PROLEGNAS (NATIONAL LEGISLATION PROGRAM) AS AN INSTRUMENT OF NATIONAL LEGAL POLITICAL PLANNING AND PORTRAIT

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Abstract
Prolegnas is often seen only quantitatively, thus ignoring its function as a planning instrument and a portrait of national legal politics. This paper examines Prolegnas intending to find out how Prolegnas is currently a planning instrument and a portrait of national legal politics. Annual priority Prolegnas as a planning instrument should be established before the stipulation of the APBN and in line with the regulatory framework in the RKP (Government Work Plan). This will be useful for budget allocation for the process of forming laws including the budget implications when the law is enacted. The current Prolegnas does not yet provide a vivid picture of the development of legal materials in the future, for example, related to the replacement of colonial legacy legal products, the codification system, and the principle of unification. Therefore, the determination of the National Legislation Program needs to be preceded by a narrative regarding the direction of national legal material’s development. Besides, the Baleg (Legislation Body) of DPR RI, BPHN (National Law Development Agency), together with legal experts need to start thinking about and devising a grand design for the direction of future legal material development.

Introduction
The Legislation Body (Baleg) of the DPR RI together with the Ministry of Law and Human Rights (Kemenkumham) and the Law Drafting Committee of the DPR RI have agreed to amend the Mid-Term National Legislation Program (Prolegnas) for 2020-2024 and 33 (thirty-three) Draft Law (RUU) becomes the Priority Prolegnas in 2021. Of these, 22 (twenty-two) bills were proposed by the DPR RI, 9 (nine) bills proposed by the Government, and 2 (two) bills proposed by the DPD RI (dpr.go.id, January 25th, 2021). In making decisions, several factions provided notes on several bills (kompas.com, January 14th, 2021). Prolegnas has been regulated since the birth of Law (UU) No. 10 of 2004 concerning the Formation of Legislative Regulations. For more
than 15 (fifteen) years, the existence of Prolegnas has been seen more as a "measuring tool" for the performance of the DPR RI in the field of legislation. Prolegnas is used to calculate how many bills are planned and how many the numbers of laws that have been successfully implemented.

The meaning of Prolegnas as a “measuring tool” by only looking at the number of bills needs to be straightened out. Prolegnas is an instrument for planning a law formation program that is formulated in a planned, integrated, and systematic manner in the context of manifesting a national legal system. This paper examines Prolegnas, to know how Prolegnas is currently a planning instrument and a portrait of national legal politics.

**Priority Prolegnas as an Instrument of Planning**

Prolegnas as a planning instrument correlates with budgeting issues. The provisions of Article 20 paragraph (6) of Law number 15 of 2019 concerning Amendments to Law Number 12 of 2011 regarding the Formulation of Legislation states that the preparation and determination of the annual priority Prolegnas as the implementation of the mid-term Prolegnas is carried out every year before the enactment of the State Budget Bill (RUU APBN). This means that the planning program for the formulation of legislation needs to be connected to the budget in the State Budget. When the annual priority Prolegnas is set before the stipulation of the State Budget Bill, at the time of deliberation of the State Budget, a budget will be allocated for the preparation and discussion of the bill, as well as the financial impact that accompanies the law.

