



The Essence of Legislation in Realizing a Legal State Based on Justice and Welfare

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ABSTRACT

This research examines the essence of legislation in realizing a legal state that focuses on justice and people's welfare. The rule of law is a fundamental basis for achieving justice and prosperity. Legislation, as the main instrument of the rule of law, is central to translating the values of justice and welfare into concrete practice. This research explores the definition and characteristics of the rule of law and the crucial role of legislation in upholding the supremacy of law, creating legal certainty, and realizing justice and prosperity for all people. Furthermore, this research identifies fundamental principles that must be realized in legislation to achieve justice and prosperity, such as, Rule of law and legal certainty, Justice and equality before the law, Benefit and welfare of the people, Accountability and transparency and Community participation in drafting legislation. This research also discusses challenges and solutions in realizing just and prosperous legislation. Factors that hinder the realization of just and prosperous legislation are analyzed, and efforts to overcome these challenges are proposed.

Keyword:

Rule of Law, Legislation, Justice, Welfare, Legal Certainty, Accountability, Transparency, Community Participation

INTRODUCTION

The rule of law is foundational in pursuing justice and prosperity for all individuals. Within a legal framework, the governance and societal operations are primarily guided by legal statutes (Suryaningsih et al., 2023). Essential to the attainment of justice and prosperity are laws that are equitable and beneficial to the

populace (Ornstein, 2017). The Rule of Law Concept encompasses the administration of a state based on established legal norms aimed at ensuring justice and legal assurance for its inhabitants (Radin, 2017). This principle is frequently linked with democratic ideals, human rights, and the legal system (Buyse, 2018). The

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enactment of legislation, serving as the primary tool of the rule of law, holds a pivotal position in realizing justice and well-being through practical implementation (Jakab & Kirchmair, 2021).

Fair and efficient legislation plays a crucial role in achieving the Rule of Law, ensuring that all parties, including law enforcement officers and government officials, abide by the law without any exceptions. Legal certainty is crucial for individuals to understand their rights and obligations comprehensively, empowering them to make informed decisions with assurance and a sense of stability (Gill & Ramachandran, 2021). The principle of justice and equality before the law demands that every individual be treated impartially under the law, free from any form of discrimination. Legislation should primarily focus on promoting the well-being and interests of the public, aiming to enhance their welfare and provide them with advantages. The core objective of sound legislation is to establish a system that upholds justice and enhances the prosperity of society. This notion of justice encompasses fair resource allocation, safeguarding of human rights, and ensuring that the law is enforced without bias (McGregor et al., 2019). Additionally, the concept of welfare involves enhancing the quality of life for individuals through sustainable social and economic strategies.

Even though Indonesia operates within the framework of a rule of law system, numerous obstacles are encountered during its application process (Turner et al., 2022). The rising instances of legal transgressions, disparities in societal status, and economic deprivation illustrate this predicament. A thorough examination of the fundamental principles of legal norms is imperative for establishing a legal framework that upholds fairness and economic well-being principles (Pramono & Mulia, 2023). It is anticipated

that this examination will aid in devising strategies to address the diverse hurdles that hinder the effective implementation of the rule of law in Indonesia.

Legislation plays a crucial role in establishing a legal state founded on principles of justice and prosperity, encompassing the development of legal standards that safeguard social justice and uphold the rights of individuals. It serves as a strategic instrument to advance state prosperity by providing a framework that ensures justice and prevents arbitrary actions against citizens. The concept of the welfare state necessitates an active engagement of the state in the equitable distribution of socio-economic justice, in opposition to the market-oriented liberal state model that often sidelines state interference (Mulia & Saputra, 2020). In Indonesia, the formulation of adaptive legislation holds significant importance in fostering a welfare state, as it must adhere to the principles delineated in statutes like Article 5 and Article 6 of Law Number 12 of 2011, guaranteeing that governmental policies mirror the welfare aspirations of the populace.

Additionally, the principle of *Freies Ermessen* grants governments a certain degree of discretion in proactively addressing social issues; however, this discretion must be counterbalanced by legal safeguards to prevent the misuse of authority and ensure proper governance (Muhammad & Husen, 2019). The incorporation of Islamic legal values like justice, integrity, and accountability can help bridge the gap between welfare and liberal state ideologies, thereby fostering a more compassionate economic framework (Riwanto & Suryaningsih, 2022). Moreover, the participation of legal professionals in welfare matters, exemplified by establishing the Legal Action Group and subsequent academic endeavors, highlights the significance of legal involvement in social policies aimed at

advancing welfare objectives. Thus, developing a well-crafted legislative structure grounded in principles of justice and prosperity is vital for successfully establishing a rule of law that promotes collective welfare, upholds the rights of all individuals, and serves the common good.

