

Implementation of the Omnibus Law Concept and Consolidated Texts: Amalgamation of the Common Law and Civil Law Legal Systems

Ana Fauzia

Master of Law, Faculty of Law, Universitas Airlangga, Surabaya, Indonesia

Fathul Hamdani✉

Master of Law, Faculty of Law, Universitas Mataram, Indonesia

Rusdianto Rusdianto

Faculty of Law, Universitas Mataram, Nusa Tenggara Barat, Indonesia

Muhammad Azimuddin Mohamed

Master of Law, Faculty of Law, Universiti Kebangsaan Malaysia, Selangor,
Malaysia

✉ fhmdnny@gmail.com

Abstract

Laws serve as normative prescriptions to guide human behavior in social life, ensuring the proper functioning of a society. However, the adoption of the omnibus law concept in Indonesia does not guarantee immediate perfection. To address this, an additional instrument, known as a consolidated text, is necessary to create systematic and easily understandable legal products for the public. This study aims to explore the application of consolidated texts in other

countries and examine how they can be implemented in Indonesia's law formation process, particularly in relation to the omnibus law concept. The research employs normative research methods, incorporating statutory, conceptual, and comparative approaches. The findings reveal that Indonesia's adoption of the omnibus law concept would be ideal if accompanied by consolidated texts. Several countries, including the United Kingdom, Australia, and New Zealand, have already embraced consolidation methods in the development of their laws and regulations. Through the consolidation approach, all revised laws and regulations can be consolidated into a single text, complemented by additional regulations such as court decisions that provide further explanations regarding modified or unchanged articles or paragraphs.

Keywords

Amalgamation Legal Systems, Consolidated Text, Omnibus Law

Introduction

As a nomocracy country¹ with the concept civil law, Indonesia certainly has legal rules in the form of laws and regulations. In drafting a law and regulation, of course, a qualified concept is needed so that the legal objectives to be achieved in the formation of laws and regulations can be realized. The formation of laws and regulations itself is a process of making laws and regulations which basically starts from the stages of planning, preparation, drafting techniques, formulation, discussion, ratification, and promulgation.²

One aspect or process that must be considered in the preparation of laws and regulations is the harmonization process. Harmonization is one of the important processes carried out because it aims to reduce and avoid overlapping laws and regulations.³ To realize harmonization in the formation of laws and regulations, Indonesia currently recognizes a concept termed

¹ The term nomocracy comes from the word "*Nomos*" which means norm, and "*Cratos*" which means power. The term nomocracy then gave birth to the concept of the rule of law, which is a concept of government based on law. Further see Moh. Kusnardi and Harmaily Ibrahim, *Pengantar Hukum Tata Negara Indonesia*, 4 ed. (Jakarta: Pusat Studi Hukum Tata Negara Fakultas Hukum Universitas Indonesia and Sinar Bakti, 1981), p. 153-154.

² Government of Indonesia, Law on the Establishment of Laws and Regulations, Law No. 15 of 2019, LN No. 183 of 2019, TLN No. 6398, Ps. 1 paragraph (1).

³ Inche Sayuna, "Harmonisasi dan Sinkronisasi Hukum Surat Kuasa Membebaskan Hak Tanggungan (SKMHT) Ditinjau dari Otentisitas Akta Menurut Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris" (Universitas Brawijaya, 2014), p. 16.

“Omnibus Law”. The omnibus law concept basically comes from countries with characteristics such as countries that are included in the Anglo-Saxon classification or countries with common law classifications, for example countries in America, England, and Australia.⁴ However, with the times, it turns out that the use of the omnibus law concept in laws and regulations is also embraced by countries that are included in the classification of civil law legal systems, as is the case with Vietnam and the Philippines.⁵

The adoption of the omnibus law concept originating from countries with common law classification into countries with civil law classification as in Indonesia can be termed by the author as 'legal amalgamation' or amalgamation of the common law legal system and civil law legal system. Although the term 'amalgamation' is better known in the concept of marriage, that is, marriage that occurs between different tribes or groups. However, the use of the term 'legal amalgamation' in this study is intended to describe efforts to adopt the concept of forming laws and regulations known in countries with a common law system into countries with a civil system.

