

The Significanicy of Academic Manuscripts Dignity on Legal Products

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ABSTRACT

Various norms in laws in Indonesian regional legislatures are not always colored by academic nuances that are substantially objective to draft regulations, more tend to be political interests. So that the results obtained on the legal product are of low quality because the legal product does not have an academic background. The purpose of this study was to determine the significanicy of the dignity of academic manuscript on the formation of Regional Regulations. The method used in this study uses a normative juridical method with a conceptual approach, legislation and legal research on the level of vertical and horizontal synchronization to examine the problems in this research. The results of the study indicate that academic manuscript have significanicy for the situation that is needed for the movement of the wheels of state government, especially in the regions. Because academic manuscript in the aspect of having a very high position in the formation of laws and regulations, the significanicy of which is to measure the good or bad of legal products.

MANUSCRIPT INFO

Manuscript History:

Received:

2022-10-28

Accepted:

2022-11-21

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Keywords:

*academic manuscript; the
dignity of legal products;
academic script scheme*



Widya Yuridika: Jurnal
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Cite this paper

Alfaris, M. R., & Miladiyanto, S. (2023). The Significanicy of Academic Manuscripts Dignity on Legal Products. *Widya Yuridika: Jurnal Hukum*, 6(1). doi: 10.31328/wy.v6i1.4117

Layout Version:

v.6.2023

PRELIMINARY

There is a public expression that academic products only serve as a complement to the formality of drafting a Law, but substantially it does not really help the formation of the Draft Law itself. Nevertheless, in the preparation of various norms in the law, it is not always colored by academic overtones, substantially the objective of the formation of the draft law is more tendentious towards political interests. So that the results found in these legal products are not of good quality because these legal products do not have an academic background. In fact, these academic products should be used as an initial foothold in discussions on drafting laws so as to produce quality laws and these laws can become the legal basis for local regional legislative bodies to make their respective regional regulations.

Because hierarchically, these legal products are related to each other according to the hierarchy.

The linkage of legal products such as laws and regional regulations is of course a full concentration that must be scrutinized by academics on their substantial aspects. The City of Malang in 2015 reported that there was a procedural defect in the 2009 Law Number 28 concerning regional taxes and regional levies, in which the aspect of determining tariffs must also be discussed in academic products because these products will direct the content of the Draft Regional Regulations.

Furthermore, there is a phrase that was published in online mass media with the title Academic Manuscripts Don't Have to Come from Higher Education¹ in which the content of the online news contains no reasons why the academic manuscript does not have to be from a Higher Education, but the title which was made in April 2012 became controversial and had no academic overtones because what was discussed was academic related. Problems related to academic manuscript are actually very fundamental in the running of the wheels of government in a country, especially Indonesia, to the regions with a concept that is often touted, namely the concept of a rule of law.

The problem with legal products is that essentially the law has a system. The theme of the legal system, if we reflect on Mochtar Kusumaatmaja, is that the definition of law does not only see law as a feature of the rules and principles that govern people's lives in the wider community, but it is also obligatory to cover an institution and process needed to create the law itself in reality. In this way, the legal system instruments consist of; 1. principles and rules; 2. Legal institutions; and 3. Various processes in the embodiment of legal principles.

In the perspective of making laws and regulations, a legal system consists of sub-systems namely law making institutions, implementing institutions, and parties that will be affected by these regulations (*Rule Occupants*)². Meanwhile, according to the National Legal Development Agency (BPHN), a legal system consists of several elements, among others:

1. Legal material or legal order consists of³:

- a. Legal Planning;
- b. Formation of Law;
- c. Legal Research;
- d. Legal Development.

To make legal material, attention must also be paid to legal political aspects that have been determined and can vary over time because there are various interests and needs.

2. Legal apparatus, namely individuals who have the duties and functions of counseling, application, enforcement, and legal services;
3. Physical legal facilities and infrastructure related to the legal context;
4. The legal culture adopted by the local community which incidentally is the officials; and
5. Legal education.

