

Academic Manuscripts in Several Countries: As The Basis For Regulation Formation

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ABSTRACT

Academic manuscripts fundamentally strive to offer a cognitive framework for crafting laws that are not driven by pseudo-interests, pseudo-needs, or pseudo-thinking. Nonetheless, the presence of academic manuscripts necessitates meticulous attention to their creation. This research aims to explore academic manuscripts in several countries regarding the formation of state regulations. The research method employs a normative juridical research type with case, conceptual, and regulation approaches. Another research approach is the comparative approach between Indonesia and other countries. The research findings explain that Overall, academic manuscripts make a highly valuable contribution to the process of forming regulations in a country by providing the knowledge, analysis, and recommendations needed for policymakers to make informed and effective decisions. In Indonesia, there is still ambiguity regarding the substance of regulations and the creation of academic manuscripts, thus affecting the regulations that are made. Meanwhile, in the European Union, Idaho, and Korea, the alignment between academic manuscripts and regulations is emphasized, with the creation of academic manuscripts overseen by academic institutions tasked with research and knowledge development. This has implications for both regulations and society.

Keywords: Academic Manuscript, Formation of State Regulations, The Influence of Academic Manuscripts

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INTRODUCTION

Academic manuscripts play a crucial role in shaping laws and regulations, serving as essential components during their drafting and in the formulation of regional regulations. During the planning phase of law and regulation development, academic manuscripts serve as foundational pillars for enhancing the substance of the draft legislation. This is due to several reasons: research reports offer justification within the policy mechanism, academic manuscripts provide guidelines for designers to gather, organize, and construct a conceptual framework for the forthcoming policy, and they assist planners in ensuring the design of norms that are well-structured, systematic, and logically coherent (Seidman et al., 2001).

Hence, academic manuscripts fundamentally strive to offer a cognitive framework for crafting laws that are not driven by pseudo-interests, pseudo-needs, or pseudo-thinking. Nonetheless, the presence of academic manuscripts necessitates meticulous attention to their creation. Not everyone should be tasked with producing academic manuscripts that serve as the foundation for crafting laws and regulations, as these legal frameworks form the backbone of governance within the State.

Laws and regulations consist of written instructions embodying accepted legal standards, set forth by governmental bodies or authorized entities in accordance with procedures outlined in legal frameworks. Bagir Manan clarified that although many conflate laws, statutes, and regulations, they are separate concepts. According to Bagir Manan, law is a subset of legislation, encompassing not only statutes but also various legal principles like custom, customary law, and jurisprudential law, while regulations encompass statutes and diverse legal directives (Jayantoro, 2018).

Essentially, the foundation of effective legislation must adhere to fundamental principles such as the rule of law and a government based on constitutional principles. This ensures that the formulation of laws and regulations avoids consequences like annulment, particularly concerning regional regulations. Specifically, as outlined in Regulation of the Minister of Home Affairs 2015 Number 80, annulment refers to the removal of sections or the entirety of regional regulations, regional head regulations, and DPRD regulations due to inconsistencies with other legal provisions. This example underscores the significant role played by academic manuscripts in guiding the creation of laws and regulations at the regional level, grounded in legal principles that underpin all procedural aspects.

From several problems about regulations based on academic manuscript in Indonesia, so that they require other references outside Indonesia to adjust the situation and conditions, the author aims to find out how the role of academic manuscript in several countries.

METHODS

Methods generally refer to the manner in which legal research is conducted. In simpler terms, research methods denote systematic approaches aimed at acquiring credible materials with the objective of discovering, refining, and substantiating knowledge, thereby serving as a reference for comprehending, resolving, and preempting issues (Efendi & Ibrahim, 2018).

This particular research employs normative juridical inquiry, which pertains to the systematic examination of legal frameworks or the organization of laws and regulations. It aligns with the author's investigation, which endeavors to assess academic manuscripts across various nations. The study employs both conceptual and legislative (Statue Approach) methodologies. The choice of the legislative approach is attributable to its direct relevance to laws and regulations. Additionally, the research adopts a comparative legal perspective, contrasting the role of academic manuscripts in Indonesia with those in other nations, notably the European Union, Idaho, and Korea. Descriptive analytical techniques are utilized

to elucidate the findings of the research and the literature review, presenting literature that corresponds with the research theme (Efendi, 2016).