One of the laws formed by the omnibus law method is Law Number 11 of 2020 concerning Job Creation (Job Creation Law). With the birth of the Job Creation Law, it has brought a new breakthrough in the concept of forming laws and regulations in Indonesia. However, the existence of the Job Creation Law which was formed with the omnibus law concept does not necessarily get a positive response in the community. Public dissatisfaction with the Job Creation Law then wants the Job Creation Law to be brought to the Constitutional Court (MK) for judicial review. On Thursday, November 25, 2021, the Constitutional Court in its Decision No. 91/PUU-XVIII/2020 stated that the Job Creation Law was proven to violate the 1945 NRI Constitution so that it had legal implications that the Job Creation Law had no binding legal force with provisions not interpreted as "no improvement was made within 2 (two) years since the decision was pronounced". Thus, it is interpreted that the Job Creation Law remains in effect and has binding legal force until the period of amendment of the Job Creation Law. If within the specified period of time no changes are made to the Job Creation Law, then the Job Creation Law will be declared a permanent unconstitutional law.⁶

⁴ Fathul Hamdani, 'Memahami Omnibus Law Sebagai Suatu Konsep dalam Pembentukan Peraturan Perundang-Undangan', Kompasiana, 2020, <https://www.kompasiana.com/hamdannyy/5e853bf6d541df10a61681b3/memahami-omnibus-law-sebagai-suatu-konsep-dalam-pembentukan-peraturan-perundang-undangan>.

⁵ Agus Sahbani, 'Plus-Minus Omnibus Law Di Mata Pakar', Hukum Online, 2020, <https://m.hukumonline.com/berita/baca/lt5e3325327d597/plus-minus-omnibus-law-di-mata-pakar/>.

⁶ Noverdi Puja Saputra, "Dampak Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020 terkait Pengujian UU Cipta Kerja," *Isu Sepekan* (Jakarta, 2021), p. 1.

An intriguing aspect of the Constitutional Court decision, as articulated by Constitutional Judge Suhartoyo, is the observation that the procedures employed in the creation of the Job Creation Law lack clear, consistent, and standardized methods, as well as a systematic approach to law formation. Furthermore, it is noteworthy that certain amendments to the articles or paragraphs within the law have been made even after the approval of its formation by the DPR (People's Consultative Assembly) and the President. In addition, since it was still in the form of a draft law (RUU) until it was passed, many people actually found it difficult to read the Job Creation Law, this was caused by several things, including: 1) the circulation of various hoax news about the Job Creation Law when it was still in draft form (RUU), namely with the emergence of various versions;⁷ and 2) the number of regulated sectors, that contains amendments, deletions, and cancellations to 79 laws related to development and investment, and the public must compare the old law with the amended law one by one.⁸

The conditions as intended above make it very difficult for the public to understand the Job Creation Law, especially in the midst of the literacy culture of Indonesian society which is still relatively low. In fact, this is very important in order to build harmony between the government and the community towards every bill that is formed as the main basis for the government and society to work together in achieving common goals.⁹ For with the birth of the principle of ignorance jurist it has been willed that no one can deny the enactment of the Law imposed upon him on the grounds that he never knew of the Law or did not understand the Law.¹⁰

To deal with the above problems, the adoption of the omnibus law concept itself needs to continue to make adjustments by continuing to reconstruct and arrange it to suit the culture in the country where the concept was born.¹¹ The

⁷ Muhammad Choirul, 'Para Bupati Bingung Sama Draf Omnibus Law, Kamu Gimana?', CNBC Indonesia, 2022, <https://www.cnbcindonesia.com/news/20201014090537-4-194175/para-bupati-bingung-sama-draf-omnibus-law-kamu-gimana>.

⁸ Sri Wiyanti Eddyono, ed., *Kertas Kebijakan: Catatan Kritis dan Rekomendasi terhadap RUU Cipta Kerja* (Yogyakarta: Fakultas Hukum Universitas Gadjah Mada, 2020), p. 4.

⁹ Ana Fauzia, Fathul Hamdani, & Deva Gama Rizky Octavia, "The Revitalization of the Indonesian Legal System in the Order of Realizing the Ideal State Law," *Progressive Law Review* 3, no. 1 (2021), p. 15.

¹⁰ Soetandyo Wignjosoebroto, "Negara Hukum dan Permasalahan Akses Keadilan di Negeri-Negeri Berkembang Pasca-Kolonial," in *Makalah, Konferensi dan Dialog Nasional* (Jakarta, 2012), p. 9-10.