If you look at law as a system, as stated by Kess Schut, it is in line with what was stated by J.J.H. Bruggink that a legal system consists of three elements that are closely related to each other, namely the ideal element, operational elements and actual elements. The ideal element consists of various kinds of rules, norms, and principles. This element is called the "legal system". Furthermore, the operational element consists of the entire organization and various kinds of institutions, which are established in a legal system. While the actual

¹ <https://jabar.kemenkumham.go.id/berita-kanwil/berita-utama/naskah-akademik-tidak-harus-dari-perguruan-tinggi>

² Sofwan, S., Rusnan, R., & Ari Amalia, R. (2022). Pentingnya Naskah Akademik Dalam Penyusunan Peraturan Daerah. *Jurnal Diskresi*, 1(1).

³ Ibid,

elements are various decisions and concrete actions which are closely related to the system of meaning of the law itself, both from carrying out positions and from the community in which there is a legal system. Thus, the legal system can be understood and has a narrow and broad meaning. In a narrow sense it includes ideal elements, while in a broad sense it includes ideal, operational and actual elements ⁴.

The system of laws and regulations in Indonesia is a series of various legal elements that are written and interrelated with one another, influencing each other, and also being integrated which cannot be separated, which consists of; various principles, their formation and process of formation, their types, hierarchies, functions, promulgation, dissemination, enforcement and testing which are based on the philosophy of Pancasila and the 1945 constitution of the Republic of Indonesia⁵.

Academic manuscript as stated in the 2011 law number 12 related to the establishment of laws and regulations in which the phrase academic manuscript is stated clearly and unequivocally. This is an important aspect that in making laws and regulations must be accompanied by academic manuscript so that the legal products produced are in accordance with the needs of the community through these academic manuscript.

Various studies have discussed a lot about academic manuscripts which are more inclined to aspects of their roles and functions so that synchronization has not emerged related to the academic manuscript position scheme, so that there is still ambiguity in the status position, which causes discrepancies in academic manuscript and laws and regulations. Thus, the difference with this research is that it relates the level of vertical and horizontal synchronization to the spirit of the academic manuscript.

From some of the background explanations above, the problems in this study are related to and the *significanity* of the position of academic manuscript in the formation of legal products. So that the research has a goal based on the big theme, namely to find out the *significanity* of the dignity of academic manuscript and their position in legal products.

METHOD

The legal research method that the author uses is a normative juridical research type. Normative legal research is concerned with the theme of legal systematics or the systematics of laws and regulations. Relevant to the author's research that seeks to analyze and analyze the legal basis (*legal standing*) the dignity of an Academic manuscript in the Formation of Regional Regulations. The approach used in this study is a conceptual approach (Conceptual Approach) and statutory approach (Statue Approach). The reason the author uses a statutory approach is because this approach is very relevant in relation to statutory regulations⁶. Normative research can be understood as research that functions to test applicable norms or provisions. Because this type of normative research focuses on literature which is more often called doctrinal research⁷.

Normative research methods are basically more inclined to focus on law which only looks at it from the side of the norm by having a perspective, argumentative and critical nature in which these themes include research on legal principles, legal systematics, vertical and horizontal synchronization levels, and comparative law⁸. From this, this research is legal research on the level of vertical and horizontal synchronization, so that it can find an dignity position on academic manuscript on laws and regulations.

Research Approach

⁴ H. Natabaya, Sistem Peraturan Perundang-Undangan Indonesia, Jakarta: Konstitusi Press dan Tatanusa, 2008

⁵ Ibid,

⁶ S. Soekanto and S. Mamudji, Penelitian Hukum Normatif (Suatu Tinjauan Singkat), Jakarta: Rajawali Pers, 2014

⁷ Prof. Dr. Irwansyah, SH, MH. (2021). Penelitian Hukum, Pilihan Metode & Praktik Penulisan Artikel, Edisi Revisi. Yogyakarta: Mirra Buana Media, hlm. 42

⁸ Ibid, hlm 97

Another approach is to use a qualitative descriptive approach which explains descriptively the results of the analysis using the normative method obtained in research regarding the significance of dignity in academic manuscript in legal products.