DISCUSSION AND RESULT

The Role of Academic Manuscripts on Regulations in Indonesia

Many academics consider that the academic manuscripts that are made are only a complement to the interests of the initiators, so that what happens is that the academic manuscript adapts the draft law. Therefore, many academics open a Limited Liability Company (PT) and/or CV only to accommodate the preparation of academic manuscripts until their implementation. Of course, there is a special reason why academics act like this so that they abandon their academic dignity (Akmal & Nurhabibi, 2020).

Primarily, academic manuscripts possess distinct, crucial, and strategic significance across various realms, notably in the development of legal regulations such as laws and statutes. The crafting of academic manuscripts typically involves research endeavors focused on identifying evolving societal values, thereby ensuring that ensuing laws and regulations remain adaptive to societal needs. Grounded in this approach, the formulation of laws and regulations is informed by an understanding of societal dynamics, there are several stages that must be passed such as planning first, then drafting, then discussion, then ratification and determination (Hadi et al., 2020), at the planning stage, the preparation of academic manuscripts is carried out with a very in-depth study before forming laws and regulations, especially regional regulations (Marwan, 2017). Because of course, good laws and regulations can be seen and assessed from the perspective of success in achieving goals, then implementation, to the level of implementation (Febriansyah, 2016).

The caliber of legal content constitutes an integral aspect of the legislative process. This quality encompasses factors such as the anticipation of short-term revisions, ensuring long-term or sustainable applicability, harmonization with other legal frameworks, and coherence within the law's own norms.

In Article 1 number 7 of the Presidential Regulation of the Republic of Indonesia Number 68 of 2005 concerning Procedures for Preparing Draft Laws, Draft Government Regulations in Lieu of Laws, Draft Government Regulations and Draft Presidential Regulations, it is stated that Academic Manuscripts are manuscripts that can be scientifically accounted for conception that contain the background, purpose of preparation, goals to be realized and scope, scope, object or direction of the regulation of the Bill. Similarly, in law number 12 of 2011 in the general provisions section, it is clearly explained that academic manuscripts are the results of research and legal studies and other research results on a certain issue that can be scientifically accounted for.

In essence, the presence of academic manuscripts exemplifies the principle of alignment between material types and content in the process of crafting laws and regulations. This stems from the meticulous attention given to the content material governed by the laws and regulations during the preparation of academic manuscripts. It's imperative to approach this consideration from philosophical, sociological, and legal perspectives to ensure the necessity and feasibility of the resulting laws and regulations (Basyir, 2014).

Basically, position is a status, both for a person, place, and thing. In the Great Dictionary of the Indonesian Language, status is often differentiated between the meaning of status and social status. Position is also defined as a person's place or position in a social group, while social position is the place of a person who is in his social environment, as well as rights and obligations. Some of these terms have similar meanings that are attached to some different things or situations. On the other hand, position can also be interpreted as a person's position in carrying out a power where the person has influence and power over a certain territory.

Academic manuscripts are the results or products that result from research activities based on science and meet systematic methodological elements. The quality of legal material is an inseparable part of the process of forming laws. The quality in this case is how it can be anticipated that a law will be forced to be revised in the short term, its validity period is long or has a continuity nature, synergy with other laws and regulations, and synchronization between norms in the law itself.

As stated in Article 1 number 7 of the Presidential Regulation of the Republic of Indonesia Number 68 of 2005 concerning Procedures for Preparing Draft Laws, Draft Government Regulations in Lieu of Laws, Draft Government Regulations and Draft Presidential Regulations, then it is also stated definitively in Law 2011 number 12 that Academic Manuscripts are manuscripts that can be scientifically responsible regarding conceptions that contain backgrounds, objectives, targets to be realized and the scope, scope, scope, object or direction of regulation of the Draft Regulation (Hukum & Manusia, 2011).

The existence of academic manuscripts is actually an application of the principle of conformity between types and content materials in the formation of laws and regulations, because in the preparation of academic manuscripts, it is necessary to pay close attention to the content material that is regulated by the laws and regulations that are formed. This needs to be considered correctly from philosophical, sociological, and juridical aspects so that it can be seen that laws and regulations are indeed needed and can be implemented.