The priority measures should be linked to the needs of national development as stated in the Government Work Plan (RKP) for 2021 which is stipulated in Presidential Regulation (Perpres) Number 86 of 2020. Ironically, there is a difference between the priority needs for the regulatory framework in the RKP of 2021 and the Government's Bill for Priority Prolegnas in 2021. Attachment to Presidential Decree Number 86 of 2020 which contains the narrative of the 2021 RKP, in Chapter V Implementation Rules there is a section on the Need for the 2021 RKP Regulatory Framework. The priorities for the 2021 RKP regulatory framework consist of 8 (eight) Bills: (1) Bill on Restrictions of Currency Transactions; (2) Bill on Urban; (3) Revision of Law no. 4 of 1984 concerning Outbreaks of Infectious Diseases; (4) Bill on the Criminal Code; (5) Revision of Law no. 42 of 1999 concerning Moveable Property Securities; (6) Revision of Law no. 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations; (7) Bill on Law of Civil Procedure; (8) Bill on Amendments to Law no. 35 of 2009 concerning Narcotics. Meanwhile, the Government's proposal for the 2021 Priority Prolegnas consists of 9 (nine) Bills: (1) Bill on Personal Particulars Protection; (2) Bill on Amendments to Law no. 1 of 1973 concerning the Indonesian Continental Shelf; (3) Bill on Amendments to Law no. 21 of 2001 concerning Special Autonomy for Papua Province; Bill on Amendments to Law no. 35 of 2009 concerning Narcotics; Bill on Central and Local Financial Relations; (6) Bill on Capital City. (Omnibus Law); (7) Bill on Law of Civil Procedure; (8) Bill on Disease Outbreak; (9) Bill on the Pancasila Ideology Development Agency (BPIP).
Based on this comparison, it can be seen that only 3 (three) bills are the same: the Bill on Amendments to Law no. 35 of 2009 concerning Narcotics, the Bill on Law of Civil Procedure, and the Bill on Outbreak Disease. This shows that within the Government itself, the 2021 Priority Prolegnas proposal is not yet in sync with the needs of the priority regulatory framework contained in the GWP of 2021.

The determination of the 2021 Priority Prolegnas at the DPR RI Baleg Working Meeting will be held in January 2021. Determination in the DPR RI Plenary Session is planned to be carried out during this Session III Period. Meanwhile, the 2021 State Budget has been approved at the DPR RI Plenary Meeting at the end of September 2020 (kemenkeu.go.id, September 29th, 2020). This means that the determination of the Priority Prolegnas in 2012 was several months off from what it should have been. The implication is that there may be some unbudgeted financial impacts if the law is formed, thus requiring revisions to the State Budget. Ideally, when the GWP is compiled and stipulated in the middle of the year, the priority regulatory framework is first harmonized with the Ministry of Law and Human Rights representing the Government in the annual priority Prolegnas discussion with Baleg DPR RI. Furthermore, the discussion and determination of priority Prolegnas is carried out before the stipulation of the State Budget so that budget requirements can be allocated in the State Budget.

**Priority Prolegnas as Portrait of National Law Politics**

Political law is a basic policy that determines the direction, form, and content of the laws to be formed. In general, the state will plan and systematically arrange its legal politics, or completely change the legal system, either for ideological reasons or changes in the political system. Amendment in the legal system, for example, amendment in the legal system from a colony to an independent state (Wahjono, 1986: 160).

The changing process of legal order under the independent Indonesian atmosphere for 75 (seventy-five) years, arguably stagnant. Many colonial legal products are still applied today, and this cannot be separated from the Prolegnas issue which is simply interpreted as planned “how many bills” to be formed.

In the implementation of the Guidelines of State Policy (GBHN) in the New Order era, it was seen that the legal politics adopted regarding what and how national law will be developed. There are three aspects of legal politics contained in the GBHN. First, legal development and fostering in the constitutional state of Indonesia based on Pancasila and the Constitution of 1945. Second, Indonesian law must be codified by adhering to the principles of open codification and partial codification. Third, there is the good intention from the authorities to apply a single legal entity for all citizens (political unification of law) (BPHN, 2019: 13-14).

In the reform era, the GBHN was replaced by the National Long-Term Development Plan (RPJPN). In the Annex to Law No.17 of 2007 on RPJPN 2005-2025 it is stated, legal development is directed towards the realization of a national legal system that is rooted in Pancasila
and the Constitution of 1945, which includes the development of legal materials, legal structures, including legal apparatus, legal facilities and infrastructure, as well as the realization of a society that has a high legal awareness and culture, in the context of realizing a rule of law, creating an impartial and democratic community life. The direction of legal development, especially related to the development of legal materials, needs to be further elaborated. This should be the content and meaning of the National Legislation Program, so that before mentioning the number of bills, it is necessary to have indicators and direction for the development of legal materials to be addressed.