RESULT AND DISCUSSION

Basically, significant is a word that is directly absorbed or taken from the English language "significant", the word has an important meaning, or also means. The word is often attached to a person and something. In this study, the term significant is used because academic manuscript are something that is the focus of research to find out the importance or significance of academic manuscript in the formation of laws and regulations.

From this, the word for the next addition is significance (there is an addition of *-itas*) which in English the addition becomes (*-ity*). The suffix *-ity* is used in this study to form nouns or something that is abstract⁹ on significant. This study uses the phrase Significance to form an equivalent word which has an important meaning or meaning for the dignity of academic manuscript.

By definition, script ¹⁰ is a human-made document that is made directly, such as written. The term manuscript can be interpreted as a written work written by hand (manually) or writted by the author himself which can be in the form of a series of letters, numbers, and pictures. While academic is a nature that is based on science. Thus, academic manuscripts are written works written by hand (manually) or typed by the author based on knowledge obtained from Higher Education.

The existence of academic manuscript certainly has a unique value (has its own characteristics), important, and strategic in various aspects, which in this case is the aspect of forming legal regulations, such as laws and regulations. In preparing the academic manuscript through research or research first by taking into account the values that develop in society, so that the legal regulations or legislation will be adaptive in the midst of society. In the formation of laws and regulations, there are several stages that must be passed, such as planning first, then drafting, then discussing, then ratifying and stipulating¹¹ at the planning stage, the preparation of academic manuscript is carried out with a very in-depth study before forming legislation (Marwan, 2017). Because of course good legal regulations or legislation can be seen and assessed from the perspective of their success in achieving goals, then implementing them, to the level of implementation¹².

The quality of law material is an inseparable part of the process of forming laws. Quality in this case is how one can anticipate the possibility that a law will have to be revised in the short term, have a long validity period or have a continuity nature, synergy with other laws and regulations, as well as synchronization between norms.

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 also stated definitively in the law law of 2011 number 12 that Academic manuscript are phrase that can be scientifically accounted for regarding the conception which contains the background, purposes of preparation, goals to be realized and the scope, scope, object or direction of regulation of the Draft Law¹³.

The existence of academic manuscript is actually an application of the principle of conformity between the type and content material in the formation of statutory regulations,

⁹ Gigit Mujiyanto & Sudjalil. (2021). Tipe modifikasi fonem kata serapan asing ke dalam Bahasa Indonesia pada surat kabar online berbahasa Indonesia. *KEMBARA: Jurnal Keilmuan Bahasa, Sastra, dan Pengajarannya*, 7(1).

¹⁰ Istilah naskah dapat dilihat pada KBBI.

¹¹ Undang-Undang Nomor 12 tahun 2011 pasal 1 angka 1 tentang pembentukan peraturan peraturan perundang-undangan pada BAB Ketentuan Umum

¹²Yuliandri. (2011). Azas-azas Pembentukan Peraturan Perundang-Undangan yang Baik, Gagasan Pembentukan Undang-undang Berkelanjutan. Jakarta: Raja Grafindo Persada.

¹³ Panduan praktis memahami perancangan peraturan daerah, Kementerian Hukum dan HAM RI 2011, tercantum juga pada UU tahun 2011 No. 12 dan juga Perpres Tahun 2014 Nomor 87.

because in the preparation of actual academic manuscript one must pay close attention to the content material regulated by the statutory regulations formed. Such things need to be properly considered from the philosophical, sociological and juridical aspects so that it can be seen that laws and regulations are indeed needed and can be implemented¹⁴.

