


Considering the Existence of Academic Draft as the Political Instrument of Law Development



Herry Wiyanto^{1*}

¹ Kejaksaan Agung Republik Indonesia, Doctoral Student at Faculty of Law, Universitas Diponegoro, Semarang, Indonesia

 herrydevi215@gmail.com

ARTICLE INFORMATION

History of Article

Submitted : December 23, 2021

Revised : February 22, 2021

Accepted : April 15, 2021

Copyrights



Copyrights is on Author(s), and publishing rights on Publisher. This work is licensed under a Creative Commons Attribution-NonCommercial-ShareAlike 4.0 International License.

Conflicting Interest Statement

All authors declared that there is no potential conflict of interest on publishing this article.

Funding

None

Publishing Ethical and Originality Statement

All authors declared that this work is original and has never been published in any form and in any media, nor is it under consideration for publication in any journal, and all sources cited in this work refer to the basic standards of scientific citation.

Cite this article as:

Wiyanto, H. (2021). Considering the Existence of Academic Draft as the Political Instrument of Law Development. *Unnes Law Journal: Jurnal Hukum Universitas Negeri Semarang*, 7(1), 115-128. <https://doi.org/10.15294/ulj.v7i1.43440>

Considering the Existence of Academic Draft as the Political Instrument of Law Development

Herry Wiyanto

ABSTRACT. The direction of law development follows the nation's ideas or goals, which is the formulation to achieve the state's goal as contained in the Preamble of the 1945 Constitution of the Republic of Indonesia, which is to protect protect the whole people of Indonesia and the entire homeland of Indonesia, and in order to advance general prosperity, to develop the nation's intellectual life, and to contribute to the implementation of a world order based on freedom, lasting peace and social justice. This paper answers some problems, including How is the essence of academic draft in making laws and regulations in Indonesia, To what extent is academic draft's contribution as an instrument of the national development and how is the ideal concept of academic draft as the instrument of instrument the national development. The essence of academic draft is the philosophical, sociological and juridical bases of a draft of law and regulation and the assessment and harmonization function and the existence of academic draft are designed as the "catalyst" of a product of legislation to be made so as not to be out of the appropriate principles. Academic draft's contribution to the current national law development is felt lacking because of the newly required bill making process after 2011 through Law 12 Year 2011 concerning Formation of Laws and Regulations. Besides, academic draft is not yet capable of harmonizing and balancing every interest group in every bill discussion. In the ideal concept, the role of academic draft as the assessment and harmonization in every Bill is capable of preventing overlapping regulation or interest out of the law intervening Bill making for the regulation to remain in the real law corridor. It also needs regulatory arrangement by academic draft arranging team to maintain the objectivity.

KEYWORDS. Academic Draft, Development Politics, Politics of Law

Considering the Existence of Academic Draft as the Political Instrument of Law Development

Herry Wiyanto

Introduction

Indonesia is a nation of law.¹ This confirmation is the manifestation of the long journey of Indonesia's history in the life of the people and of the nation. The nation's long struggle and experience direct the direction of development in Indonesia, including the law development.

The direction of law development follows the nation's ideas or goals, which is the formulation to achieve the state's goal as contained in the Preamble of the 1945 Constitution of the Republic of Indonesia, which is to protect protect the whole people of Indonesia and the entire homeland of Indonesia, and in order to advance general prosperity, to develop the nation's intellectual life, and to contribute to the implementation of a world order based on freedom, lasting peace and social justice.²

The law development idea is achieved, among others, through academic draft instrument. In its journey of making history, academic draft rises and falls in terms of form, content and even whether or not it is mandatory in each drafting laws and regulations.

¹ See the 1945 Constitution Article 1 paragraph 3 stating that Indonesia is a state based on the rule of law, which is the third amendment dated 9 September 2001.

² See Preamble of the Constitution fourth paragraph, in which the formulation serves as the national goals or the gate of every activity of all components of the state of Indonesia in various fields.

