



THE HISTORY OF INDONESIAN LEGISLATION IN ESTABLISHING A JUST NATIONAL LEGAL SYSTEM

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Abstract :

This study examines the historical development of Indonesian legislation and its contribution to establishing a just national legal system. Using a qualitative approach with normative legal research, the study analyzes constitutional provisions, statutory regulations, legal doctrines, and relevant scholarly literature. The findings indicate that Indonesian legislation has evolved through several historical periods, from customary and colonial legal systems to the contemporary legislative framework based on Pancasila and the 1945 Constitution. Legislative reforms, particularly during the Reform Era, have strengthened legal certainty, democratic governance, and public participation. Nevertheless, challenges such as regulatory overlap and legislative inconsistencies remain. Continuous legislative reform is therefore essential to promote justice, legal certainty, and sustainable national legal development.

Keywords: Indonesian legislation, legal development, national legal system.

INTRODUCTION

Legislation constitutes one of the most fundamental pillars in the implementation of the rule of law. As a state based on law, Indonesia relies on statutory regulations to establish legal certainty, maintain public order, protect human rights, and promote justice for all citizens. The existence of legislation provides the legal framework for governmental institutions and serves as an essential instrument in achieving national development goals. Consequently, understanding the historical development of Indonesian legislation is crucial for comprehending the evolution of the country's legal system and its commitment to establishing a just national legal order.

The historical development of legislation in Indonesia has been closely intertwined with the nation's political, social, cultural, and constitutional transformations. Before independence, the Indonesian legal system was heavily influenced by Dutch colonial law, which introduced the civil law tradition and codified legal regulations. At the same time, customary law (*adat law*) and Islamic law continued to regulate various aspects of community life. Following the proclamation of independence in 1945, Indonesia embarked on the gradual process of developing its own national legal system based on the values embodied in *Pancasila* and the 1945 Constitution of the Republic of Indonesia.



Since then, legislative reforms have continued to evolve in response to changing societal needs and democratic developments (Asshiddiqie, 2021).

According to Friedrich Carl von Savigny's theory of legal development, law is not artificially created but grows and develops together with society (*das Recht wird nicht gemacht, sondern ist und wird mit dem Volke*). This perspective emphasizes that legal development reflects the social values, traditions, and aspirations of a nation. In the Indonesian context, legislation has continuously adapted to accommodate political reforms, economic development, technological innovation, and increasing public demands for justice and legal certainty. Therefore, the evolution of Indonesian legislation represents not merely legal reform but also a reflection of broader societal transformation.

The reform era that began in 1998 marked one of the most significant turning points in the history of Indonesian legislation. Constitutional amendments, democratization, decentralization, and improvements in legislative procedures significantly influenced the structure and hierarchy of statutory regulations. These reforms culminated in the enactment of Law Number 12 of 2011 concerning the Formation of Laws and Regulations, which established comprehensive principles governing legislative drafting, including legal clarity, consistency, transparency, and public participation. The law has subsequently undergone several amendments to improve the quality and effectiveness of Indonesia's legislative process in addressing contemporary legal challenges (Marzuki, 2020).

One of the primary objectives of legislative development in Indonesia is the realization of a just national legal system. Justice constitutes one of the fundamental principles embodied in *Pancasila*, particularly the fifth principle: *Social Justice for All Indonesian People*. Consequently, legislation should not merely provide legal certainty but should also guarantee equality before the law, protect constitutional rights, and create a balance between individual interests and the public good. In this regard, legislation functions as an instrument for achieving distributive justice, legal protection, and sustainable national development.

From the perspective of Lawrence M. Friedman's legal system theory, the effectiveness of legislation depends on three interconnected components: legal structure, legal substance, and legal culture. Legal structure refers to institutions responsible for implementing the law; legal substance concerns the content and quality of legal norms; while legal culture reflects society's awareness, attitudes, and obedience toward the law. The successful realization of a just national legal system therefore requires not only comprehensive legislation but also effective law enforcement institutions and a legal culture that respects justice and the rule of law.

Despite considerable progress in legislative reform, Indonesia continues to face numerous challenges in realizing a truly just legal system. These challenges include regulatory overlap, inconsistencies among statutory regulations, frequent legislative amendments, limited public participation in the lawmaking process, and disparities in law enforcement. Furthermore, rapid globalization, digital transformation, and socio-economic developments require

legislation to remain adaptive while preserving the principles of justice, legal certainty, and public welfare. These conditions demonstrate that legislative development must continuously evolve to address emerging legal issues without compromising constitutional values.