RESEARCH METHODS

This research uses a qualitative research methodology with a literature study approach. This approach was chosen because this research aims to understand and analyze concepts, theories, and principles related to the essence of legislation in realizing a legal state based on justice and prosperity (Creswell, 2014). This approach provides a comprehensive picture of the rule of law, justice, and prosperity concepts. The author describes and analyzes the essence of legislation in the context of realizing an ideal rule of law. This methodology involves reviewing extensive literature to understand fundamental theories and concepts related to the rule of law, social justice, and welfare. The author examines sources such as books, journal articles, research reports, and official documents to gain in-depth insights. This approach is used to analyze applicable laws and regulations within the theoretical framework that has been explained (Sugiyono, 2017). The normative juridical analysis evaluates the extent to which existing laws and regulations support or hinder the achievement of justice and prosperity.

RESULTS AND DISCUSSION

The rule of law is a governmental system in which the law serves as the primary foundation and directive for governing the state and societal interactions (Mulia, 2022). Within a rule of law framework, all entities, be it the government, law enforcement agencies, or the general populace, are bound by legal regulations without exemptions.

Legislation is the principal tool in a lawful society, functioning as a mechanism to establish, organize, and enforce legal standards that underpin the functioning of the state (Scott et al., 2011). The core of legislation within a rule of law context encompasses various crucial facets: Just Establishment of Laws: Legislation should embody fundamental justice principles, such as equal legal treatment and the absence of prejudice. Just laws form the basis for individuals to feel secure and have their rights upheld. The development of legislation must involve a democratic procedure that includes community engagement and equitable representation of diverse interests. Legal Clarity and Openness: Legislation ensures legal clarity by offering explicit, uniform, and foreseeable guidelines. Legal clarity instills a sense of assurance for individuals and legal entities in conducting their affairs.

Furthermore, the formulation and execution of laws should be transparent to enable the public to comprehend and adhere to the relevant regulations. Restriction of Authority: Legislation serves as a mechanism to confine and regulate state authority, preventing its misuse by governmental bodies or specific individuals. Through precise legal frameworks, every governmental action can be scrutinized and assessed by independent entities, such as the judiciary, to verify the legality and equity of such actions. Safeguarding Human Rights: Safeguarding human rights is a fundamental component of legislation within a rule of law system. Laws should be structured to safeguard each person's fundamental rights, encompassing liberties, security, and welfare. This safeguarding encompasses the entitlement to seek justice through an equitable and unbiased legal process. Advancement of Social Equity and Well-being: Legislation should bolster social equity and welfare advancement. The law upholds order,

fosters sustainability and progress, diminishes social disparities, and enhances citizens' quality of life. This encompasses enacting laws related to healthcare, education, and social welfare. Pedagogical and Normative Role: Legislation serves an instructive function by imparting moral and ethical guidance to society. The state establishes benchmarks of anticipated conduct and societal norms that must be respected through laws. The legal system also contributes to shaping a culture that emphasizes justice and the supremacy of the law.

Legislation serves as the primary tool in a legal system (Rodrigues, 2022). Its purpose is to uphold the supremacy of the law, ensuring that the law takes precedence over personal or group interests. In addition, legislation aims to establish legal certainty by clarifying the rights and obligations of the public, enabling informed and secure decision-making. Another crucial role of legislation is to promote justice and equality under the law, guaranteeing equal treatment for all individuals without bias. Furthermore, legislation is designed to enhance the well-being of society by providing benefits and welfare to the population, ultimately improving their quality of life. Lastly, legislation plays a vital role in maintaining order and stability within a nation by regulating public conduct and averting chaos and unrest.

Legislation within a rule-of-law nation must adhere to multiple fundamental principles (Bedner, 2010). Specifically, it must adhere to the principle of legality, indicating that it is grounded in law and does not contradict superior legal norms. Moreover, it must embody the principle of justice, ensuring impartial treatment for all parties without bias. Additionally, it should embody the principle of benefit, offering advantages to the populace and enhancing their well-being. Furthermore, it must embrace the

principle of openness, indicating that it is formulated with the community's involvement and is readily accessible to the general public. Lastly, it must uphold the principle of accountability, signifying the responsibility to the public for the creation and execution of the legislation.