It is quite difficult to get a picture in the Prolegnas of the current and future portrait of national legal politics. For example, related to the replacement of colonial legal products and codification principles. The Bill on Criminal Code should be almost finished but is not a priority. Even though it is in the framework of the 2021 RKP regulation and amendments to Law no. 12 of 2011 have also made way with the carry-over clause. Rejection by society in the past can actually be managed by providing access to the deliberation of the bill so that the public can convey their aspirations in an orderly manner as well as gain a more comprehensive understanding of the formulation of the articles in question.

The principle of codification has been tried to be applied in the General Election Law by combining several laws. When the codification principle has been applied to laws in the political field, this is not the case with laws in the field of civil law. The Indonesian Civil Code (KUHPer) originating from Burgerlijk Wetboek (BW) has not been revised, while in the Netherlands, BW has been revised repeatedly. According to Lamboy, Nieuw Burgerlijk Wetboek already has 10 books (hukumonline, April 18th, 2015). The unrevised KUHPer in Indonesia shows the unclear direction of legal development in the field of civil, whether it is still maintaining colonial products or renewing it by leaving codification behind. The inclusion of the Bill on Civil Procedure Law in the Priority Prolegnas of 2021 is expected to be an entrance for the next revision of the Criminal Code.

The development of national legal materials also became uncertain when suddenly there was a concept of the omnibus law. It begins with the omnibus law bill on “Cipta Kerja” (Job Creation/Human Settlement), which was completed last year, and then this year there will be an omnibus law bill on the State Capital. The problem of over-regulation and overlapping regulations does occur, but when it comes to implementing the omnibus law system and mechanism as a solution to these problems, at least there is careful planning and concept of how and to what matters the omnibus law will be applied, because of the intention to make more omnibus laws.

Unification is the unification of laws that apply nationally or unification of national law enforcement (hukumonline, June 21th, 2017). The principle of unification is challenged by certain arrangements for certain regions. In the DPD RI proposal, there is a Bill on Archipelago Regions. Basically, the 1945 Constitution does recognize and respect regional government units that are special or exceptional
in nature as regulated by law. It needs to be anticipated that the special arrangements do not spread too many aspects and out of line with the autonomy framework regulated by the Constitution of 1945. The regulations do not have to be the same and justice must also pay attention to distributive justice (justice provided based on their services or according to their respective rights), but this can be included in the content of the law without having to establish a new special law.

Closing
The perspective on Prolegnas in the quantitative context of the bill will be misleading. Prolegnas must be seen as a planning instrument and a portrait of national legal politics, particularly the direction of the development of written legal materials. When the direction of development of legal materials uses a codification or a simplification system of regulations, the completion of two or three codification bills becomes more essentials and meaningful compared to too many regulations but disharmonious.

The determination of the 2021 Priority Prolegnas arguably late, it should have been determined before the 2021 State Budget stipulation. Besides, there are differences between the Regulatory Framework in the 2021 GWP and the priority Prolegnas Bill of 2021 proposed by the Government. In the future, the determination of the Annual Priority Prolegnas will need to be endeavored before the stipulation of the State Budget and in line with the GWP so that budget allocation of the law-making process includes budget implications when the bill is passed into law.

As a portrait of national legal politics, the current Prolegnas does not yet provide a transparent visual of the direction of legal material development in the future, for example, related to the replacement of colonial legacy legal products, the codification system, and the principle of unification. Therefore, it is best if before mentioning the number of bills, there is a narrative regarding the direction of legal material development to be aimed at. Also, the Baleg of DPR RI together with BPHN along with academics and legal practitioners needs to start thinking and compiling a grand design for the direction of future legal material development.

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