Here, there is tug of war of the urgency of academic draft to guide bill or any other regulations. Academic draft, which *nota bene* the substance is the philosophical, sociological and juridical background of a bill, is expected to be an instrument in law development politics. This role is a law idea (*das sollen*), since in the real world, formation of laws and regulations rises and falls along with sectoral and political interests, which are greatly dominant.

The Idea of the Existence of Academic Draft to balance and influence the law development politics may be realized, considering that study on academic draft may be objective, open and progressive. Academic draft determination on political interest, sectoral ego and other interest which are contradictory to the goals of the nation is expected considering the objectivity of a Bill review with philosophical, sociological and juridical bases.

According to the matters presented above, the following problems are formulated:

1. How is the essence of academic draft in arranging laws and regulations in Indonesia?
2. To what extent is academic draft's contribution as the instrument of the national development?
3. How is the ideal concept of academic draft as the instrument of the national development?

Method

This paper is a normative legal research which is more directed to research on legal systematic. The focus of the author is on the issue of academic papers contained in the laws and regulations in Indonesia. With this legal systematic research method, the authors identify the notion of an academic text which has a particular meaning in legal life itself.

The Essence of Academic Draft in Arranging Laws and Regulations in Indonesia

A. Academic Draft History

Academic Draft is not something strange in the process of law and regulation arrangement in Indonesia. In the BPHN environment, especially, Academic Draft arrangement activity has even existed from 1970s. Considering the importance of an Academic Draft of bill, BPHN considers it

ACADEMIC DRAFT AS THE POLITICAL INSTRUMENT

Politics of Law, Legal Drafting Law

necessary to make an explanatory note of the form, content, position and format of Academic Draft.³ On 29 December 1994, the National Law Development Agency (BPHN) issued technical guidelines on Academic Draft arrangement, through Decision of Head of National Law Development Agency No.G-159.PR.09.10 Year 1994 concerning Technical Guidelines on Arranging Academic Draft for Laws and Regulations.⁴

Further, Presidential Decree (Keppres) Number 188 Year 1998 concerning Bill Preparation Procedure mentions the term Academic Draft as “Academic Design”.⁵ Meanwhile, Law Number 10 Year 2004 concerning Formation of Laws and Regulations does not explicitly regulate Academic Draft. Academic Draft just “emerges” expressly through Presidential Regulation Number 68 Year 2005 concerning Preparation Procedure for Bill, Draft Government Regulation and Draft Presidential Regulation.⁶

The term Academic Draft in Decision of Head of the National Law Development Agency No.G-159.PR.09.10 Year 1994 and Presidential Decree Number 188 Year 1998, is facultative.⁷

Presidential Regulation of the Republic of Indonesia Number 61 Year 2005 concerning the Arrangement Procedure and Management of National Legislation Program Article 13 sets that it is mandatory to include academic draft in delivering the plan of Bill formation in case other Minister or Head

³ Prof. Dr. Ahmad M. Ramli, S.H., M.H., *Peran Naskah Akademik Dalam Penyusunan Rancangan Peraturan Perundang Undangan, Secara Teori Dan Praktik (Pembahasan Rancangan Undang-Undang Di DPR)* [The Role of Academic Draft in Bill Arrangement, Theoretically and Practically (Discussion on Bill at DPR)], Paper, p. 113

⁴ The decision explains the name/term, form and content, position and format of Academic Draft.

⁵ Article 3 paragraph (1) Presidential Decree 188/1998 states “Minister or leader of Bill Arrangement Initiating Institution may also first arrange academic design of the Bill that will be arranged”.

⁶ Article 5 paragraph (1) Presidential Regulation Number 68 year 2005 states that: “Initiator of Bill arrangement may first arrange Academic Draft concerning the materials to be regulated in the Bill”. Further, Article 5 paragraph (2) Presidential Regulation Number 68 Year 2005 states “Academic Draft arrangement as referred to in paragraph (1) is conducted by initiator together with Department of which duties and responsibilities in the field of laws and regulations and their implementation may be submitted to higher education institution or other third party with the capability therefor.

⁷ This may be observed in article 3 paragraph (1) which mentions the Academic Draft with the term Academic Design for law arrangement. The use of formulation of phrase “may also” contains the meaning of non-mandatory, thus Minister or leader of bill arrangement initiating institution may not arrange Academic Draft.

of Non-Department Government Institution has arranged Bill Academic Draft.

