

**LIMITATIONS OF REVISION THE LEGISLATIONS IN THE
PROCESS OF FORMULATING THE LEGISLATIONS IN
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ABSTRACT

The absence of a limit on the number of times a law is allowed to change is a problem in the law-making process. Considering that there is still a mechanism in the form of an option to revoke a law which can be replaced with a new one if more than half of its substance has been changed. However, there is a law that has made a third amendment and even a fourth amendment. This needs to be studied in the perspective of the formation of laws and regulations. The research method used is normative juridical. The results of the study indicate that there is no benchmark/standardization of how much maximum a law can be amended and if more substances have been changed, it should be revoked and replaced with a new one instead of repeated changes, so it needs to be regulated in Law No. 12 of 2011 concerning the Establishment of Legislation.

Keywords: *Limitation, Change, Law.*

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INTRODUCTION

The formation of laws and regulations is a series of processes that include the stages of planning, drafting, discussing, ratifying or determining, and enacting. The series of stages are as stipulated in Law Number 12 of 2011 concerning Formation of Legislation (UU P3). Although not all types of legislation have the same process at every stage. Laws are one type of legislation whose formation process can take a long time. The size of the old or not seen from the formation process includes various stages or procedures that must be passed. Starting from the planning stage by preparing a Draft Law (RUU) which must be accompanied by a research paper/study result (academic manuscript), then through the discussion

stage in the legislative body (DPRRI) to the promulgation stage. This is a “normal” procedure as regulated in the P3 Law. The steps or procedures that are long and take a long time are also due to the laws that were formed aimed at regulating the interests of the wider community with all the characteristics so that they must be carried out carefully and precisely in accordance with the guidelines for the formation of applicable laws and regulations.¹

The application of morality benchmarks into the process and results of the activities of the formation of laws, with the hope that the laws can be "moral". The key word in the effort to reconstruct the ontological concept of law is that law is " *a body of ideals, principles, and precepts for the adjustment of the relations of human beings and the ordering of their conduct in society* ." ²

Historically, the ratification of a law in Indonesia has been made up to 3 (three) times, such as the third amendment in the Law of the Republic of Indonesia Number 7 of 2020 concerning the Third Amendment to Law Number 24 of 2003 concerning the Constitutional Court.

Long before that, there was even a law that had been amended 4 (four) times as an example of the fourth amendment to the Law of the Republic of Indonesia Number 36 of 2008 concerning the Fourth Amendment to Law Number 7 of 1983 concerning Income Tax.

This needs to be studied, because in the process of forming laws and regulations there is no limit or benchmark for the maximum number of changes to a law. Because, apart from repeated changes, there is still a mechanism in the form of an option to revoke a law which can be replaced with a new one if more than half of its substance has been changed.

METHOD

The research method used is a normative juridical legal research method. The approach used is the statutory approach, the tracing system used is the *library research* method . ³With a statutory approach, you will find answers regarding the limits and standardization of changes to a law . ⁴

DISCUSSION

Regulation of Amendments to Laws in Law Number 12 of 2011 concerning the Establishment of Legislations

¹ Muhammad Fadli et al., “Pembentukan Undang-Undang Yang Mengikuti,” *Jurnal legislasi* “15 No. 01 (2018): 49–58.

² Kuswanto Kusnadi, "Moralitas Undang-Undang: Kajian Filosofis Terhadap Undang-Undang Nomor 17 Tahun 2014 Tentang Mpr, Dpr, Dpd Dan Dprd (Md3)," *Legal Reflections: Journal of Legal Studies* 3, no. 2 (2019): 209–222.

³ Peter Mahmud Marzuki, *Legal Research* (Jakarta: Kencana, 2011), p. 15.

⁴ Eka NAM Sihombing, Cynthia Hadita, *Penelitian Hukum Legal*, (Malang: Intrans Publishing, 2022), p. 48.

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Jimly Asshidiqie stated that the laws that have been enacted and promulgated must have gone through a very long process until they were finally passed into public property which are open, binding to the public. If a law that has been prepared, discussed and debated in such a way is finally enacted and promulgated accordingly.⁵

Meanwhile, A. Hamid S. Attamimi argues about the formation of good laws and regulations. Attamimi's opinion states that, the formation of appropriate Indonesian laws and regulations is as follows: The ideals of Indonesian law; The Principle of the State Based on Law and the Principle of Government based on the Constitution; Other principles.⁶

The formation of laws and regulations is a requirement in the framework of developing national laws that can only be realized if supported by good methods that bind all institutions authorized to make laws and regulations. Forming a statutory regulation certainly requires a good plan or plan to determine in which direction the statutory regulation is formed. With a good plan, a good legislation will also be formed. In planning the formation of legislation, of course, cannot be separated from what is called a concept. This concept will have an active role in forming good laws and regulations. Can form a statutory regulation that has certainty, justice, and benefits.⁷

Planning for the preparation of laws is carried out in the National Legislation Program (Prolegnas). Prolegnas is a priority scale for law-making programs in the context of realizing a national legal system. In Articles 66 to 74 of the Law concerning the Establishment of Legislations, the Draft Law (RUU) is carried out through 2 (two) levels of discussion. The two levels of discussion consist of level I discussions in commission meetings, joint commission meetings, Legislation Board meetings, Budget Board meetings, or Special Committee meetings and level II discussions in plenary meetings. At the plenary meeting, approval was made to ratify the bill into law.⁸

The provisions for amendments to the law in the Law of the Republic of Indonesia Number 12 of 2011 concerning the Establishment of Legislations are as follows:

⁵Jimly Asshiddiqie, 2012, *Hukum Acara Pengujian Undang-Undang*, Sinar Graphic, Jakarta, p.70.