Academic manuscripts as contained in law number 12 of 2011, namely research results or legal studies and other research results on a particular problem that can be accounted for scientifically regarding the regulation of the problem in a Draft Law, Draft Provincial Regulation, or Draft Regency/City Regional Regulations as a solution to various kinds of problems and legal needs in society.

The significance of the presence or existence of academic manuscript in the way of making Regional Regulations is a reminder that one of the substances of academic manuscript is a forum for the community as well as a way of legal equivalence in the way of making or categorizing laws and regulations, especially if the categorization initiative or the making of academic manuscript can start from part of the citizens or stake holders in their respective autonomous regions. Academic manuscript want to describe the reasons, various facts or background of the problem or things that are urgent to formulate 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 looked at are ideological views, political, customary, social, economic, defense and security.

Apart from being a concrete media for active community participation in the formation of Regional Regulations or with the active involvement of the community, the stake holders¹⁵, but also the results of research and other research studies on a particular problem that can be accounted for scientifically regarding the regulation of the problem in a Draft Law, Draft Provincial Regulation, or Draft Regency/City Regional Regulation as a solution to the problems and legal needs of society.

So, if we look at it from an academic point of view, the first academic manuscript serves as the basic material for drafting a Regional Regulation Draft or a Draft for one of the Legal Products in a certain Region, which contains various ideas related to the urgency of the approach, the extent of its scope, and the substance of the contents of a Regional Regulation. Second, that academic manuscript describe various reasons, facts or backgrounds on matters that encourage the formulation of a problem so that such matters become significant and urgent to be regulated in Regional Regulations.

The function of academic manuscript according to Harry Alexander, said that the position of academic manuscript is¹⁶:

1. Basic material contains ideas about the urgency, approach, scope and content of a regional regulation;
2. Basic material for consideration used in the application for permission to initiate the drafting of Raperda/Draft Regional Legal Products to the Regional Head;
3. Basic materials for the preparation of Draft regional regulations/other Regional Legal Product Drafts

A consideration of the importance of academic manuscript in the formation of laws and regulations, among others¹⁷:

¹⁴ Abdul Basyir, Pentingnya Naskah Akademik Dalam Pembentukan Peraturan Perundang-Undangan Untuk Mewujudkan Hukum Aspiratif Dan Responsif. Jurnal IUS Vol II Nomor 5 2014

¹⁵ Ann Seidman, Robert B. Seidman, dan Nalin Abeyesekere, 2001 (terjemahan), Penyusunan Rancangan Undang-undang dalam Perubahan Masyarakat yang Demokratis : sebuah Panduan untuk Pembuat rancangan Undang-undang, terjemahan, Edisi kedua, Proyek Elips II, Jakarta: Departemen kehakiman dan HAM Republik Indonesia 2014, halaman. 233

¹⁶ Alexander Harry, 2004. Panduan Perancangan Peraturan Daerah di Indonesia. Jakarta: XSYS. Solusindo

¹⁷ Disarikan dalam

Mayhendra Putra Kunia, , Emilda Kuspraningrum, Ivan Zairani Lisi, Pedoman Naskah Akademik PERDA Partisipatif (Urgensi, Strategi, dan Proses bagi Pembentukan Perda yang Baik), Kreasi Total Media (KTM), Yogyakarta, Cetakan Pertama, Juni 2007, halaman 31

1. Academic manuscripts or commonly abbreviated as NA are real media for community involvement in a process of forming or drafting laws and regulations, even initiatives for drafting or forming academic manuscript can originate or originate from the community;
2. Academic manuscript will describe various kinds of reasons, various facts or backgrounds of problems or various matters so that things that support and encourage the formulation of a problem or matter so that it is very significant, important and urgent to be regulated in a statutory regulation. Aspects that need attention are ideological, political, cultural, social, economic, defense and security aspects. The benefit is being able to know clearly and with certainty regarding the need to make a law and whether the law is really needed by the community;
3. Academic manuscript describe a review of a statutory regulation from a philosophical aspect (legal ideals), a sociological aspect (values that live in society), a juridical aspect (vertically and horizontally not contradicting various pre-existing regulations) and political aspects (political policies which form the basis for further policies and governance procedures).
4. Academic manuscript contribute an overview related to the substance of the material and the scope of a statutory regulation to be made. This is explained in detail regarding the concept of content, then the approaches and principles of legal material that need to be regulated, as well as the various paradigms of norms;
5. Academic manuscript contribute related to consideration in the framework of decision making for the executive and legislative for the formation of laws and regulations on various issues to be discussed in academic manuscript.