Meanwhile, Presidential Regulation of the Republic of Indonesia Number 68 Year 2005 concerning the Procedure to Prepare Bill, Draft Government Regulation in Lieu of Law, Draft Government Regulation and Draft Presidential Regulation does not contain the requirement to arrange Academic Draft to arrange laws and regulations.⁸

This is different when the government promulgates Law number 12 of 2011 concerning the Formation of Laws and Regulations, where academic draft exists together with national legislation program (Prolegnas).⁹ Therefore, with the existence of Law Number 12 year 2011 concerning the Formation of Laws and Regulations, academic draft is a requirement for arranging laws and regulations.

B. Definition of Academic Draft

According to Multiwati Darus, Academic Draft may be defined as an academic or scientific design.¹⁰ Jimly Asshiddiqie differentiates Academic Draft, Political Draft and Legal Draft. Academic Draft has different form or format from official bill. Academic design draft is arranged as the result of academic activity pursuant to the rational, critical, objective and impersonal principles of scientific knowledge. Political Draft is after academic draft has been decided by political authority holder to be official bill, thereafter the status of bill changes to political draft. Meanwhile, Legal Draft is after Bill has been approved by DPR and the Government, thus within 30 (thirty) days it must be signed by President and if it is not signed, it is declared valid under the provisions of Article 20 paragraph (5) the 1945 Constitution of the Republic of Indonesia. Thereafter, Political Draft changes to Legal Draft.¹¹

⁸ See article 5 paragraph 1 Presidential Regulation 68 year 2005 stating that in bill arrangement, it may first arrange Academic Draft...". The phrase "may" can be defined as facultative.

⁹ Article 19 Law No 12 year 2011 mentions the national legislation program which combines the national legislation program making must be accompanied with a Bill which must be preceded by academic draft.

¹⁰ In the paper of Technical Guidane, Jakarta, BPHN, 2007 entitled "*Fungsi dan Peran Academic Draft dalam penyusunan Prolegda Serta Metodologi Analisis dan Evaluasi Peraturan Perundang undangan* [Function and Role of Academic Draft in arranging Prolegda and Methodology, Analysis and Evaluation of Laws and Regulations] For more detail, see <http://nuswantorotejo.blogspot.com/2013/06/naskah-akademik-dalam-pembentukan.html#.VJKGy8m YPXs>, downloaded on 19 December 2014

¹¹ *Ibid.*

ACADEMIC DRAFT AS THE POLITICAL INSTRUMENT

Politics of Law, Legal Drafting Law

Under Law Number 12 Year 2011 concerning Formation of Laws and Regulations, academic draft is a draft which is the result of legal research or study and result of other research on a certain issue which is scientifically accountable regarding arrangement of the issue in a Bill, Draft Provincial Local Regulation or Draft Regency/City Local Regulation as solution to the community's legal issues or needs.¹² The position of Academic Draft is¹³:

1. Initial material containing the ideas of the urgency of approach, scope and content material of a Law or Regulation;
2. Something to taken into consideration in applying for permission to initiate arranging Bill/ RPP (Draft Presidential Regulation) to President;
3. Main material to arrange Bill.

Based on the history and definition of academic draft above, the essence or philosophy of academic draft is the philosophical, sociological and juridical bases of a bill.

Academic draft is designed as the “catalyst” of a legislation product to be made so as not to be out of the appropriate principles. The conception is actually not far from the paradigm of progressive law.¹⁴ The essence of the existence of academic draft is also close to the concept of justice law, legal certainty and usefulness.¹⁵

Academic Draft's Contribution as the Instrument of National Law Development

A. Law as the Instrument of National Development

The Indonesian order of law starts from the Proclamation of Independence on 17 August 1945, since with the Proclamation of Independence, the

¹² See article 1 paragraph 11 Law Number 12 Year 2011 concerning the Formation of Laws and Regulations.