Academic manuscripts as stipulated in Law 12 of 2011 are manuscripts of research results or legal studies and other research results on a certain problem that can be scientifically accounted for regarding the regulation of these problems in a Draft Law, Draft Provincial Regional Regulations, or Draft Regency/City Regional Regulations as a solution to various kinds of problems and legal needs in the community itself.

The presence or existence of academic manuscripts in the way of making Regional Regulations is a reminder that one of the substances of academic manuscripts is a forum for the community and a way of legal equivalence in the way of making or categorizing laws and regulations, especially if the initiative to categorize or make academic manuscripts can start from the part of citizens or stakeholders in their respective autonomous regions. Academic manuscripts want to describe the reasons, various facts or background of problems or things that are urgent to compile a problem or thing so that it is very meaningful and pressing so that it needs to be regulated in the content of laws and regulations, therefore the

aspects that need to be observed are ideological, political, customary, social, economic, defense and security views.

This means that academic manuscripts are not only a concrete medium for the active participation of the community in the formation of Regional Regulations or with the active involvement of the community stakeholders, but also the results of research and other research studies on a certain problem that can be scientifically accounted for regarding the regulation of the problem in a Draft Law, Draft Provincial Regional Regulation, or the Draft Regency/City Regional Regulations as a solution to the problems and legal needs of the community. Departing from this, if it is seen from the academic side, the first academic manuscript serves as the basic material for the preparation of the Draft Regional Regulation or the Draft of one of the Legal Products in a certain Region which contains various kinds of ideas related to the urgency of the approach, the breadth of its scope and the substance of the content material of a Regional Regulation. Second, that academic manuscripts describe various reasons, facts or backgrounds about things that encourage the compilation of a problem so that such things become crucial and urgent to be regulated (Hofmann et al., 2016).

The Role of Academic Manuscript Against Regulation in the European Union

The existence of different linkages of rules and codes of conduct for different EU institutions and bodies can create confusion and disorientation felt by citizens who have to deal with different institutions and bodies. Therefore, it is necessary to include clear principles and standards in a written body that will apply throughout the board, which in itself will be a step forward in terms of transparency: knowledge of current laws by authorities and citizens will be enhanced, which in turn will support acceptance and obedience by both. In addition, in the writing of the law are elements of clear new wording of the Regulation which will later provide a series of advantages to being well structured, precise and written in an easy-to-use language, so that it will be published in all language versions, with the interest of the involvement of linguists-lawyers; The involvement of MPs in legislative procedures.

Regulation on administrative procedures has the potential to contribute to the goal of not only clarifying rights and obligations but also simplifying EU law by ensuring that procedures can follow a single rulebook, and thus contribute to better regulation by improving the overall quality of the legislature. The codification of key rules of administrative procedures at the level of EU institutions, agencies, offices and institutions will increase legal certainty, fill gaps in the EU legal system, and contribute to compliance with the rule of law (Khair, 2022). By clarifying the rights of individuals in the procedures that affect them, it will contribute to compliance with the principles of due process and promote procedural justice. Administrative procedural rules are necessary for the realization of the rights and interests of recipients and third parties in the implementation of EU law. But establishing clear procedural rules will also assist EU officials in structuring their work when interacting with citizens, businesses, and other legal entities, thus adding to the transparency and effectiveness of the legal system as a whole.

Consideration by the project team of the Committee on Legal Affairs on administrative law considering an in-depth analysis of the 'General Principles of the Law of Administrative Procedure of the European Union, which contains suggestions on the wording of the recital aimed at 'codifying' general principles (Yarni, 2014).

The draft shows that the codification of the law of the EU's administrative procedures is not only feasible, but also highly recommended. This will not only clarify and operationalize the relevant elements of the right to good administration enshrined in Art. 41 of the Charter of Fundamental Rights of the European Union in a way that can be understood by citizens and civil servants but will also ensure that the obligations arising from Art. 298 of the TFEU are complied with by the legislative bodies of the European Union. Art. 298 TFEU requires that legislative regulations establish provisions that enhance an open, efficient and independent administration of Europe.

