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The Future Impact of Technological Advancement in the Legal Drafting Process: A Human and Technology Analysis

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Abstract. Technology and information systems develop so fast and sometimes unexpectedly, but the law has not been able to balance the speed of the era of rapid change. Various obstacles in the process of forming laws and regulations were also faced, ranging from the problem of a long time, human resources, to the lack of use of information technology. In fact, technological advances have a significant impact in all sectors, including in terms of drafting legislation. This study analyzes how the use of technology in accelerating the preparation of laws and regulations in Indonesia. This study is a study conducted by the Center for Legal Drafting together with several local government agencies in Indonesia. The purpose of this study is to analyze the extent to which information technology is used in the process of drafting laws and regulations and the obstacles faced.

Keywords. Technology, Legal Drafting Process, Impact of Technology in Legal Sector

INTRODUCTION

Advances in Information Technology can be utilized not only to support the business and trade sector processes, but also to increase the effectiveness and efficiency of existing performance processes within an organization, including the government sector[1]. Increasing effectiveness in the government sector through improving the quality of public services is carried out by utilizing technology, one of which is through the concept of e-government.[2] This concept puts forward the administration of electronic-based government to improve the quality of public services to be more effective and efficient[3]. However, the application of information technology must of course be adapted to the needs and business processes of the organization so that it can support the organization in achieving its goals.[4][5]

In its development, the public service sector, including in how the government accelerates the formation of laws and regulations and facilitates access to information on the new regulations that have been passed, requires further use of technology.[6]–[11] In the same context, legal professionals, have long had access to software tools that automate document creation in ways that go far beyond the capabilities of traditional word processing applications. Shapes and models can be constructed to guide the configuration process, so that the right materials are put together in the correct order, depending on the actual situation and legal or practical judgment of a particular range[3]. Over the decades, a mature industry has evolved to provide tools, infrastructure, and content for computer-aided statutory drafting. However, many observers are aware that the technology used has significant drawbacks, and significant limitations remain.[3][12]

In the traditional practice of forming regulations, a mechanism for the creation of laws and regulations was one of them formed through the Political Law that was desired by the rulers at that time. So that the current law creation mechanism in Indonesia is based on the will and authority of the holder of power. Legal Politics can be described as the will or will of the state towards the law. That is, for what the law was created, what is the purpose of its creation and where is it going. [5][13][14] Political Law is the government's policy regarding which laws will be maintained, which laws will be replaced, which laws will be revised, and which laws will be abolished. Thus, through legal politics, the state makes a draft and plan for the development of national law in Indonesia. The achievement of legal development will encourage the achievement of legal goals which in turn lead to the creation of state goals. The purpose of law to create justice, expediency, order, and legal certainty cannot easily be fulfilled if every existing law contains state goals.

In the further context, rapidly, technology in general has changed the way people live, where the boundaries of space and time are no longer a big obstacle (borderless). The presence of the internet has had a significant impact on the development of science and technology today.[15]–[17] This technology is able to bring people to a better level of quality of life, at the same time there is also the potential for major problems as a result of the misuse of information technology.[18]

For Indonesia, the development of information technology has an influence on the increasingly convergent computing system (computing system) and communication system which encourages the integration of the two systems over long distances (telecommunication system). This long-distance communication system creates the globalization of information technology which in turn presents an information society. In Indonesia, the integration of technology, media and communication functions is known as Telematics.

From the point of view of systems theory, information allows freedom of action, control expenditure, efficient allocation of resources and time. Several previous studies have even confirmed that an open and free circulation of information is an optimal condition for the utilization of information. Meanwhile, information technology is a medium for the circulation of information itself. In the next stage, information technology can be used as a means to communicate with each other and be used by the community for dissemination and data retrieval as well as to provide services and business transactions.

Technological developments are always followed by supporting legal instruments. Moreover, today's information technology has become a double-edged sword, because in addition to contributing to the improvement of human welfare, progress, and civilization, it is also an effective means of unlawful acts. From the point of view of legal formation, legal instruments that follow the development of information and communication technology are essentially a form of formalizing the dynamics that are already running in society, through a bottom-up process. In other words, that the law that develops following the development of information and communication technology today reflects the dynamics of the civilization of society itself.

4 DEFINITION, SCOPE, SUBJECT AND METHODS OF RESEARCH

Definition

Terminological Limitation on Technology in Legal Sector

The word technology comes from the Greek *techne* which means art, craft, or skill and *logia* which means the word, study, or body of knowledge. Etymologically, technology is knowledge about making something. Technology

is the application of knowledge for a practical purpose. In a more formal definition, it is said that technology is the systematic application of scientific or other organized knowledge to practical tasks.

Some definitions and limitations of technology include, namely, Technology is a rational discipline design to assure the mastery of man over physical nature, through the application of scientifically determined laws. Technology also recognized as any systematized practical knowledge, based on experimentation and/or scientific theory, which enhances the capacity of society to produce goods and services, and which is embodied in productive skills, organization, or machinery.[19] The term technology when used in the teaching and learning contexts, refers to the application of contemporary educational theories and tools to design environments to carry out reliable and effective modes of teaching and learning.[19] Technology is concerned with designing aids and tools to perfect the mind.[20]

Legal Drafting Concept

Legal drafting is one of the important elements in legal practice. Legal drafting is a combination of two words, namely *legal* and *drafting*. Literally, the word *legal* means something that is in accordance with legal provisions, while *drafting* means designing/conceptualizing. Therefore, legal drafting can be interpreted briefly as drafting a legal document / drafting a contract or MoU. The definition and scope of legal drafting is different from the definition of legislative drafting. Legislative drafting relates to the drafting of laws and regulations made by authorized officials/institutions, namely in the form of laws, government regulations, presidential regulations, regional regulations, and other types of legislation.[14]