¹³ See section three of the Position of Academic Draft in the Decision of Head of National Law Development Agency (BPHN) No. G.159. PR. 09. 10 Year 1994 concerning Technical Guidelines on Arranging Academic Draft for Laws and Regulations

¹⁴ The paradigm of progressive law is popularized by Late Prof. Satjipto Raharjo which basically viewing law not only from normative perspective, but also viewing the operation of law in the society and the importance of justice in law enforcement.

¹⁵ The concept is developed by Gustav Radbruch (1878 – 1949), who is a Germany law expert and law philosopher who emphasizes three aspects of law, namely justice, legal certainty and usefulness.

Republic of Indonesia is formed by the Indonesians. And thereafter, the Indonesians have made decision to determine and implement its own law.¹⁶

National Development is the effort performed by all components of the nation in achieving the nation's goals¹⁷. In the New Order era, the main bases of the national legal policy are contained in Resolution of the People's Consultative Assembly of the Republic of Indonesia (TAP MPR RI) IV / 1973 Concerning the Guidelines on State Policy (GBHN), regarding policy in legal field stating: "Guidance on legal field must be capable of directing and accommodating legal needs pursuant to the awareness of people's law which develops towards modernization according to the level of development progress in all fields so as to achieve order and legal certainty as the infrastructure to be directed to improved guidance of the Nation Unity, also serving as the facility in support of whole modernization and development.

Law Number 25 Year 2000 Concerning National Law Development (Propenas) Year 2000 – 2004 outlines ten directions of development policy in legal fields, one of which is to organize a whole and integrated national legal system.¹⁸ The statement implies law as the instrument of the national development.

The existing issue is that if the regulation is too detailed, it may inhibit the implementation of a duty. The too detailed procedural regulations force members of DPR to perform their duties.¹⁹

Legal order, including the politics of law and regulation making, should be kept away from any forms of manipulation. This conforms to Frederic Bastiat's opinion: "Law is manipulated! And state's power to regulate is manipulated together with it! Law, in my opinion, does not only deviate from its objective which is, correct, but is used to pursue a contradictory objective! Law becomes weapon for greed! Instead of reducing crime, the law itself is guilty for the crime it should deal with"²⁰

¹⁶ Zainal Asikin.2012. *Pengantar Tata Hukum Indonesia* [Introduction to the Indonesian Order of Law], Rajawali Pers: Jakarta, p. 5

¹⁷ See Article 1 Paragraph 2 Law of the Republic of Indonesia Number 25 Year 2004 concerning National Development Planning System.

¹⁸ See introduction of Law Number 25 of 2000 concerning National Legal Development (Propenas) Year 2000 – 2004 section priority of national development, in which the ten priorities are part of the priority to realize legal supremacy and good governance.

¹⁹ Patriani Siahaan. 2012. *Politik Hukum Pembentukan Undang-undang Pasca Amandemen UUD 1945* [Legal Politics of Law Formation After Amendment to the 1945 Constitution], p.141.

²⁰ Frederic Bastiat. 2010. *Hukum* [Law], Translation. Freedom Institute: Jakarta, p.1.

ACADEMIC DRAFT AS THE POLITICAL INSTRUMENT

Politics of Law, Legal Drafting Law

Indonesia is different from almost totally urbanized countries. There are too many existing local-traditional groups in Indonesia. The distance between Jakarta and Irian is not only physical, but also cultural, which may also be centuries away. Such condition requires specific legal wisdom and no uniform legal application can be conducted for the whole Indonesia.

Such social configuration poses additional burden to the government and lawmaking institution, to act more carefully. Law making cannot be conducted carelessly, in the sense of considering Indonesia as completely homogenous people. Way of acting based on such a perception may lead to fatal consequence.²¹

B. Academic Draft as the Instrument of Law

Development Politics

Law development politics cannot be separated from the definition of legal politics itself. Meanwhile, legal politics may simply be formulated as legal policy that will be or has been implemented nationally by the government; it also covers the definition of how politics influences law by viewing the existing power configuration behind the law making and enforcement.²²

On a more technical level, the underlying statement is actually, where is academic draft as the instrument of law development politics. Before answering, let us see a legislation discussion system made under Law Number 12 of 2011 concerning Formation of Laws and Regulations which mandates a national legislation program (prolegnas) system.²³ Meanwhile, the role of academic draft is set forth in article 19 Law Number 12 year 2011 concerning Formation of Laws and Regulations.