⁶Maria Farida Indrati Soeprapto, *Ilmu Perundangundangan: Jenis, Fungsi, dan Materi Muatan*, Kanisius, Yogyakarta, 2010, p. 228.

⁷Ferry Irawan Febriansyah, "Konsep Pembentukan Peraturan Perundang-Undangan Di Indonesia," *Perspektif* 21, no. 3 (2016): 220–229, <http://jurnal-perspektif.org/index.php/perspektif/article/view/586>.

⁸<https://www.gresnews.com/berita/tips/117137-aturan-tentang-proses-perubahan-undang-undang/>

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1. If the laws and regulations have been amended more than 1 (one) time, between the word change and the word above, a description is inserted indicating how many times the change has been made, without detailing the previous changes.
2. If the amended statutory regulation has a short name, the amended statutory regulation may use the abbreviated name of the amended statutory regulation.
3. If the content of the new Laws and Regulations causes a change or replacement of all or part of the content of the old Laws and Regulations, the new Laws and Regulations must expressly stipulate the revocation of all or part of the contents of the existing Laws and Regulations. long.
4. Amendments to laws and regulations are made by:
 - a. insert or add material to the legislation ; or
 - b. delete or replace part of the material legislation - legislation.
5. Amendments to laws and regulations can be made to:
 - a. all or part of a book, chapter, section, paragraph, article, and/or paragraph; or
 - b. words, phrases, terms, sentences, numbers, and/or punctuation marks.
6. If the amended statutory regulations have a short name, the amended statutory regulations may use the abbreviated name of the amended statutory regulation.
7. Basically, the body of the Amendment Legislation consists of 2 (two) articles written in Roman numerals, which are as follows:
 - a. Article I contains the title of the Amended Legislation, by mentioning the State Gazette of the Republic of Indonesia and the Supplement to the State Gazette of the Republic of Indonesia which is placed between brackets and contains the changed material or norms. If the change material is more than one, each change material is detailed using Arabic numerals (1, 2, 3, and so on).
 - b. If the Laws and Regulations have been amended more than once, Article I contains, in addition to following the provisions in Number 193 letter a, also the year and number of the existing Amendment Legislation and the State Gazette of the Republic of Indonesia and the Supplement to the State Gazette of the Republic of Indonesia placed between brackets and broken down by lowercase (a, b, c, and so on) letters.
8. If a statutory regulation has undergone frequent changes that make it difficult for users of the statutory regulation, it is better if the statutory regulation is rearranged in a text in accordance with the changes that have been made, by making adjustments to:
 - a. sequence of chapters, sections, paragraphs, articles, paragraphs, numbers, or items;
 - b. mentions; and
 - c. spelling, if the amended Legislation is still written in the old spelling.

systematics for the title of amendment to a law is regulated in Chapter IV Forms of Draft Laws and Regulations in the Law of the Republic of Indonesia Number 12 of 2011 concerning the Establishment of Legislation . For the first amendment of a systematic law, it is regulated as follows:

UNDANG – UNDANG REPUBLIK INDONESIA NOMOR ...

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TAHUN ... TENTANG PERUBAHAN ATAS
UNDANG - UNDANG NOMOR ... TAHUN ... TENTANG ...
(untuk perubahan pertama)
atau
PERUBAHAN KEDUA ATAS UNDANG-UNDANG NOMOR ...
TAHUN ... TENTANG ...
(untuk perubahan kedua, dan seterusnya)

In the name of the amended statutory regulation, the phrase above is added in front of the title of the amended statutory regulation . In the *a quo Law* , it is only regulated up to the third amendment, and even then for Government Regulations, for example regulated in UUPPP:

PERATURAN PEMERINTAH REPUBLIK INDONESIA
NOMOR 21 TAHUN 2007
TENTANG PERUBAHAN KETIGA ATAS
PERATURAN PEMERINTAH
NOMOR 24 TAHUN 2004 TENTANG KEDUDUKAN
PROTOKOLER DAN KEUANGAN ANGGOTA
DEWAN PERWAKILAN RAKYAT DAERAH

In general, there is no systematic about the third, fourth, etc. amendments in the UUPPP, besides that the UUPPP also does not provide a benchmark or standardization of how much the maximum limit for changes to a law is. But in practice there is a Fourth Amendment Law, and even a Fifth Amendment Bill in the process of forming laws and regulations in Indonesia.

