements of the Constitutional Legislative Council in Indonesia, along with the number of achievements of the annual Prolegnas:
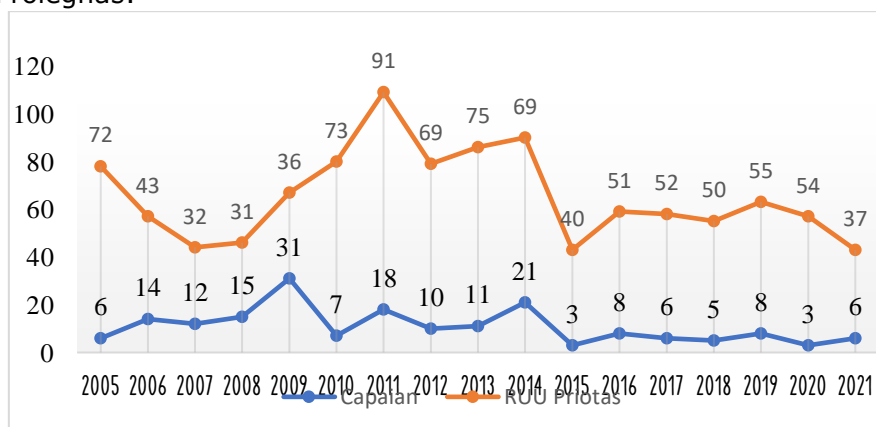

Figure 6. Achievements of the annual priority National Legislation Program since 2005-2021

From this note, we can ask questions again about the choices made by the Council in placing 37 Bills in the 2022 Priority Prolegnas. Considering that the Prolegnas achievement record has declined since 2015, even the average annual

achievement only reached 11 Bills that were successfully enacted. Meanwhile, according to the record of achievements from 2015 to 2021, the highest achievement was eight bills passed. Based on this, perhaps we can confirm that the Council, especially Baleg, is unaware of its capacity to carry out its promulgation function. This is because the notes in the Line Diagram above clearly show a discrepancy between the target of the legislation and the awareness of the limits of the council members' ability to carry out their legislative functions. Why place a high target in the Prolegnas Bill, if at the end of the year the percentage of success in enacting it turns out to be following a bad record as in previous years. In the end, poor performance has become an annual tradition that is always attached to the performance of law-making institutions.

The low achievement of the National Legislation Program is not only in quantity but also in the quality of the legislation. The problem of the quality of the laws produced is low. The indicator is the frequent occurrence of the Constitutional Court (MK) cancelling laws that have been passed (Muhamad, 2015). Data on the official website of the Constitutional Court, it is noted that cases related to judicial review occupy the highest percentage of cases handled by the Court apart from SKLN, PHPU, and PHPKADA, with a value of 45%. Here's the PUU chart:
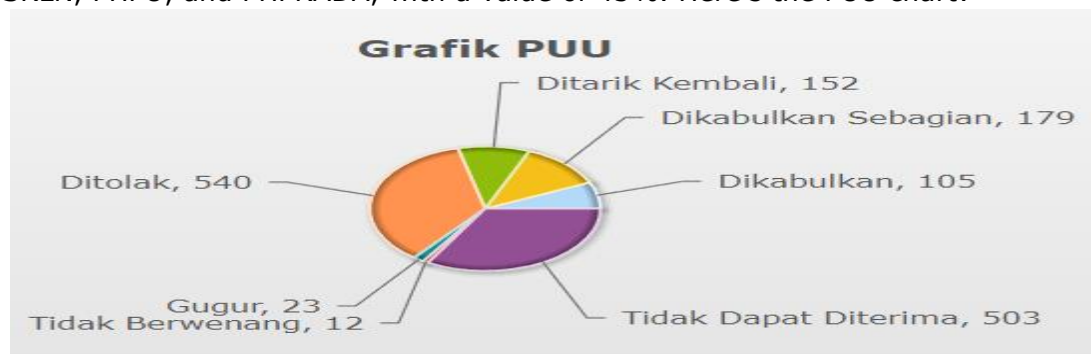

Figure 7. Number of Judicial Cases at the Constitutional Court

Therefore, for the achievement of the Legislative Council to increase significantly, reducing the number of the Prolegnas Bill in 2025-2029 becomes a very realistic alternative. In the end, the final provisions of the legislative body must determine the attitude, whether it wants to be an institution that will set realistic legislative targets while firmly realizing the Mid-Term Prolegnas Bill, which is outlined in the Priority Bill each year, or the Legislation Body chooses to accommodate so many interests into the list. Prolegnas, however, always fail to realize the targets set.

Analysis of Barriers to the Implementation of Prolegnas and Alternative Prolegnas Models

Analysis of Barriers to the Implementation of the National Legislation Program

The low-priority targets of the National Legislation Program achieved by the

Council raise questions and cross meanings. If the quantity is difficult to achieve, what are the quality demands of the output of the legal product that was passed? Is it able to answer problems in society over the presence of law, or is it just a formal requirement as the exercise of authority instructed by the rules.[23]

In discussing the bill, each member of the DPR is assigned a maximum of one year to discuss 3 (three) bills and the completeness of the DPR. The Councils are assigned to discuss a maximum of 2 (two) Bills on condition that the Bills assigned to them have been discussed at Level I. This capability must be a correction in the evaluation and inventory of Prolegnas achievements every year. Because until now the Council has not been able to meet the target of completing a number of bills set in the Prolegnas priorities every year.