According to the article formulation, actually we can see the role of academic draft as a requirement to review and harmonize every Bill. What is meant by “review and harmonize” is the process to examine the correlation

²¹ Satjipto Rahardjo. 2007. *Biarkan Hukum Mengalir, Catatan Kritis Tentang Pergulatan Manusia dan Hukum* [Let the Law Flows, A Critical Note to Human and Law Interaction]. Kompas:Jakarta. p. 57

²² Mahfud MD. 2010. *Politik Hukum di Indonesia* [Legal Politics in Indonesia], Rajawali Pers: Jakarta, pp. 9-10

²³ Definition under on article 1 paragraph 9 Law no 12 year 2011 concerning Formation of Laws and Regulations, Prolegnas is the National Legislation Program, hereinafter referred to as Prolegnas, is an instrument to plan the Law formation program that is arranged on a planned, integrated and systematic manner.

of materials to be set forth in other Laws and Regulations vertically or horizontally in order to prevent overlapping regulations or authorities.²⁴

The other role of academic draft is to accelerate DPR's performance in completing Bill as mandated by the national legislation program in which the fact shows DPR's less satisfactory performance with regard to Bill completion.²⁵

Academic draft may become the balancing and harmonizing factor of various pull-push of interest in every Bill discussion. In fact, what is no less important is the parties involved in academic draft making. Academic draft implementer or maker's background, either from higher education institution or other party, will greatly influence the quality of academic draft.

It requires academic draft's high integrity so that the output of an academic draft will produce a comprehensive and objective review regarding the philosophy, sociology and jurisdiction of a bill.

1. The ideal concept of academic draft as the instrument of national law development

With regard to the national law development idea to form an ideal legal system as idealized, according to Soerjono Soekanto, in order to improve law development, it should at least pay attention to the requirements, one of which is to pay attention to the society's capability to comply with the law²⁶.

The paradigm of law development in Indonesia needs extra careful formulation since it requires a comprehensive review, from the perspective of sector, form and target of the law development. In addition, it should pay attention to the dynamics perspective, and the heterogeneity contained in the supporting components of the national legal system also needs to be given a place appropriately and proportionally in formulating the paradigm of law development.²⁷

²⁴ See explanatory note to article 19 Law 12 year 2011 concerning Formation of Laws and Regulations

²⁵ MEMBERS OF DPR RI period 2009-2014 are on capable of completing a half of the total Bill (RUU) targeted in the National Legislation Program (Prolegnas) 2009-2014, namely 247 Bills (RUUs). However, after the process of discussion full of dynamics, only 126 Bills are successfully brought to Law in the period 2009-2014, for more detail see <http://www.jurnas.com/emobile/12/2014-10-01/315763>, accessed on 19 December 2014.

²⁶ Soerjono Soekanto.1979 *Kegunaan Sosiologi Hukum Bagi Kalangan Hukum* [The Use of Legal Sociology to Legal Group]. Penerbit: Alumni : Bandung. p. 27

²⁷ Law Seminar of KHN, for more detail see <http://www.komisihukum.go.id/in>, accessed on 12 December 2014.

ACADEMIC DRAFT AS THE POLITICAL INSTRUMENT

Politics of Law, Legal Drafting Law

The development law theory developed by Prof. Mochtar Kusumaatmadja which is in line with positivism and utilitarianism tends to ignore justice. In the context of legislation planning, government's activity to bind itself to other countries through an international agreement is not clear and inconsistent. The reason is the weakness of law, its planning and study.²⁸

Considering that formulating law development paradigm requires a comprehensive study, philosophical approach also needs to be emphasized, not only juridical-formal and sociological study with partial dimension. Therefore, the discourse of the necessity to formulate law development paradigm should start from scientific forums, which will lead to a shared "awareness" among carriers of law development in the country.²⁹

Research on living law and society's level of readiness in response to law update is conducted systematically and in focus. The result of the research is also used to change the law education approach which is monolithic all this time. The change to the approach of law higher education will in turn support the fundamental bases of the law development paradigm in Indonesia since it is assumed to have been rejected from the bases with due accountability, either from ontological, epistemological or axiological aspects, including Indonesian context.³⁰

This should also apply to academic draft with strong study of philosophy of law comparable to its juridical, normative and sociological studies. The ethical, moral and holistic values contained in academic draft are expected to illuminate every frame of articles in the bill.