¹¹ Concept Omnibus Law basically comes from a country with characteristics such as countries that are included in the classification Anglo Saxon or countries with classifications common law, for example, countries in America, England, and Australia. For more information, see Muhammad Insa Ansari, "Omnibus Law untuk Menata Regulasi Penanaman Modal," *Jurnal RechtsVinding* 9, no. 1 (2020), p. 72.

reconstruction referred to her relates to the urgency of a consolidated text in terms of the formation of legislation with the concept of omnibus law in order to guarantee the formation of systematic legal products.¹² Because when reflecting on the British State itself, the formation of legal products is carried out by first making a consolidated text before forming legal products.¹³

Method

The type of research used in this legal research is normative research or doctrinal legal research.¹⁴ This legal research is carried out using several approaches, including the statutory approach (statute approach), conceptual approach (conceptual approach) and comparative approach (comparative approach).¹⁵ The approach using statutory devices is defined as a form of research that uses all statutory tools related to the problem studied as a foundation in research.¹⁶ While the approach to the concept, it is interpreted that research is carried out by examining all concepts, norms, and also the relationship between the norms contained in the law and the concepts used.¹⁷ As for the comparative approach, it is interpreted as a form of study by approaching it based on comparisons with various countries.¹⁸

¹² Mirza Satria Buana, 'Menakar Konsep Omnibus Law Dan Consolidation Law Untuk Harmonisasi Peraturan Perundang-Undangan Indonesia: Pendekatan Perbandingan Hukum Tata Negara', in *Konferensi Nasional Hukum Tata Negara Dan Hukum Administrasi Negara Ke-4* (Jember, 2017), <http://eprints.ulm.ac.id/4359/>.

¹³ Ekawestri Prajwalita Widiati, 'Achieving Accessibility of Legislation via Consolidation' (Institute of Advanced Legal Studies, 2013), <https://sas-space.sas.ac.uk/5882/>.

¹⁴ Mukti Fajar & Yulianto Achmad, *Dualisme Penelitian Normatif dan Empiris* (Yogyakarta: Pustaka Belajar, 2015), p. 147.

¹⁵ With regard to the research of this type, law is defined as a form of everything listed in laws and regulations or can also be called law is defined as a basis in terms of human behavior to be a reference for all actions that are considered appropriate or not. Further see Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2011), p. 93.

¹⁶ The approach using legislation makes laws and regulations the object of research. The regulations used by the object of research are regulations that indicate that there are various weaknesses or potential indications of abuse of authority to study between *das sollen* and *das sein*. Further see C.F.G Sunaryati Hartono, *Penelitian Hukum di Indonesia pada Akhir Abad ke-20* (Bandung: Penerbit Alumni, 2006), p. 139.

¹⁷ S. Nasution, *Metode Research (Penelitian Ilmiah) usulan Tesis, Desain Penelitian, Hipotesis, Validitas, Sampling, Populasi, Observasi, Wawancara, Angket* (Jakarta: PT. Bumi Aksara, 2011), p. 16.

¹⁸ Aswarni's opinion in Suharsimi Arikunto states that comparative research aims to find similarities and differences about objects, people, work procedures, ideas, and criticism of people, groups, an idea or work procedure". Thus, the comparative approach is an approach

Amalgamation of Common Law and Civil Law Legal Systems Regarding the Omnibus Law Concept and the Application of Consolidated Text

Due to the existence of approximately 42,000 overlapping rules, the government took action by revoking thousands of regulations that were deemed contradictory to higher regulations.¹⁹ The introduction of the concept of an omnibus law in a civil law system country like Indonesia serves as an initiative to address and streamline problematic regulations, such as inconsistencies and disharmonization among various laws. This amalgamation of the legal system aims to overcome these issues and ensure a more cohesive regulatory framework.

In 1937, the application of omnibus law in countries that adopted the common law legal system had placed the concept of omnibus law as a concept that became a habit. However, it is not impossible for Indonesia as a country with a civil law system to be able to apply the omnibus law concept. Because the concept of omnibus law is basically just a 'concept' in the formation of laws and regulations, so that as a 'concept' it can be applied in any country while still referring to its national law. Likewise with the existence of a consolidated text, this text is a complement to the formation of laws that use the concept of omnibus law.

Based on the description above, the amalgamation of the legal system can be realized while still referring to the national legal system where the concept will be applied. The concept of omnibus law and the application of consolidated texts in the formation of laws and regulations in Indonesia must still refer to the foundation or ideology of the Indonesian nation.²⁰ Because a good legal product is basically a legal product that has a foundation, the goal is to ensure justice, certainty, and usefulness. Indonesia as a country that adheres to the democratic principle of Pancasila, places Pancasila as a *Grundnorm* (basic norm) for all kinds of legal formation in Indonesia. So that the source of law that is the foundation of every legal product in Indonesia is

that aims to compare two or more variables to get an answer, both the disadvantages and advantages of each variable. Further see Suharsimi Arikunto, *Prosedur Penelitian: Suatu Pendekatan Praktek* (Jakarta: PT Rineka Cipta, 1997), p. 236.