While legal drafting is related to legal drafts made by legal subjects, both individuals and/or legal entities (authorized institutions), namely in the form of MoU, cooperation agreements, agreements/contracts. So, there is a difference in the focus of discussion of the material between legislative drafting and legal drafting, although the general principles contained in the legislative drafting material are still needed for legal drafting material. A complete understanding of legal drafting is very important for legal practitioners in various fields and agencies. Legal practitioners are often faced with the situation of having to draft a legal plan for the legal interests of themselves, their clients, or their institutions. Likewise for government agencies, state institutions, and institutions, agencies, and commissions other than state institutions who have an interest in drafting legal drafts. The preparation of this legal drafting must take into account the theories, principles, and rules regulated by laws and regulations as well as universal legal norms, standards and practices. Thus, the validity of the legal drafting product that has been agreed upon and the legal interests of the parties preparing the legal drafting can be protected by law. But the fact is that there are still many who do not understand how to prepare legal drafting correctly and legally.[21][22]

Scope of Research

This study is limited to the use of technology and optimization of information technology in the preparation of laws and regulations, not in the legal sector in general. This study only examines the extent to which the process of drafting laws and regulations in Indonesia optimizes the development of information technology.

Research Sampling

This study examines the practices of legal drafting process by using technology information. The study examines some websites concerning to the topic such as *Jaringan Dokumentasi dan Informasi Hukum* (JDIH) and any online system providing the legal materials.

Research Methodology

The study uses analytical technology by identifying some online systems that related to the topic concerning legal drafting in whole process both in central government and local government.

FINDING AND DISCUSSIONS

² The form of the use of information technology in the preparation of legislation includes several things. *First*, the Online Meeting in Drafting Legislation. In the past, meetings to draft and discuss legislation were always held physically or offline. The forms of these meetings can be in the form of meetings, public examinations, public consultations, discussions, seminars, and other meetings. Meetings that discuss legislation intensively, within a few days in a special place, are often called consignment meetings or consignment meetings. Legislation formulation and discussion meetings are held within the government and within the DPR/DPD. Within the government environment, the formulation and discussion of legislation is coordinated by the Ministry of Law and Human Rights through a forum for harmonization of legislation. Within the DPR/DPD, the formulation and discussion of legislation is coordinated by the Legislation Body which is then discussed in the first and second level discussions before a draft law is passed into law. Since the spread of the COVID-19 outbreak, physical community gatherings, including meetings in the context of drafting legislation, have been limited. The use of video conferencing or virtual meetings is becoming commonly used for various communication needs. Legislators become familiar with applications or software such as Zoom, Google Meet, Microsoft Teams, Cisco Webex, and CloudX.

Second, the form of digital legislation (paperless). In the past, legal products were made in hardcopy, typed on paper. At that time, legislation was made manually typed. Furthermore, the manual typewriter was improved with an electric typewriter which sounded softer. Legislative documents issued can be in the form of laws, government regulations, presidential regulations, presidential decrees, presidential instructions, regional regulations, ministerial regulations, and other regulatory documents. Currently, other than legal products made in hardcopy, they are also available in digital form. Even people seem to have had enough of getting digital forms from the internet, and don't really care about the hardcopy form. They believe that what is circulated in digital form is authentic, just like the original. Meanwhile, the authentic form of a document should be in the form of a photo/scan of the original document and not a word document made in pdf format. This is because the file in the form of a word document still may not be the same as the authentic form.

Third, Digital Database and Online Legislation Dissemination. In the past, the database of laws that had been made was stored in the form of paper archives at the Ministry of State Secretariat and at the Ministry of Law and Human Rights, before being submitted to ANRI. People who need regulations often have to come directly to get a copy/photocopy of the desired legislation. Publishing companies take the initiative to help the public obtain these statutory documents by making and selling them in the form of a set of rules book. But now, the legal database is available in digital form and displayed online on the internet, in addition to the offline database.

Provision of legislation is carried out by both the government and the private sector. From government agencies, provision is made by almost all ministries and agencies on their respective websites. Among government agencies, the BPHN of the Ministry of Law and Human Rights is appointed to be the hub of the entire legal information documentation network (*Jaringan Dokumentasi dan Informasi Hukum*, JDIH). As for the private sector, there are several companies providing legal services in digital form.

Fourth, the use of programs and applications, where the use of programs and applications in the preparation of legislation in Indonesia has not been developed adequately. In various countries, programs and applications that support the preparation of legislation have been used, such as the Legislative Drafting Software Solution. In addition, there is a readability index application in the United States to measure whether or not a legislative formulation is easily understood by the public. Recently, several ministries have initiated the use of such programs and applications in the preparation of their legislative products.

Fifth, Electronic Signature in Legislative Documents. Until now, electronic signatures have not been used by legislation signed by the President. Likewise with other statutory documents, there is no data showing that electronic signatures are used in statutory documents. Based on our assessment, the legal basis for the use of this electronic signature is already available and sufficient.

CONCLUSION

This study highlighted and concluded that the process of drafting legislation in Indonesia has used various advances in digital technology, ranging from processes carried out online (online meetings) to document ratification through digital signatures. However, the use of technology in the preparation of legislation has not been able to encourage the acceleration of various signatories of legislation.

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