Based on these considerations, examining the historical development of Indonesian legislation is essential for understanding how legal reforms have contributed to the establishment of a just national legal system. This study aims to analyze the historical evolution of Indonesian legislation, examine its role in shaping the national legal system, and identify the challenges and future prospects for strengthening legislation in promoting justice, legal certainty, and sustainable legal development in Indonesia.

RESEARCH METHOD

This study employs a qualitative approach using normative legal research, commonly referred to as library research. The qualitative approach was selected because the study seeks to examine and provide a comprehensive understanding of the historical development of legislation in Indonesia and its contribution to the establishment of a just national legal system. Normative legal research emphasizes the analysis of legal norms contained in statutory regulations, constitutional provisions, legal doctrines, judicial decisions, and scholarly literature relevant to the research topic (Sugiyono, 2023).

The data used in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, Law Number 12 of 2011 concerning the Formation of Laws and Regulations (along with its amendments), and other statutory regulations related to Indonesia's legislative system. Secondary legal materials comprise books, peer-reviewed journal articles, legal commentaries, previous research findings, and academic publications discussing the history of Indonesian legislation, legal development, constitutional law, and legislative reform. Tertiary legal materials include legal dictionaries, encyclopedias, official government publications, and other reference materials that support the interpretation of legal concepts and terminology used in this research.

Data were collected through library research and document analysis. Library research involved reviewing legal literature, constitutional documents, historical records, and academic publications concerning the evolution of legislation in Indonesia from the colonial period to the contemporary legal system. Document analysis was conducted by examining statutory regulations, constitutional amendments, explanatory memoranda, legislative documents, government reports, and other official legal sources relevant to the research objectives.

The data were analyzed using qualitative descriptive analysis based on the interactive model developed by Miles, Huberman, and Saldaña. The analytical process consisted of three stages: data reduction, data display, and conclusion drawing and verification (Miles, Huberman, & Saldaña, 2014). During the data reduction stage, legal materials were selected, classified, and organized

according to their relevance to the historical development of Indonesian legislation. The organized data were then presented in a systematic descriptive form to facilitate the interpretation of legislative reforms and their contribution to the realization of a just national legal system. Finally, conclusions were drawn and verified through continuous comparison among legal sources to ensure consistency and accuracy in addressing the research objectives.

To ensure the credibility and trustworthiness of the research findings, source triangulation and reference adequacy were employed. Source triangulation was conducted by comparing information obtained from constitutional provisions, statutory regulations, legal doctrines, scholarly publications, and historical legal documents. Reference adequacy was achieved by reviewing authoritative legal literature and previous studies concerning Indonesia's legislative development and national legal reform. These procedures were intended to enhance the reliability, validity, and scientific rigor of the research findings (Sugiyono, 2023).

FINDINGS AND DISCUSSION

Based on the analysis of statutory regulations, constitutional provisions, legal literature, and previous scholarly studies, it was found that the development of legislation in Indonesia has undergone significant transformations from the colonial period to the Reform Era. These transformations demonstrate that Indonesia's legislative system has continuously evolved in response to political change, constitutional development, social dynamics, and the growing demand for democratic governance. The historical evolution of legislation has contributed substantially to the establishment of a national legal system founded upon the principles of justice, legal certainty, and the rule of law.

Historical Development of Indonesian Legislation

The findings reveal that the historical development of Indonesian legislation can be classified into several distinct periods: the customary law (*adat*) period, the Dutch colonial period, the Japanese occupation period, the early independence period, the Old Order, the New Order, and the Reform Era. During the colonial period, Indonesia's legal system was predominantly influenced by the Continental European legal tradition (*Civil Law System*), while customary law and Islamic law continued to regulate certain aspects of community life. This legal pluralism shaped the foundation of Indonesia's modern legal system.

Following the Proclamation of Independence in 1945, Indonesia initiated the development of a national legal system based on the values of *Pancasila* and the 1945 Constitution of the Republic of Indonesia. During the early years of independence, colonial legislation remained temporarily applicable through the Transitional Provisions of the Constitution until new national legislation could be enacted. This transitional policy ensured legal continuity while providing the government with sufficient opportunity to formulate laws reflecting Indonesia's constitutional identity and national aspirations.

The legislative system underwent substantial changes during the Reform

Era beginning in 1998. Constitutional amendments strengthened democratic governance, human rights protection, judicial independence, and the separation of powers among state institutions. Furthermore, the enactment of Law Number 12 of 2011 concerning the Formation of Laws and Regulations established clearer procedures and principles for legislative drafting, emphasizing legal certainty, transparency, public participation, consistency, and accountability. These reforms significantly improved the quality of legislative governance and reinforced the constitutional foundation of Indonesia's national legal system.