From the importance of academic manuscript in the preparation of laws and regulations, then of course this has a goal which will be able to reinforce the legal position regarding academic manuscript. The purpose of preparing academic manuscript is as follows:

1. To find out the development of theory and empirical practice of law material;
2. To evaluate and analyze laws and regulations related to the substance of the law;
3. To formulate the philosophical, sociological and juridical basis of the Law, as well as fourthly, formulate the goals to be manifested, the direction and scope of regulation, as well as the scope of the substance of the contents of the Law.

It is thus that academic manuscript in the formation of regional regulations are very significantly needed for certain regional social situations or conditions and also as a forum for community aspirations according to the needs of each region by using a comprehensive method because this academic manuscript will become the basis and reflection so that it has a good impact or bad regional regulations to their respective regions.

Academic Manuscript Dignity

Position is basically a status, whether for a person, place, or thing. In the Big Indonesian Dictionary, position is often distinguished between the notion of position (status) and social position. Position is also interpreted as a person's place or position in a social group, while social position is a person's place in his social environment, as well as rights and obligations. Some of these terms have similar meanings attached to different things or situations¹⁸. 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 area.

There is a teaching that often orders to always maintain an dignity. The word dignity is a word that comes from Arabic which is called *Muru'ah*¹⁹. Meanwhile, according to the Big Indonesian Dictionary, *Muru'ah* has the meaning of self-respect, self-respect and good name. The term is then absorbed into Indonesian and its meaning so that it becomes a word called

¹⁸ Raegen Mic Arthur Rambli. (2016). Kedudukan Dan Fungsi Naskah Akademik Dalam Pembentukan Peraturan Daerah Kabupaten/Kota Menurut UU No 12 Tahun 2011. *Lex Crimen*

¹⁹ Mukhtar Hadi dalam <https://ummetro.ac.id/menjaga-marwah-diri/>

dignity. This is related to *marwah* (in Indonesian language) which has the meaning of dignity, so in this study the word dignity is attached to academic manuscript where the academic text phrase has deep value in the scientific aspect, so that academic manuscript basically have their own dignity in various aspects of science, especially in Legal studies.

So in the context of the legal position of an academic manuscript is the status of a place or location in an academic manuscript which in a legal environment is capable of having very important power and influence in the formation of legislation, especially regional regulations. There are several legal bases related to academic manuscripts that have existed, among others:

1. Presidential Decree Number 188 of 1998, concerning the Formation of Legislation;
2. Law Number 10 of 2004 concerning Formation of Legislation;
3. Presidential Regulation Number 68 of 2005 concerning Procedures for Preparing Government Regulations in lieu of Laws, Draft Government Regulations, and Draft Presidential Regulations;
4. Law of 2011 Number 12 concerning Formation of Legislation
5. Law of 2022 Number 13 concerning the Second Amendment to Law No. 12 of 2011 concerning Formation of Legislation.
6. Presidential Regulation Number 87 of 2014 in conjunction with Presidential Regulation Number 76 of 2021, concerning Amendments to Presidential Regulation Number 87 of 2014 concerning Regulations for Implementing Law Number 12 of 2011 concerning Formation of Legislation;
7. Regulation of the Minister of Home Affairs Number 80 of 2015, concerning the Formation of Regional Legal Products.