Realizing equitable and prosperous legislation is a principal objective of the legal framework in numerous nations. Nevertheless, this endeavor encounters a range of intricate obstacles. Herein lies delineated some of the primary challenges and resolutions that can be enacted: 1). The impediments posed by political and economic interests frequently exert influence over the legislative procedure, resulting in laws that favor specific parties over the broader society. The remedy: Enhance mechanisms for checks and balances within the political structure and ensure the engagement of diverse stakeholders, including civil society and scholars, in the law-making process. 2). Insufficient public engagement in the legislative process may yield legal frameworks that fail to mirror the requirements and ambitions of the populace. The solution: Amplify the transparency of the legislative process and facilitate increased avenues for public involvement, such as through public consultations and the utilization of information technology. 3). Instances of corruption and power misuse by legislators can undermine the integrity and objectives of the legislation. The solution: Intensify oversight and accountability for public officials and enforce stringent penalties for individuals involved in corrupt practices. 4). Socioeconomic disparities can impede the efficacy of laws in achieving justice and prosperity across all societal strata. The solution: Embrace an inclusive approach to lawmaking that accounts for the impact on marginalized groups and endeavors to narrow inequalities. 5). Legislators lacking sufficient competence and proficiency may

generate legislation lacking in quality. The solution: Enhance the education and training of lawmakers, involve experts in the legislative process, and reform the legal system to ensure that the law-making process unfolds in a transparent, accountable, and participatory manner.

The subsequent challenges encompass legal deficiencies, with a shortage of access to legal provisions and judicial mechanisms, particularly for disenfranchised and susceptible populations. Furthermore, disparities in law enforcement present an issue, as affluent and influential individuals find it easier to evade repercussions. Another obstacle pertains to feeble law enforcement, stemming from the insufficient capabilities of law enforcement agents, including inadequate training and resources, political intervention in the enforcement procedure, and a pervasive culture of corruption. In addition, the deficiency of public involvement in the legislative process poses a challenge. The community still exhibits a limited engagement, hindered by restricted information and legal knowledge, as well as a lack of trust in the legislative process, all of which compound this predicament. The ultimate hurdle lies in the absence of responsibility, characterized by a lack of transparency in the formulation and execution of laws, coupled with ineffective monitoring mechanisms for governmental performance and the answerability of public servants.

Various efforts are required to address these challenges, including enhancing legal education to raise public awareness regarding their rights, obligations, and the significance of the legal system. Enhancements in legal training and education for marginalized and vulnerable communities are crucial, alongside improving access to legal information through diverse channels like mass media, the internet, and legal service

centers. The reinforcement of law enforcement is also pivotal, involving enhancing law enforcement officers' capabilities through ongoing training and education, providing sufficient resources like infrastructure, technology, and budget, and establishing an impartial and proficient justice system and mechanisms to combat corruption. Furthermore, community involvement can be fostered by creating opportunities for engagement in the legislative process through public consultations, hearings, and expression of aspirations. Improving public access to legal information and education is essential for fostering public trust in the legislative process. Ultimately, enhancing accountability can be attained by promoting transparency in the formulation and execution of laws, reinforcing monitoring mechanisms for state institutions' performance, and ensuring the accountability of public officials through rigorous reporting and sanctioning measures.

CONCLUSION

Based on the outcomes of the examination and deliberation, it can be inferred that the core of legislation within a framework of the rule of law is to establish a legal structure characterized by equity, transparency, and inclusivity, with the capacity to safeguard the entitlements and responsibilities of all individuals. Within the rule of law framework, legislation is required to function as a mechanism for realizing social equity, public welfare, and political steadiness. The obstacles encountered in achieving this objective encompass the intrusion of political and economic interests, inadequate public involvement, corruption, social disparity, and the competencies of policymakers. Strategies to address these obstacles consist of restructuring the legal framework, enhancing legal instruction and awareness, reinforcing oversight

bodies, amplifying civil society engagement, and integrating technology into the legislative procedures. Through implementing these strategies, it is anticipated that legislation will be able to establish enduring justice and prosperity, foster trust in the legal system, and establish a legal system grounded on equitable and prosperous legislation, which is a communal responsibility. An unwavering dedication from the administration, law enforcement authorities, and all sectors of society is imperative to materialize these lofty aspirations. Endeavors aimed at surmounting these obstacles must be pursued sustainably and targeted. Continuous supervision and assessment are imperative to ensure the efficacy of these endeavors in attaining their aims. With robust collaboration and dedication from all stakeholders, it aspires that Indonesia can materialize fair and prosperous legislation, thereby fostering a society that is equitable, prosperous, and flourishing.

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