These findings indicate that Indonesian legislation has never been static but has consistently evolved in accordance with societal transformation. As argued by Asshiddiqie (2021), legislation must continuously adapt to social developments in order to ensure justice, legal certainty, and public welfare. Likewise, Indrati (2020) emphasizes that legislation should be formulated according to the principles of proper legislative drafting to produce regulations that are coherent, systematic, and capable of providing effective legal certainty.

This development also supports Friedrich Carl von Savigny's theory, which states that law develops organically alongside society (*das Recht wird nicht gemacht, sondern ist und wird mit dem Volke*). Accordingly, legislative reform in Indonesia reflects changes in social values, constitutional principles, political institutions, and national development priorities.

The Role of Legislation in Establishing a Just National Legal System

The findings demonstrate that the continuous development of legislation has played a fundamental role in establishing Indonesia's national legal system. Legislation functions not only as an instrument of legal regulation but also as a mechanism for protecting constitutional rights, maintaining social order, and promoting justice throughout society. Consequently, the quality of legislation directly influences the effectiveness of the legal system in achieving the constitutional objectives of the Indonesian state.

The enactment of various legislative reforms after the Reform Era has strengthened legal certainty and democratic governance. Improvements in legislative procedures have increased transparency, encouraged greater public participation, and enhanced accountability during the lawmaking process. These developments have contributed to producing legislation that is more responsive to public needs while remaining consistent with constitutional principles.

According to Lawrence M. Friedman's legal system theory, the effectiveness of legislation depends upon the interaction among three principal components: legal structure, legal substance, and legal culture (Friedman, 1975). The findings indicate that Indonesia has made considerable progress in strengthening legal substance through legislative reform and improving legal structures through institutional development. Nevertheless, legal culture remains a significant factor influencing the effectiveness of law implementation. Public legal awareness, compliance with statutory regulations, and institutional integrity continue to determine whether legislation can effectively realize justice within society.

Challenges in the Development of Indonesian Legislation

The findings further reveal that Indonesia continues to face several challenges in developing legislation capable of realizing a just national legal system. One of the principal challenges is the existence of overlapping and inconsistent statutory regulations resulting from frequent legislative amendments and insufficient harmonization among legal norms. Such inconsistencies often create legal uncertainty and complicate the implementation of legislation by both government institutions and the public.

Another significant challenge concerns the quality of legislative drafting. Several statutory regulations have been criticized for ambiguous provisions, inconsistent terminology, and inadequate synchronization with higher legal norms. These shortcomings frequently result in multiple legal interpretations and implementation difficulties. Therefore, improving legislative drafting techniques and strengthening regulatory harmonization remain essential priorities for future legal reform.

The findings also indicate that public participation in the legislative process has not yet been fully optimized. Although current legislation formally recognizes the importance of community involvement, opportunities for meaningful public participation during legislative drafting remain limited in practice. Strengthening transparency, expanding public consultation mechanisms, and improving access to legislative information are essential to enhancing democratic legitimacy and increasing public trust in the lawmaking process.

Moreover, globalization, digital transformation, technological innovation, environmental issues, and international legal developments have introduced new challenges requiring adaptive legislative responses. Indonesian legislation must therefore remain flexible and responsive while maintaining the constitutional principles of justice, legal certainty, and public welfare.

Overall, the findings demonstrate that the historical development of Indonesian legislation has significantly contributed to the establishment of a national legal system founded upon constitutional values and the principles of the rule of law. Although substantial legislative reforms have been achieved, continuous evaluation and improvement remain necessary to enhance legal certainty, regulatory consistency, institutional effectiveness, and public participation. Sustainable legislative reform will ultimately strengthen Indonesia's capacity to realize a national legal system that is democratic, equitable, responsive, and capable of addressing the evolving legal needs of society.

CONCLUSION

The historical development of Indonesian legislation demonstrates that the national legal system has continuously evolved in response to political, constitutional, social, and economic changes. From the influence of customary law, Islamic law, and Dutch colonial law to the establishment of a legal system based on *Pancasila* and the 1945 Constitution, legislative reform has played a crucial role in strengthening legal certainty, constitutional governance, and

democratic principles. The findings also confirm that legislation is a fundamental instrument for realizing a just national legal system, as reflected in the continuous improvement of legislative procedures, regulatory harmonization, and the protection of constitutional rights.

Despite these achievements, several challenges remain, including overlapping regulations, inconsistencies in statutory provisions, limitations in legislative drafting, and the need for greater public participation in the lawmaking process. Therefore, continuous legislative reform is essential to improve the quality and effectiveness of Indonesian legislation. Strengthening regulatory harmonization, institutional coordination, and public involvement will contribute to the development of a national legal system that is more equitable, responsive, and capable of addressing future legal and societal challenges while upholding the principles of justice, legal certainty, and the rule of law.

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