The comments in this study are not only legal but also based on strategic considerations that the European Parliament's Legal Affairs Committee will seek to find the right balance between ensuring that its proposals are widely accepted by the European Parliament from various orientations. Overall, the draft Regulation must strike a balance between ensuring effective administration, on the one hand, and no less important, the protection of individual rights, and so on.

The problem of academic manuscripts against regulations in the European Union (EU) is closely related to several aspects involving copyright, open access, data protection, and cross-border research collaboration. Copyright is a major issue in academic publications in the EU. Traditional copyright regulations often restrict public access to academic manuscripts, which are usually under the paywall of commercial publishers. The European Union has sought to address this through the open access policies set out in Horizon 2020 and the European Research Council (ERC). However, challenges remain related to Licensing and Reuse, as different countries have different interpretations of copyright and Creative Commons licenses, making it difficult to harmonize at the European level. Furthermore, expenditures for Open Access, namely Fees for Open Access Publications (APC - Article Processing Charges) are often a burden for researchers or institutions, especially from countries with limited research funding (Walek, 2020).

The EU's General Data Protection Regulation (GDPR) enacted in May 2018 aims to protect the personal data of EU citizens. This has a significant impact on research involving personal data, for example, Anonymity and Pseudonymity i.e. The need to ensure anonymous or pseudonymous personal data is often a challenge in research in the social and health fields. Furthermore, Administrative compliance to meet GDPR requirements can be a complex and time-consuming process, which can slow down research progress.

EU regulations can also have an impact on international research collaboration, both within Europe and with partners outside Europe. Challenges that arise include:

1. **Regulatory Harmonization:** Differing regulations across EU member states and between EU and non-EU countries can create barriers to cross-border collaboration.

2. Data Access Agreements: Negotiating a compliant data access agreement across multiple jurisdictions can be a complex and time-consuming process.

The explanation above shows that the European Union in making legal regulations in its country uses academic manuscripts or referred to as proposals that are the basis for the Draft Regulation. In 2016 the European Union has focused on administrative order on making legal regulations (Yasin & Amaliyah, 2022).

The Role of Academic Manuscripts Against Regulation in Idaho

Academic manuscripts have an important role in the formation of regulations in Idaho, as in many other states in the United States. Usually, academic manuscripts are the basis for making policies or regulations imposed by the government, both at the state level and the federal level. In Idaho, academic manuscripts can influence the process of legislation, policymaking, and legal action by providing decision-makers with a basis for research, analysis, and recommendations (Crabbe, 2012).

Draft regulations, resolutions, and warnings to be presented to the Idaho Legislature are actually prepared in advance by the Research and Legislative Services Office. Legislation must have legislators to sponsor it before starting the rule-making process. When drafting the initial draft of laws and regulations, it aims to provide uniformity in style and format. All legislation that will be proposed in each session of the Idaho Legislature is reviewed by the drafters of the bill and processed by the Research and Legislation section. The influence of academic manuscripts on regulations in Idaho is as follows:

1. Provides Research Basis: Academic manuscripts often provide in-depth research on specific issues related to policy. This research can include data analysis, literature reviews, and thorough field research.
2. Provide Policy Analysis: Academic manuscripts can also provide an analysis of the policy implications of various actions that may be taken by the government. This helps decision-makers understand the consequences of their choices.
3. Provide Recommendations: Based on research and analysis, academic manuscripts often present policy recommendations that are supported by evidence. These recommendations can guide decision-makers in designing new regulations or updating existing regulations.
4. Building Public Awareness: Published academic manuscripts often help in building public awareness about certain issues. This can influence public opinion and urge decision-makers to act.
5. Informs Policymaking: Governments often rely on academic manuscripts in the policymaking process to ensure that decisions are based on strong evidence and careful analysis.

The determination of the purpose and content of the proposed law is the prerogative of the lawmaker. The function of the drafter is to design the actual legal language and put the law in a better form. It is important for lawmakers to provide as much material and background information as possible, as it is not the right or obligation of lawmakers to provide the substance of a law.

The state of Idaho, which is a state of the United States in the implementation of the drafting of regulations (acts), also uses academic manuscripts in which there is a researcher section in its institution to prepare the substance of the content of the law. Meanwhile, unlike drafters who are only in charge of designing the language of the law.

