

Pengaruh Hukum Aturan Peralihan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Terhadap Pembentukan Peraturan Perundang-Undangan = The Influence of the Legal Provisions on the Amendment of the Constitution of the Republic of Indonesia in 1945 on the Formation of Legislation

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Abstrak

Aturan Peralihan atau transitional provisions merupakan suatu prinsip transisi hukum yang berkaitan dengan adanya perubahan norma sehingga digunakan untuk tetap memberlakukan norma lama menuju keberlakuan norma baru yang sifatnya sekali-selesai. Sifat transisi tersebut kemudian diadopsi dalam Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 (UUD NRI 1945) untuk tetap memberlakukan segala peraturan perundang-undangan yang terbentuk dari sistem hukum lama. Pasal I Aturan Peralihan UUD NRI 1945 ini sesuai original intent mengamanatkan untuk segera dilakukan penyesuaian peraturan perundang-undangan agar berdasar kepada UUD hasil perubahan untuk mengakhiri masa transisi hukum. Namun karena tidak dicantumkan secara tegas batasan waktu transisi, sampai saat ini masih banyak peraturan perundang-undangan dari sistem hukum lama terus berlaku yang berdampak pada pengabaian UUD NRI 1945 dan pertentangan terhadap Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan. Pembangunan materi hukum nasional masuk dalam rencana pembangunan nasional, sehingga mestinya segala peraturan perundang-undangan yang lahir dari sistem hukum lama menjadi skala prioritas dalam perancangan Program Legislasi Nasional (Prolegnas) setiap tahunnya. Dengan menggunakan metode penelitian doktrinal, penelitian ini akan menganalisis teori perundang-undangan melihat Aturan Peralihan UUD NRI 1945 yang melingkupi pengkajian original intent. Selain itu akan menganalisis implementasi amanat dari original intent Aturan Peralihan UUD NRI 1945 yang akan memberikan gambaran pengaruh hukum terhadap pembentukan perundang-undangan nasional yang dapat menggunakan instrumen Prolegnas.

.....Transitional provisions or transitional provisions are a principle of legal transition related to changes in norms so that they are used to continue to enforce old norms towards the implementation of new norms which are one-time in nature. This transitional nature was later adopted in the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia) to continue to enforce all laws and regulations that were formed from the old legal system. Article I of the Transitional Rules of the 1945 Constitution of the Republic of Indonesia is in accordance with the original intent of mandating immediate adjustments to laws and regulations so that they are based on the amended Constitution to end the legal transition period. However, because no time limit for the transition is explicitly stated, to date there are still many laws and regulations from the old legal system that continue to apply which results in the abandonment of the 1945 Constitution of the Republic of Indonesia and conflicts with Law Number 12 of 2011 concerning the Formation of Legislation. The development of national legal materials is included in the national development plan, so that all laws and regulations that were born from the old legal system should become a priority scale in designing the National Legislation Program (Prolegnas) every year. By using the doctrinal research method, this study will analyze the theory of legislation looking at the

Transitional Rules of the 1945 Constitution of the Republic of Indonesia which cover the study of original intent. In addition, it will analyze the implementation of the mandate from the original intent of the Transitional Rules of the 1945 Constitution of the Republic of Indonesia which will provide an overview of the legal influence on the formation of national legislation that can use the Prolegnas instrument.