¹⁹ Fitri N Heriani, 'Menata Regulasi: Antara Ego Sektoral Dan Tumpang Tindih Peraturan', *Hukum Online*, 2018, <https://m.hukumonline.com/berita/baca/lt5b98b66ff10a7/menata-regulasi--antara-ego-sektoral-dan-tumpang-tindih-peraturan/>.

²⁰ E. Fernando M. Manullang, "Mempertanyakan Pancasila sebagai Grundnorm: Suatu Refleksi Kritis dalam Perspektif Fondasionalisme," *Jurnal Hukum dan Pembangunan* 50, no. 2 (2020), p. 296, <https://doi.org/10.21143/jhp.vol50.no2.2584>.

none other than Pancasila.²¹ Therefore, if there is a legal product that does not make Pancasila the basis for its formation, then it can be said that the legal product still does not have strong legitimacy to be promulgated.

Also, in the formation of legal products, it is mandatory to fulfill the principles in the formation of laws and regulations. In line with what Satjipto Rahardjo said that there is a necessity in the formation of laws and regulations in order to fulfill the principles of the law itself.²² Because if there is a legal product that does not meet the legal principle, then the legal product is only useless and in the form of a pile of laws alone, and considering that the legal principle is intended so that practice does not deviate far from what is idealized. Therefore, the need for legal principles in this case is to provide a strong foundation as a reference in the formation of laws and regulations.²³

Furthermore, A. Hamid S Attamimi gave a classification related to the principles of the formation of legislation, by providing details, first the formal principle, namely regarding the clear purpose, the urgency of the existence of the regulation, the existence of appropriate and appropriate institutions, appropriate material, easy to implement, easy to recognize. Second, the material principle, namely legal products, must be in accordance with the objectives of the Indonesian nation, Pancasila as the basis of the state, carried out while still based on the law and in accordance with the constitution.²⁴

If we look at the principles in Law on the Establishment of Laws and Regulations (Law No. 12 of 2011 or “PPP Law”) and also the division explained by A. Hamid S Attamimi, some principles that we need to at least pay attention to are the principles of legal certainty, clarity of formulation, and also principles in accordance with the ideals of Indonesian law. Therefore, in order to realize legal certainty and achieve the goals / ideals of Indonesian law, a harmonious regulation is needed, and does not clash with each other. Likewise, the adoption of new legal concepts into the Indonesian legal system must still refer to the principles in the formation of laws and regulations.²⁵

²¹ Government of Indonesia, *Law on the Establishment of Laws and Regulations*, Law No. 15 of 2019, LN No. 183 of 2019, TLN No. 6398, Ps. 2.

²² Mahmutarom HR, *Rekonstruksi Konsep Keadilan* (Semarang: Badan Penerbit UNDIP, 2010), p. 119.

²³ Satjipto Rahardjo, *Sisi-sisi Lain dari Hukum di Indonesia* (Jakarta: Penerbit Buku Kompas, 2006), p. 140.

²⁴ Firman Freaddy Busroh, “Konseptualitas Omnibus Law dalam Menyelesaikan Permasalahan Regulasi Pertanahan,” *Arena Hukum* 10, no. 2 (2017), p. 237, <https://doi.org/10.21776/ub.arenahukum.2017.01002.4>.

²⁵ Article 5 of Law Number 12 of 2011 concerning the Establishment of Laws and Regulations as amended by Law Number 15 of 2019 Determine that the principles of the formation of laws and regulations are: a. clarity of purpose; b. appropriate institutional or forming officials; c. conformity between types, hierarchies, and material loads; d. enforceable; e. usability and usability; f. clarity of formulation; and g. openness.

The amalgamation of the common law and civil law legal systems regarding the concept of omnibus law and the application of consolidated texts in addition to paying attention to the principle of forming laws and regulations must also be aimed at achieving legal effectiveness. Referring to the concept of legal theory itself, that a good law is a law that has effective enforceability. This effectiveness certainly refers to the characteristics in the formation of legislation, namely with regard to self-explanatory.²⁶ Self-explanatory is the ability of legal products to provide understanding to the public indirectly related to the coherence contained in the legal products made. The coherence in question is carried out as a form of foundation in determining the truth contained in a norm, be it product consistency, comprehensiveness and whether or not legal products are one with another. Because if the legal product has been coherent, then the legal product can give birth to a solute idea. But if it is incoherent then it cannot act effectively.²⁷ Thus, when choosing the concept of omnibus law as a concept in the formation of laws and regulations, it is important to pay attention to the principles and construction of legal effectiveness in order to create an ideal legal product. This aims to ensure the harmony of norms with one another and still make Pancasila the main foundation in its formation.