At least, the concept of academic draft contains the Pancasila legal system values which are full with prismatic, namely:³¹

- a. Prismatic between individualism and communalism
- b. Prismatic of religious state an secular state
- c. Prismatic *rechstaat* and the rule of law

For the law to operate appropriately, it requires power, but the existing power shall not violate individual's rights and interest, since law

²⁸ *Ibid.*

²⁹ Seminar KHN

³⁰ *Ibid.*

³¹ According to Prof. Mahfud MD, the prismatic conception is to take what is good from two contradictory concepts of law to be taken for complementary legal concept, similarly with the four principles of law making based on Pancasila legal system, which are to guarantee nation's integration, democracy is built with monocracy system, law creates social justice and civilized religious tolerance. This is delivered at a lecture of doctorate program of law science of Undip, in legal politics subject, in November 2014 in Jakarta.

also serve to protect human interest. In order to protect human interest, law should be implemented and enforced. It is through law enforcement that law becomes fact. Enforcing the law, there are three elements to be taken into consideration, namely legal certainty (*rechtssi-cherheit*), usefulness (*zweckmassigkeit*), and justice (*gerechtigheit*).³²

Realizing this nation's goals requires state organization with division of duties and authorities for all people. This is to be implemented by the government horizontally and vertically. Every officer implements their respective duties as an integral part of duties.³³

Public good should be legislator's objective, with public benefit as foundation of reasoning. Knowing society's true goodness is what shapes legislation science; the science is achieved by finding the way to realize the goodness. It is for the principle to function appropriately, which means that this principle shall become the base for a reasoning system³⁴:

Justice in the sense of legality is a quality related not only to the content of a positive legal order, but with its application. Justice in this sense is pursuant to and required by each positive law, either capitalistic, communistic, democratic or autocratic legal order.³⁵

Conclusion

This paper concluded that the essence of academic draft is the philosophical, sociological and juridical bases of a draft of law and regulation and the assessment and harmonization function and the existence of academic draft are designed as the "catalyst" of a product of legislation to be made so as not to be out of the appropriate principles. Academic draft's contribution to the current national law development is felt lacking because of the newly required bill making process after 2011 through Law 12 Year 2011 concerning Formation of Laws and Regulations. Besides, academic draft is not yet capable of harmonizing and balancing every interest group in

³² Agus Santoso, *Hukum, Moral dan Keadilan, Sebuah Kajian Filsafat Hukum* [Law, Moral and Justice, A Study on Philosophy of Law], Kencana Prenata Media Groeup, Jakarta, p. 5.

³³ R.Abdoel Djamali, PHI, Revision, Raja Grafindo, Jakarta, p. 128.

³⁴ Jeremy Bentham, *teori perundang-undangan, prinsip legislasi, hukum perdata dan pidana* [theories of legislation, principle of legislation, civil and criminal laws], translated from *The Theory of Legislation*, 2010, p. 26.

³⁵ Hans Kelsen, *Teori Umum tentang Hukum dan Negara* [General Theories of Law and State], translation.Nusa Media Bandung, 2011, p. 17.

ACADEMIC DRAFT AS THE POLITICAL INSTRUMENT

Politics of Law, Legal Drafting Law

every bill discussion. In the ideal concept, the role of academic as the assessment and harmonization in every Bill is capable of preventing overlapping regulation or interest out of the law intervening Bill making for the regulation to remain in the real law corridor. It also needs regulatory arrangement by academic draft arranging team to maintain the objectivity.