The target of completing a number of bills set in the Prolegnas priorities every year. This fact confirms the data compiled by the author that the achievement on the trend shows that the first year always has a decreasing rate of the results of the laws being passed. Meanwhile, the end of the period always shows an increase in the Act results due to pursuing medium-term targets.

The incompleteness of the legislative work and the division of the portion of the implementation of the DPR's functions indicate that the politics of legislation only appears at the planning stage, which is done intentionally because in fact, it always occurs at the beginning of an annual trend. The rest of the DPR members carry out legislative policies with urgency to achieve the target of immediately completing the discussion of the bill, which has taken too long.

The urgency can also be the result of the intervention of certain interests. It could be that the motivation for the completion of the bill to solve the problems faced by the community is rarely found. The evidence is that the desire to fulfill legislative planning as a promise consistently has never reached a percentage close to 50% (fifty percent) (Eryanto Nugroho et al., 2012). Based on the implementation of the preparation of the National Legislation Program as described above, both the DPR, DPD, and the Government, there are more or less the same problems, namely as follows:

1. No regulation is regulated explicitly regarding the failure or non-fulfilment of the minimum threshold of the law that has been passed. This is when it is clashed with the interests of the growth of legal development, such as highlighting the low responsibility of legislators.
2. There is no deadline. This is a logical consequence of the large number of Priority Bills that are expected to be completed along with the workload of the Council in finalizing the Annual and Medium-Term Priorities.
3. There was a change in the determination of the list of the Prolegnas Priority Bill. For example, the addition of a bill from the title of a bill that has been determined. This right can be seen in practice every year the bill is always increasing, although with the pretext of certain reasons as determined by the law;
4. The procedure for preparing the National Legislation Program has not been effectively implemented. So that in the framework of the preparation of the

National Legislation Program, it has not been implemented and has not been clearly conceptualized. Coordination meetings as a medium for harmonization of bills that are carried out in the form of the annual Prolegnas consignment (discussion meeting) tend to only compile a list of Prolegnas priorities;

Alternative Prolegnas Model

Several things can answer the problems described in the previous sub-chapter, namely the need to strengthen institutions through evaluation of the institutions that draft laws. Evaluation is not only limited to the product of achievements produced by legislators. The drafting institution also needs to do an evaluation. The results of the evaluation of the performance of the Institution do not show seriousness in carrying out their duties.

Another urgent thing that must be regulated in the institutional regulations related to the National Legislation Program is to set a clear deadline in preparing the National Legislation Program and drafting the Law. So that it does not dissolve in the discussion, which ultimately pursues the target at the end of the term of office, thus causing the government to pursue targets in the completion of the Act. It is worth appreciating the strategic step to save budget politics in the preparation of the law, and there has been a *carryover* in the amendment to the new P3 Law, where the bill discussed at level II must be included in the Prolegnas for the next period.

The new model that can be used in the preparation of the National Legislation Program must be based on the results of monitoring and review[25] that legislators carried out on the previous period's Prolegnas. Prolegnas must be evaluated annually to determine changes in the priorities of the annual Prolegnas. So monitoring and review activities are *urgent* to do in terms of determining the annual Priority Bill.

CONCLUSION

Prolegnas have never been achieved. Based on the level of achievement of the National Legislation Program, both the discussion and the drafting of the Bill in reality, have not been directly proportional to the Prolegnas that have been determined.

Even more often, the priority of discussion is based on the urgent need for legislation at that time and is outside the annual or medium-term priorities. This is evidenced by the achievement of the National Legislation Program target, which in quantity always decreases yearly. In terms of quality, the resulting product is considered to be poor because the law that was passed did not really pay attention to the needs of the community and tended to only prioritize the political elite and some groups. In addition, after the promulgation of the product of the Act, there was widespread disharmony between the content of the Law and the 1945 Constitution of the Republic of Indonesia and the content of the Law, which

contradicted each other.

This situation can be interpreted as the achievements of the legislation that has been implemented. So far are still limited to the National Legislation Plan (Relegnas) rather than the National Legislation Program (Prolegnas), considering that the bill that should have been finalized remains a continued discourse and priority going forward. So it does not describe the final goal of the Prolegnas itself.

This failure was caused by various obstacles, including the absence of state responsibilities carried out by legislators as the spearhead of national legal development due to the lack of responsibility that the Council has in completing the National Legislation Program will certainly describe the results of the Act as a performance benchmark. The solution to the problem of delays in the smoothness and effectiveness and efficiency of the National Legislation Program flow is in the form of an emphasis on institutional strengthening, which is carried out inherently, both within the scope of the institution in a broad and specific sense of state responsibility in order to meet the threshold number of reasonableness for Prolegnas achievement, namely completing the bill at least 50%. of the total number of proposals. The next step to improve the achievement of the National Legislation Program is to optimize the monitoring and review design as an evaluation and monitoring of the National Legislation Program so that it can be used as a reference for the implementation of the National Legislation Program in the future.

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