Thus, in the process of implementing the omnibus law itself, it is mandatory to base on the qualifications of making applicable laws and regulations. Even when referring to the principle of transparency itself, it is closely related to the existence of clear and intensive communication with parties who directly and indirectly get the impact of making these laws and regulations. This of course aims to maintain the principle of morality in terms of making legal products themselves. As expressed by Padmo Wahjono that in essence there is a need for the existence of laws that adjust to the development of society by ensuring the effectiveness of application in terms of the realization of ideas regarding the expected goals of the Indonesian nation. Of course, this aims to ensure legitimacy in terms of implementing the concept of legal norms that use the omnibus law concept while maintaining substantive values that can have a positive impact on the sustainability of Indonesia, especially public welfare.

²⁶ John H. Jackson and Peter-Christian Müller-Graff, 'The Rule of Law in the Relation of State and Market—German, European and US-American Approaches', *Transatlantic Perspectives on International Economic Law*, 2009, pp. 79–92.

²⁷ Abdulkadir Muhammad, *Hukum dan Penelitian Hukum* (Bandung: Citra Aditya Bakti, 2004), p. 49.

Examples of Implementation of Consolidated Text in Several Countries

Laws are enacted by governments and created to aid the implementation of complex policies intended to have far-reaching political, social and economic consequences.²⁸ Therefore, it is important to make efforts to understand the reasons why the law was promulgated and only once enacted, the reasons for its success and failure.²⁹ A statutory provision can be considered effective if the consequences caused in practice are in accordance with the purpose for which the provision was made. Does that mean, if too much legislation will result in ineffectiveness? At least it is the scattered rules that make accessibility difficult. Accessibility here is useful not only for citizens but also for business people and policy makers. If both the governed and the governed have difficulty accessing the rules, it is unlikely that success can be achieved. Most importantly, the volume of legislation needs to be managed. Placing the Act on the ministry's webpage is not enough if the aim is simply to improve access to the rules because 'access' is more than just 'downloading' the Act easily but to provide a user-friendly format for readers.³⁰

While the consolidation process may still present some challenges, it offers a more manageable approach compared to codification. Consolidating rules within the legal field, integrating scattered amendments, and restructuring them for simplicity is a complex task. Consolidation, unlike codification, does not involve making changes, which saves considerable time. Moreover, considering that codification is a time-consuming process, it is best suited for areas of law that remain fixed and unchanged, such as the Criminal Code or Civil Code. The fact that consolidation is a simpler and less time-consuming process can serve as a determining factor in deciding which jurisdiction should undergo consolidation. In essence, consolidation can be applied on a broader scale compared to codification. This practice is not new in countries with common law systems. Several common law countries utilize the consolidation method to streamline their legal frameworks.

Australia

Australia has undertaken consolidation programs in various States and Territories over the years. A full consolidation of the Act books in the

²⁸ David R Miers and Alan C Page, *Legislation* (London: Sweet and Maxwell, 1982), p. 217.

²⁹ H Maycr, 'The Sociology of Legislation' in *Legislation and Society in Australia*, ed. by Roman Tomasic (Sydney: Allen and Unwin and Law Foundation of N.S.W., 1980), p. 9.

³⁰ H Maycr, p. 216.

Victorian colonies began in 1865 then continued in 1890, 1915, 1928 and finally in 1958 since then regular reprinting has taken place.³¹ Not only in Victoria, other states such as New South Wales have also consolidated since 1937.³² Consolidation was carried out in the New South Wales Statute Book in 1937. In 1957, further full consolidation was carried out.³³ Although the volume comprising this consolidation was prepared under the auspices of the Law Book Company, the New South Wales Statute Book was published with official approval. Further revisions were then made again in 1977, but in this case, it was decided to upgrade the official reprinting system rather than having a set of static bound volumes which would soon become obsolete. The reprinting of the New South Wales Acts is now provided for in Section 6A of the Interpretation Act 1987 (comprising sections 45B to 45E). Section 45C of the Act now requires the New South Wales Parliamentary Counsel to compile and maintain a database of the Act, which will be published on the New South Wales Act website. Section 45D of the Act also authorizes the Parliamentary Counsellor of New South Wales to issue amended reprints of the Act directly.³⁴ Paper reprints are now only distributed to about 100 customers.