This research also suggest that regulation of academic draft should also regulate the mechanism to appoint the academic draft arranging team, thus an objective and comprehensive study on academic draft may be obtained. Academic draft should become the barometer in every bill discussion. The concerned barometer is for assessing the institution or ministry's performance that seriously produces excellent quality of academic draft. Academic draft should be capable of accelerating DPR's performance in completing Bill as mandated by the national legislation program which in fact shows DPR's dissatisfactory performance with regard to Bill completion.

References

- Asikin, Z. (2012). *Pengantar Tata Hukum Indonesia* [Introduction to Indonesian Order of Law], Rajawali Pers: Jakarta
- Bastiat, F. (2010). *Hukum* [Law], Translation. Freedom institute: Jakarta
- Bentham, J. (2010). *Teori Perundang-Undangan, Prinsip Legislasi, Hukum Perdata dan Pidana* [Theories of Legislation, Principle of Legislation, Civil and Criminal Laws].
- Djamali, A. (2003). *Pengantar Hukum Indonesia* [Introduction to Indonesian Law]. Raja Grafindo: Jakarta.
- Kelsen, H. (2011). *Teori Umum tentang Hukum dan Negara* [General Theories of Law and State], Translation. Bandung: Nusa Media.
- Mahfud MD. (2010). *Politik Hukum di Indonesia*. Jakarta: Rajawali Pers.
- Rahardjo, S. (2007). *Biarkan Hukum Mengalir, Catatan Kritis Tentang Pergulatan Manusia dan Hukum*. Jakarta: Kompas.
- Santoso, A. (2012). *Hukum, Moral dan Keadilan. Sebuah Kajian Filsafat Hukum*. Jakarta: Kencana Prenada Media Group.
- Siahaan, P. (2012). *Politik Hukum Pembentukan Undang-undang pasca Amandemen UUD 1945* [Legal Politics of Formation of Law Post-Amendment to the 1945 Constitution]
- Soekanto, S. (1979). *Kegunaan Sosiologi Hukum Bagi Kalangan Hukum*. Bandung: Alumni.

Laws and Regulations

Law Number 10 Year 2004 concerning Formation of Laws and Regulations
Law Number 12 year 2011 concerning Formation of Laws and Regulations

Decision of Head of National Law Development Agency No.G-159.PR.09.10 Year 1994 concerning Technical Guidelines on Arranging Academic Draft for Laws and Regulations.

Presidential Decision (Keppres) Number 188 Year 1998 concerning Bill Preparation Procedure mentions the term Academic Draft as "Academic Design".

Presidential Regulation Number 68 Year 2005 concerning Preparation Procedure for Bill, Draft Government Regulation and Draft Presidential Regulation.

Meanwhile, based on Presidential Regulation of the Republic of Indonesia Number 61 Year 2005 concerning the Arrangement Procedure and Management of National Legislation Program

Presidential Regulation of the Republic of Indonesia Number 68 Year 2005 concerning the Procedure to Prepare Bill.

Online Sources

[...] <http://nuswantorotejo.blogspot.com/2013/06/naskah-akademik-dalam-pembentukan.html#.VJKGy8mYPXs>, accessed on 19 December 2014.

[...] <http://www.jurnas.com/emobile/12/2014-10-01/315763>, accessed on 19 December 2014.

[...] <http://www.komisihukum.go.id/in>, accessed on 12 December 2014.

Others Document

Mutiawati Darus, *Fungsi dan Peran Naskah Akademik dalam penyusunan Prolegda Serta Metodologi Analisis dan Evaluasi Peraturan Perundang undangan* [Function and Role of Academic Draft in arranging Prolegda and Methodology, Analysis and Evaluation of Laws and Regulations]

Prof. Dr. Ahmad M. Ramli, S.H., M.H. *Peran Naskah Akademik Dalam Penyusunan Rancangan Peraturan Perundang Undangan, Secara Teori Dan Praktik Pembahasan Rancangan Undang-Undang Di DPR* [The Role of Academic Draft in Bill Arrangement, Theoretically and Practically Discussion on Bill at DPR].

About the Author(s)

Herry Wiyanto currently working and serving in Attorney General of Republic of Indonesia. He also pursuing a Doctoral Program at Faculty of Law, Universitas Diponegoro Semarang Indonesia.