The Dynamics of Law Changes in the National Legislation Program

The theory that relevant with this paper is *stufenbau theory* by Hans Kelsen and then its progress by Hans Nawiasky, so there is correlation between the type of the regulation and the form; how to amendment it. The formation of a law or the formation of a statutory regulation is not a mono-disciplined activity of law alone. Several branches of science, such as political science and sociology, provide shares. The content of a state regulation, for example, is clearly a portion of political science and sociology; the form of a regulation is a contribution of legal dogmatics, the methodology comes from the sociology of law and planning sciences, and the process is supported by dogmatic constitutional law.⁹

⁹CST.Kansil et al, 2003, Kemahiran Membuat Perundang-undangan (Sebelum dan Sesudah tahun 1998). PT. Perca, Jakarta, p.37.

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Laws are laws in written form which are formed according to the authority to form laws. In the 1945 Constitution of the Republic of Indonesia, the authority to make laws rests with the House of Representatives (DPR) and the President. The formation of laws is part of legal development which includes the development of a national legal system with the aim of realizing state goals, starting from planning or programs in a rational, integrated, and systematic manner.¹⁰

Analyzing the dynamics of Law Changes in the National Legislation Program (Prolegnas), 16 of the 37 Bills in the 2021 Prolegnas are Bills on Amendments to Laws. And of the 16 Bills on Amendments to Law i5 (five) that have been promulgated, 1 (one) is in the drafting stage, 2 (two) are in a registered position, 2 (two) are in the discussion process, and 6 (six) are in the harmonization process. the tabulation of the Bill on Amendments to Laws in the 2021 Prolegnas is as follows:¹¹

No.	Bill title	proposer	Position/Status
1.	Bill on Amendments to Law Number 32 of 2002 concerning Broadcasting	DPR	Compilation
2.	Bill on Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia	DPR, GOVERNMENT	Done
3.	Bill on Amendments to Law Number 5 of 1990 concerning Conservation of Biological Natural Resources and Their Ecosystems	DPR	Harmonization
4.	Bill on Amendments to Law Number 38 of 2004 concerning Roads	DPR	Done
5.	Bill on Amendments to Law Number 19 of 2003 concerning State-Owned Enterprises	DPR	Harmonization
6.	Bill on Amendments to Law Number 24 of 2007 concerning Disaster Management	DPR	Discussion

¹⁰ Muhammad AS Hikam, *Deradikalisasi: Peran Masyarakat Sipil Indonesia Membendung Radikalisme* (Jakarta: PT Kompas Media Nusantara, 2016).

¹¹<https://www.dpr.go.id/uu/prolegnas>

7.	Bill on Amendments to Law Number 3 of 2005 concerning the National Sports System	DPR	Done
8.	Bill on Amendments to Law Number 20 of 2013 concerning Medical Education	DPR	Discussion
9.	Bill on Amendments to Law Number 5 of 2014 concerning State Civil Apparatus	DPR	Discussion
10.	Bill on Amendments to Law Number 1 of 1973 concerning the Indonesian Continental Shelf (RUU on the Continental Shelf)	GOVERNMENT	Discussion
11.	Bill on Amendments to Law Number 21 of 2001 concerning Special Autonomy for Papua Province	GOVERNMENT	Done
12.	Bill on Amendments to Law Number 35 of 2009 concerning Narcotics	GOVERNMENT	Discussion
13.	Bill on the Fifth Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures (RUU on Harmonization of Tax Regulations)	DPR, GOVERNMENT	Done
14.	Bill on Amendments to Law Number 12 of 1995 concerning Corrections	DPR, GOVERNMENT	Discussion
15.	Bill on Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions	GOVERNMENT	Registered
16.	Bill on Amendments to Law Number 15 of 2006 concerning the Supreme Audit Agency	DPR, GOVERNMENT	Registered

Observing point 13 in the table above, that the Bill on the Fifth Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures, which has been promulgated, does not become the Fifth Amendment but becomes Law of the Republic of Indonesia Number 7 of 2021 concerning Harmonization of Tax Regulations.

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There is even a Government Regulation concerning the Eighteenth Amendment to Government Regulation Number 7 of 1977 concerning the Regulation of Civil Servants' Salaries.

The benchmarks for changes to laws and regulations need to be constructed with standards in the form of:

- a. If 50 percent of the substance of the legislation that has changed since the 'first amendment' was made is not based on the last amendment, then it is better not to change it but to make an amendment with a new statutory regulation.
- b. If the systematics of laws and regulations have changed, so that no changes are made but replaced with new laws and regulations.

CONCLUSION

The problem is that there is no regulated benchmark or standardization of the maximum number of times changes to the law are made, causing problems in the formation of laws and regulations, besides that there is no systematic about the third, fourth, etc. changes in the UUPPP, besides that the UUPPP also does not provide benchmarks or standardize how many limits the maximum change of a law. But in practice there is a Fourth Amendment Law, and even a Fifth Amendment Bill in the process of forming laws and regulations in Indonesia. Thus, it is necessary to regulate the benchmark or standardization of the maximum number of times changes to the law in the UUPPP are needed.

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