The New South Wales Parliamentary Counsellor's Office publishes paper reprints on selected³⁵ titles but laws and regulations reprinted in paper form are of course only up-to-date at the time the reprint is completed. Under the now-repealed 1972 Reprinting Act, a number of different types of amendments were permitted. However, apart from some very minor matters specified in section 45E of the Act, the paper reprint process is not used to make any changes to the text. All updates to the Law are now carried out with ordinary amendment laws, one of which is the Biannual Law Amendment Bill. The paper reprint system, previously regulated under the Reprint Act 1972, has essentially been replaced by a statutory database published on the New South Wales Act website.³⁶ This website has official status and covers all laws and regulations. If any law or legislation is amended, the latest version of the law or legislation is available on the official website no later than three days after the amendment takes effect.

³¹ Patricia T Richard-Clarke, 'Access to Justice: Accessibility', *Legal Information Management* 11, no. 3 (2011), pp. 159–64, <https://doi.org/10.1017/S1472669611000545>.

³² Referred to as "*Green Statutes*".

³³ Referred to as "*Red Statutes*".

³⁴ That is, it is changed textually by inserting, eliminating, varying or replacing the material.

³⁵ About 10,000 pages of legislation per year are reprinted on paper.

³⁶ Retrieved April 29, 2023, <https://legislation.nsw.gov.au/>.

England

In the UK, consolidation is carried out by the Law Commission.³⁷ As in the UK, consolidation is one of the functions of the Act under the Law Commission Act 1965. The UK Commission has been responsible for more than 200 consolidated bills that have become law since 1965.³⁸ The aim is to make the Act clearer, shorter and more accessible. Good consolidation has real practical benefits for British society especially for those with professions adjacent to law (such as legal practitioners and courts), those with an interest in its creation (such as Parliament and Government) and for those who need to access or use it (such as citizens and business people). The main purpose of consolidation is to unify different laws on a topic into one law. The law usually supersedes provisions in different laws (and often statutory instruments) passed over several years.³⁹

Who chooses the Commission's work program?

As set out in the Law Commission Act 1965, the Law Commission in England is required to submit a "programmed for examination of the various branches of law" to the Lord Chancellor for his approval before enacting consolidation of the Act. Before deciding which project to proceed, the Law Commission takes views from judges, lawyers, Government Departments, the voluntary and business sectors, and the general public. The UK Law Commission also accepted the bill proposed by the Government Department.⁴⁰

What criteria are used to choose a bill?

The Commission considers reviewing an area of legal reform based on certain criteria:

- 1) Interests: the extent to which the law is unsatisfactory, and the potential benefits of reform
- 2) Suitability: whether the independent non-political Commission is the most suitable body to conduct a review
- 3) Resources: valid Commissioner and staff experience, available funds, and whether the project meets program requirements

³⁷ Jonathan Teasdale, 'Statute Law Revision: Repeal or Something More?', *European Journal of Law Reform* 11, no. 2 (2009), pp. 157–212,

³⁸ Paula Giliker, 'Codification, Consolidation, Restatement? How Best to Systemise the Modern Law of Tort', *International & Comparative Law Quarterly* 70, no. 2 (2021), pp. 271–305, <https://doi.org/10.1017/S0020589321000087>.

³⁹ Law Commission, "How are we doing?," retrieved April 29, 2023, <https://www.lawcom.gov.uk/consolidation/>.

⁴⁰ Retrieved April 29, 2023, <https://www.lawcom.gov.uk/about/how-we-work/>.

What are the stages of a typical legal reform project?

Once the Law Commission has agreed to review an area of law:

- 1) Initiation: decide on the delivery of the project, together with the relevant Government department
- 2) Pre-consultation: in this phase, the UK Law Commission will conduct an area study of the law and identify its shortcomings. The UK Law Commission will also look at other legal systems to see how they deal with similar issues. At this stage the UK Law Commission may also approach interest groups and specialists in the field.
- 3) Consultation: a consultation paper is published that outlines in detail the existing Law and its shortcomings, gives arguments for and against possible solutions and invites comments. The paper is widely circulated to all interested individuals and organizations, and to the media Policy development, at this stage the UK Law Commission will analyze the response to the consultation, which will help the UK Law Commission develop and refine the thinking of the UK Law Commission. The UK Law Commission can also produce further issue papers and consult on some or all of the draft bills.
- 4) Reporting: at the end of a project the UK Law Commission will usually submit a report to the Lord Chancellor and the relevant Secretary of State, giving final recommendations and reasons for making them. If necessary, the UK Law Commission includes a draft bill that will give effect to recommendations. Depending on the nature of the project, the UK Law Commission's final report may be either advice to the government or a preliminary inspection report.