Several regulations related to academic manuscript outline the drafting of laws and regulations which contain academic manuscript or academic words. Academic manuscript are always placed at an early stage in the preparation of regulations, such as,

Article 8 Number 1 Presidential Regulation of 2014 Number 87:

Paragraf 2

Penyusunan Naskah Akademik

Pasal 8

- (1) Naskah Akademik disusun dalam rangka penyusunan Rancangan Undang-Undang.

Article 19 Presidential Regulation of 2014 Number 87:

Pasal 19

- (1) Pemrakarsa mengusulkan daftar Rancangan Undang-Undang yang berasal dari Prolegnas jangka menengah untuk masuk dalam Prolegnas prioritas tahunan.
- (2) Usulan sebagaimana dimaksud pada ayat (1) harus melampirkan dokumen kesiapan teknis yang meliputi:
 - a. Naskah Akademik;
 - b. surat keterangan penyelarasan Naskah Akademik dari Menteri;
 - c. Rancangan Undang-Undang;
 - d. surat keterangan telah selesainya pelaksanaan rapat panitia antarkementerian dan/atau antarnon-kementerian dari Pemrakarsa; dan

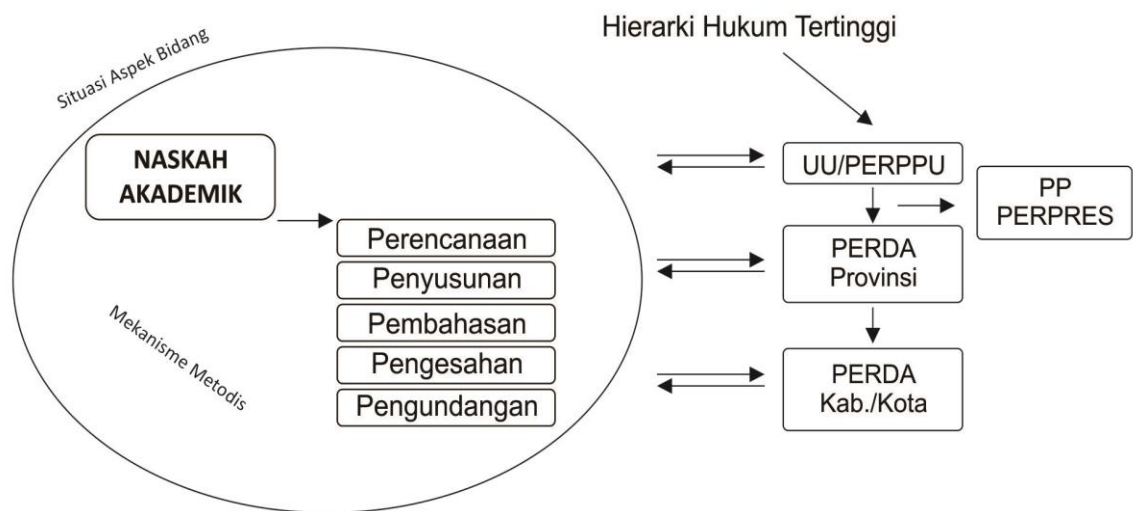
Article 43 Number 3, Law of 2011 Number 12:

- (3) Rancangan Undang-Undang yang berasal dari DPR, Presiden, atau DPD harus disertai Naskah Akademik.

Writing academic manuscript phrases in the three regulations shows that the position of academic manuscript is very significant and has a high hierarchical position in terms of the technique of drafting laws and regulations. If you look at CHAPTER III article 7 of the 2011 law Number 12 regarding the types, hierarchy and material content of laws and regulations which is emphasized in number 1 which reads that the types and hierarchies of laws and regulations consist of:

1. UUD 1945;
2. TAP MPR;
3. UU/PERPPU;
4. PP;
5. PERPRES;
6. PERDA Province; and
7. PERDA Regency/City

The legal hierarchy is neatly arranged according to the level of legal status. Departing from this, academic manuscript can be said to be on an equal footing with laws in terms of the technical stages of making regulations.