The Role of Academic Manuscripts on Regulations in Korea

In Korea, academic manuscripts have a very important role in the development of public policy, lawmaking, and decision-making processes. Academic manuscripts are often the basis for government policymaking, both at the national and local levels. The analysis, data, and recommendations contained in the text can be the basis for policymakers to take the right steps (Xanthaki, 2018). Furthermore, it is often used as a reference to formulate new laws or update existing laws. Research and analysis conducted in academic manuscripts help legislators understand complex issues and formulate effective policies to support higher education and research in universities. Many academic manuscripts are mandatory sources of reading in higher education programs, as well as the basis for further research in various fields of science, and are able to influence international discussions, especially in terms of economic, technological, and environmental policies (Kwon, 2011).

If the policy implemented is not supported by a strong academic manuscript, then the credibility of the policy can be questioned by the public and other stakeholders. Policies that are not based on solid analysis and accurate data tend to be less effective in achieving the desired goals, as well as missing out on opportunities to take better and more efficient steps can be missed if the policy is not based on relevant academic manuscripts (Senastri & Suryani, 2018).

The university has significant involvement in the creation of academic manuscripts, such as:

1. **Research:** Universities are often research centers that produce academic manuscripts. Lecturers and researchers at universities conduct in-depth research in various fields of science to produce new knowledge which is then presented in the form of academic papers.
2. **Education:** Universities also play a role in educating prospective academics and researchers who will then be involved in the creation of academic manuscripts. Graduate students and undergraduates are taught to conduct research and write academic manuscripts as part of their course of study.
3. **Consultation and Collaboration:** Universities often collaborate with governments, non-governmental organizations, and the private sector in developing academic papers. The university's involvement in these consultations and collaborations ensures that the academic manuscripts produced reflect a variety of different viewpoints and interests.

The Korean state in its institution has The Korea Legislation Research Institute (KLRI) which focuses on legislation research, in the sense that the institution oversees various aspects of research to evaluate legislation in making regulations. In addition, professional organizations that conduct academic research in fields related to legislation, such as regulation and public policy, and conduct professional training, as well as law firms that show interest in these

issues, should increase in number, and each government department as at least for the departments in charge of the implementation of major legislation should prepare the means to actively carry out legislation evaluation education. such as opening programs related to legislation in each field at educational and training institutions affiliated with it, so that professionals with practical skills in those fields can be deployed. Furthermore, professionals with extensive knowledge in legislative evaluation need to be involved from the early stages of legislation formulation, and therefore, it is necessary to establish conditions that allow trained external professionals to be actively deployed as legislative evaluation experts of each department (Sudrajat & Tamara, 2018).

Academic manuscripts in Korea are also the initial basis for the formation of regulations. The academic manuscript is made by academics under higher education institutions who have professional human resources in their work, because the objectivity of substance is highly prioritized by the State of Korea to become a developed country (Gusman, 2011).

Countries other than Indonesia in the implementation of regulation always use the basis in the Draft Law. The term that the State uses is a Draft Law Proposal proposed to the legislature for discussion. The creation of the proposal always contains background to content that has an analytical nature, uses the right methods, and clear results. This is made by a special institution in the field of research and legislation, while in Korea there is a special educational institution that uses the name of an institution that specializes in the legislative field to be a support from the scientific aspect for the country so that the legal products produced are in accordance with the needs of the community.

CONCLUSION

Some progressive countries utilize academic manuscripts in the drafting of legislative proposals. The creation of proposals must contain highly comprehensive content and incorporate academic elements within them. Therefore, specialized research institutions in legislative fields, often supported by educational institutions focusing on legislative scholarship, are responsible for drafting proposals. While academic manuscripts are inherently esteemed, the legal norms governing them lack clarity, resulting in legal uncertainty within regulations.

Countries other than Indonesia have indeed been focused and serious in the creation of academic manuscripts, often facilitated by academic institutions overseeing the drafting of academic manuscripts intended to serve as the foundation for regulations in the country. The rationale behind this focus in several countries besides Indonesia is to ensure that the regulations and/or policies created are in line with and have both internal and external influence on the country.

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