New Zealand

In order to improve public access to the law, the New Zealand parliament enacted a consolidation of the law, which was later named the "New Zealand Public Access to Legislation Project" including amendments to the law.⁴¹ The first "Access Project" was completed in 1908, when New Zealand undertook the actual consolidation of New Zealand law.⁴² The New Zealand Parliament

⁴¹ David Harvey, "Public Access to Legislative Information and Judicial Decisions in New Zealand: Progress and Process," *University of Technology Sydney Law Review* 4 (2002), p. 105.

⁴² Jessica Jenkins, 'The Evolving Accessibility of New Zealand Law: Redesigning Legislation for Understanding and Empowerment', *Social Science Research Network*, 2018, pp. 1–70, <https://doi.org/10.2139/ssrn.3200204>.

re-enacted almost every public action, after a massive effort from a group of commissioners appointed by the Reprint of Statutes Act 1895. Of those programs, 806 laws were repealed and replaced with 208, effectively providing new laws and establishing them as the basis for New Zealand's laws.⁴³

In recent years there has been a concerted effort to improve the bill to make the Act easier to understand.⁴⁴ The new draft style will be extended to existing laws through the "Revision Bills" procedure. The Legislation Act 2012, ss 28-36 provides for the Attorney General's Office and the Parliamentary Counsellor's Office to recommend "Revision Bills" update the language and style of the old Act without changing its content. The "Revised Bill Programmed 2015–2017" currently includes 18 laws.⁴⁵ It is an important part of the agenda to ensure accessible legislation.

Construction of the Application of Consolidated Text in Indonesia in the Formation of Laws and Regulations with the Omnibus Law Concept

A consolidated text refers to the compilation or collection of all state laws, either generally or pertaining to a specific subject, into a single statute, code, or volume. It can be considered synonymous with terms like "laws drawn up" or "statutes drawn up."⁴⁶ Essentially, a consolidated text serves as a tool in the process of consolidating pre-existing legal products, which are subsequently classified by sector or subject. This classification facilitates the organization and accessibility of the consolidated legal framework.⁴⁷

⁴³ Lawn Geoff, "Improving Public Access to Legislation: The New Zealand Experience," *University of Technology Sydney Law Review* 4, no. 6 (2004), p. 47, <http://classic.austlii.edu.au/au/journals/UTSLawRw/2004/4.html>.

⁴⁴ See, for example, George Tanner "Confronting the Process of Statute-Making" in Rick Bigwood (ed) *The Statute: Making and Meaning* (Wellington, Lexis Nexis, 2004) 49 at 66–74 for a history of how legislative drafting has developed in New Zealand. In addition, see R I Carter *Statute Law in New Zealand* (5th ed, Lexis Nexis, Wellington, 20015) [Burrows and Carter] at 107–154. See also Law Commission "A New Interpretation Act" (NZLC R17, 1990); Law Commission "The Format of Legislation" (NZLC R27, 1993); and Law Commission "Legislation Manual Structure and Style" (NZLC R35, 1996).

⁴⁵ "Revision Bill Programme 2015 to 2017," retrieved April 30, 2023, <http://www.pco.govt.nz/pco-news/>.

⁴⁶ Henry Campbell Black, *Black's Law Dictionary: Definitions of The Terms and Phrases of American and English Jurisprudence, Ancient and Modern* (St. Paul: West Publishing Co., 1968), p. 381.

⁴⁷ Widiati, 'Achieving Accessibility of Legislation via Consolidation', p. 22.

In the case of material content contained in the consolidation regulation itself, the material will be unified based on the same cluster which then the determination will be based on needs and adjust at the time of the formation process. This can be for example when there are consolidated regulations of legal products that have clusters on local government, then all laws and regulations from the lowest to the highest level will be classified based on the order and will be regulated based on chapters that will be unified in a special volume.⁴⁸

This consolidated regulation serves nothing but to provide understanding to the public in terms of studying the legal products made.⁴⁹ So that the public is not required to see one by one regarding previous laws and regulations. The nature of these consolidated regulations is informal. This is because the goal is to make the public understand the material content of the legal products made. In conclusion, it will be easier for people to conclude the relationship with each other on legal products made with one another, because they are classified based on the same theme.

Due to the nature of the consolidated text which will later function as an informal text (as a form of convenience for the community in terms of accessibility), so that when this consolidated text will later be created and formed, the consolidated text will not provide certain legal implications because its nature is only to make it easier for readers to understand the substance of the law so that there is no need to see previous amendment laws. In conclusion, the consolidated text will show the relationship between one regulation and another and the provisions of the regulation are on the same topic.