**Scheme of Significance of Academic Manuscript Dignity
(the research result)**

The scheme above shows the significance of the position of academic manuscript on the formation of laws and regulations. Departing from the situation of field aspects which cover many aspects ranging from social, cultural, economic, political, and so on as abstract material before entering the methodical mechanism stage. Furthermore, in the big circle, it is a unified whole and cannot be separated from one another related to processes that have mechanical and methodical properties in the process of academic manuscript. There are five stages of the process in which academic word are located in the first stage, namely planning. After going through these stages, it then proceeds towards legal products such as laws/government regulations in lieu of laws, provincial regional regulations, regency/city regional regulations which are in boxes which mean different and interrelated legal hierarchical statuses. however, the substantial nature of the law has a reciprocal relationship to academic manuscript.

Referring to Article 1 Number 1 in the 2011 law Number 12 confirms that the making of laws and regulations includes the stages of planning, drafting, discussing, validating or stipulating, and enacting. In the scheme above, at the planning stage, academic manuscript are prepared as a requirement for the preparation of the National Legislation Program and/or Regional Legislation Program where the National Legislation Program and/or Regional Legislation Program are planning instruments for the formulation of laws and regulations in a planned manner. Planning for the National Legislation Program and/or the Regional Legislation Program must include academic manuscript and draft laws as stated in articles 18 and 19 of the 2011 Law Number 12.

Dignity further academic manuscript can also be seen in the 2014 Presidential Regulation Number 87 which is contained in article 19 concerning the initiator's proposal for a bill originating from the National Legislation Program, including:

- a. Academic manuscript;
- b. Statement of alignment of academic manuscripts from the minister;
- c. Draft of law.
- d. A statement that the committee meeting has been completed
- e. A statement that the harmonization, unification and consolidation have been completed.

The dignity of academic manuscripts is still high for its position as the main reference source which is in the first place. In line with article 23, article 25 (4), and article 51 (a) where in every procedural stage related to preparation, academic manuscript are always the main point and consistent. In contrast to Part Six concerning

Procedures for Compiling Provincial Regulations and Regency/City Regional Regulations, Paragraph 1 concerning Compilation of Explanations or Statements and/or Academic manuscript, in article 67 (2) which reads:

- (2) Penyusunan penjelasan atau keterangan dan/atau Naskah Akademik sebagaimana dimaksud pada ayat (1) untuk Rancangan Peraturan Daerah Provinsi yang berasal dari pimpinan Satuan Kerja Perangkat Daerah mengikutsertakan biro hukum.

This clause shows that academic manuscript seem to be an option or not used as the main reference source in the formation of regional regulations, because these clauses are located in the provincial regional regulations section. From a dignity point of view, academic manuscript are placed at the end so that there is no consistent form of the Presidential Decree.

Basically, the manufacture of legal products is a vital sector because the results of the legal products themselves will have an impact on the wider community. Thus the making of academic manuscripts must really be of particular concern so that the results of these manuscripts can be accounted for in a comprehensive manner. This responsibility is from a scientific point of view, where if the legal product has defects, ambiguity, contradictions with norms, then the focus of the study is not only on the legal product itself, but of course the academic manuscript is of course also included in the focus of the study where the two are closely related to each other.

CLOSING

The significance of academic manuscript in the formation of laws and regulations is very important because academic manuscript form the basis for these laws and regulations. Academic manuscript become a benchmark for the good or bad of a regulation from the regional level to the national level. This is very important where academic manuscript essentially have a high position in the form of laws and/or provincial, district and city regional regulations. The aspect of accountability related to legal products widens, namely if there are problems with legal products, then the academic manuscript that are used as the basis for making these laws and regulations also come into the focus of problems on legal products.

Suggestion

There is still much to be studied regarding academic manuscript in the formation of laws and regulations from various legal and scientific perspectives in order to obtain more comprehensive results.

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