With regard to the application of consolidated texts in Indonesia, the author feels that the application of consolidated texts in the formation of laws with the omnibus law method would be more ideal. Later, the form of the consolidated text was similar to the law, but the nature of its enforceability was not like a law that could regulate people's lives. In a sense, the consolidated text serves as a clarification containing all kinds of interpretations of the law. His involvement is not only carried out by the DPR, but also by the president and even to the DPD, especially when it comes to regional autonomy.⁵⁰

⁴⁸ Ibnu Sina Chandranegara, "Kompabilitas Penggunaan Metode Omnibus dalam Pembentukan Undang-Undang," *Jurnal Hukum IUS QUIA IUSTUM* 2, no. 27 (2020), p. 254, <https://doi.org/10.20885/iustum.vol27.iss2.art2>.

⁴⁹ Melanie R. Bueckert, 'Laws of the Constitution: Consolidated', *Canadian Law Library Review* 47, no. 21 (2022)

⁵⁰ Buana, 'Menakar Konsep Omnibus Law Dan Consolidation Law Untuk Harmonisasi Peraturan Perundang-Undangan Indonesia: Pendekatan Perbandingan Hukum Tata Negara', p. 319.

The application of the consolidated text is in accordance with the spirit built by "Article 46 paragraph (2), Article 47 paragraph (3) and Article 48 paragraph (2) of Law No. 12 of 2011 concerning the Establishment of Laws and Regulations as amended through Law No. 15 of 2019 (PPP Law)", where the 3 articles provide obligations in terms of harmonizing laws and regulations as well as rounding and optimizing in terms of strengthening the later the regulation is a regulation that comes from the DPR, president, or DPD. In addition, the current consolidation method has also been developed by the *hukumonline.com* site which can later be used as a business on the part of the website. In fact, the website can identify in terms of managing the benefits obtained from identifying consolidation, including:⁵¹

- a. All laws and regulations accompanied by their changes are displayed into a unified text
- b. The consolidated text includes some annotations from the judges' rulings whose rulings invalidate some articles or at least provide interpretations
- c. Include other linear rules
- d. Strive to always attach the latest changes
- e. Use a format that is easy for people to use and read
- f. Use more time efficient research

When the consolidated text is used and attached to legislation that has been formed by the omnibus law method, the location of the consolidated text is still placed in a position equivalent to the law or PERPU. This is because, the formation of the consolidated text still involves the role of the legislative institution, namely the DPR and also the executive which in this case is the president, while the DPD is also involved when discussing regional autonomy. Then, in terms of interpretation of several articles contained in the law formed by the omnibus law method, the DPR and the president still include the Constitutional Court to conduct a judicial review. The normative basis that becomes a reference in terms of the formation of consolidated texts, can refer to the articles contained in Law No. 15 of 2019, namely Article 6 paragraphs 1 (i) and (j) of the PPP Law which states that, "requires order and legal certainty and / or balance, harmony, and harmony in legislation".⁵²

⁵¹ Hukum Online, 'Peraturan Konsolidasi, Mudahnya Membaca Peraturan Dan Perubahannya Hanya Dalam Satu Naskah', 2019, <https://www.hukumonline.com/berita/a/peraturan-konsolidasi--mudahnya-membaca-peraturan-dan-perubahannya-hanya-dalam-1-naskah-lt5d08a2d4ea4a8/>.

⁵² Chandranegara, "Kompabilitas Penggunaan Metode Omnibus dalam Pembentukan Undang-Undang", p. 255.

Conclusion

This study concluded that the consolidation method represents a stage in the process of consolidating legal products, which are then categorized by sector. The concept of consolidated texts, influenced by the omnibus law concept originating from common law countries, serves as a valuable complement, enhancing accessibility and understanding of legal provisions. In countries like the UK, Australia, and New Zealand, consolidated texts are beneficial not only for citizens but also for businesspeople and policymakers. Within the Indonesian context, the implementation of the consolidation method or consolidated texts is ideally aimed at providing the public with a comprehensive understanding of legal products. It eliminates the need for individuals to review each individual law and regulation, allowing for easier identification of interconnections between legal provisions classified under the same theme. Consequently, consolidated texts serve as a means of clarification and interpretation, offering insights into various laws and regulations formulated using the omnibus law approach. It is crucial to note that consolidated texts do not possess regulatory or legislative nature. Instead, they function primarily to enhance comprehension and facilitate the study of legal products.

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