Design of Government Organs to Achieve Regulatory Reform in Indonesia: Learning from Malaysia and Vietnam

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Abstract

In an attempt to reform regulation in Indonesia, this study looks at best practice designs that have been adopted in Malaysia and Vietnam in order to determine the optimum government organ in the field of law. Indonesia ought to take a cue from the successful regulatory reform initiatives in Malaysia and Vietnam and establish dedicated agencies that have enhanced the calibre of legislation and regulations. This essay uses a normative legal approach that is descriptive as well as prescriptive. The talk explains how government bodies that deal with a variety of laws are designed to meet the specific demands of the several nations that make up the group. Vietnam adopts the institution's design, which is the assembly in the field of laws and regulations, which holds the position of the highest representative organ, while Malaysia adopts the design of a particular institution with the primary function of guaranteeing the entire process of forming laws and regulations that apply centrally. As per Law Number 15 of 2019 regarding Amendments to Law Number 12 of 2011 regarding the Establishment of Legislation, Indonesia is recommended to establish ministries or institutions whose specific design and existence must be determined as close to the center of government as possible.

I. Introduction

The creation of new rules is a necessary step toward the government's adoption of the most effective answer to all of the issues it faces. However, because it hasn't been able to actualize a national legal system that embodies the nation's legal ideals—namely, the construction of excellent laws and regulations—the creation of new rules occasionally backfires and sparks polemics. Furthermore, upon examination, Indonesia, a legal state that follows the Civil Law System, also referred to as the Continental European legal system, whose principal constituents are laws and regulations (written law), hierarchically necessitates legal order throughout the creation process.[1]

The most common legal problems stem from the adoption of laws and regulations that are seen to be insufficient to meet societal expectations and progress, leaving the law's enforceability behind and unable to promote national growth. Moreover, laws and regulations frequently fail to fulfill their intended purposes in an effective and efficient manner, which has negative effects on the law's functionality, its usability and efficiency, and its ability to provide legal certainty.[2]

There are two main types of difficulties with laws and regulations in the current state of affairs: issues with the laws and regulations per se, as well as issues with the way they are structured. First, there are a few reasons why there may be issues with legislation: a lack of coordination between agencies involved in the formation of laws and regulations, which can lead to high sectoral ego; an unsynchronized formation of laws and regulations at the central and regional levels during the planning stage; and a large number of laws and regulations that deviate from the provisions, resulting in regulatory obesity.

Regulatory reform, also known as the systematic organization of laws and regulations, is necessary to identify, address, and resolve issues that occur (debottlenecking) related to laws and regulations in order to promote the best possible performance of national development. Many countries use a wide understanding of what constitutes regulatory change. Enhancing the caliber of rules is the immediate aim of regulatory reform. However, the specifics of the regulatory change will vary from nation to nation depending on how complicated the issues are.[3]

Quoting from the *Organization on Economic Co-operation and Development* (OECD), Regulation is an essential matter to build economic and community welfare, as follows, *"Regulation is of critical importance in shaping the welfare of economies and society.*

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[1] Enny Nurbaningsih, *et al*., "Pengawasan terhadap Produk Hukum Daerah dalam Rangka Mewujudkan Pembangunan Hukum Nasional", Laporan Penelitian, Kerjasama Dewan Perwakilan Daerah Republik Indonesia dengan Pusat Kajian Dampak Regulasi dan Otonomi Daerah Fakultas Hukum Universitas Gadjah Mada, Yogyakarta, 2009, p. 1.

[2] Pedoman Evaluasi Peraturan Perundang-Undangan, Pedoman BPHN Nomor PHN-HN.01.03-07 Tahun 2019, p. 3.

[3] Diani Sadiawati, *et al*., 2015, *Strategi Nasional Reformasi Regulasi Dalam Mewujudkan Regulasi yang Sederhana dan Tertib*, Jakarta: Bappenas, p. 14.

The objective of regulatory policy is to ensure that Regulation works effectively and is in the public interest".[4] The primary goal of regulation formation is to ensure that the regulations are effective and serve the public interest. Therefore, with the existence of harmonic regulations, it will be possible to generate legal certainty, economic growth and support the implementation of social dynamics in an orderly manner and the implementation of state programs without complications.[5]

Nowadays, it has become a concern in various countries that there are many government organs in the field of rules and regulations with various designs that carry out government duties related to forming regulations. The nature of the growing trend of forming such organs is to support the efforts of the government to overcome regulatory problems that are carried out in a well-coordinated manner. The government organ is a reflection since the main law that affects society as a whole really requires the government to take proactive measures in order to assess all types of legally mandated items.

Observing the remnants of legislative branches of government that have effectively implemented regulatory reform thus far in East Asia (South Korea, Japan, and China) and Southeast Asia (Vietnam and Malaysia), these regions have been highly successful in enacting regulatory reform through these particular branches of government. Given that South Korea is leading the way among Asian nations hit by crises in implementing regulatory changes, other nations might learn from its success story.

The Ginseng Country undertook a regulatory reform strategy by forming the *Regulatory Reform Committee* (RRC), a ministry inside the government that serves as an *oversight body*. The objective of regulatory reform can be expressed in the *Basic Act on Administrative Regulation* as a way to improve the quality of life and national competitiveness by revoking or removing ineffective regulations and preventing the creation of new inefficient regulations. In this case, the government is attempting to merge every best possibility and instrument, as well as regulatory reform efforts, into a *'single central body'* that has sufficient authority.[6]

In the OECD study, several countries decided on the option of establishing specific teams, ministries, or institutions that aim to reform regulations and handle regulatory problems because their formation is thought to have a positive impact. There is heterogeneity in design, whether at the center of government, such as ministries, agencies, structured units, and specific secretariats. However, the OECD recommendations include at least 2 (two) designs that can be adopted by several countries focusing on the regulation field. *First*, the design of a specific institution or unit with a position directly under the head

[4] OECD, 2011, *Regulatory Policy and Governance: Supporting Economic Growth and Serving the Public Interest*, Paris: OECD Publishing, p. 17.

[5] Tim Peneliti Pusat Studi Hukum dan Kebijakan Indonesia, 2019, *Menggagas Arah Kebijakan Reformasi Regulasi di Indonesia: Prosiding Forum Akademik Kebijakan Reformasi Regulasi 2019*, Jakarta: Yayasan Studi Hukum dan Kebijakan Indonesia (YSHK), p. 4.

[6] Sadiawati, *et al*., 2015, *Strategi Nasional Reformasi …*, p. 18.

of the government that helps enhance the quality of regulatory design to act to evaluate the regulation, such as the *National Regulatory Control Council* (NRCC) in Germany. *Second*, as part of the constitutional cabinet, the design of a ministry that is comprehensive in managing all regulatory processes in the government area, including resolving inter-departmental disputes in terms of regulatory interpretation, such as the *Regulatory Reform Committee* (RRC) in South Korea.[7]

Creating a single monitoring board has been shown to greatly help with process focus and coherence in regulatory drafting, according to OECD statistics. To make sure that regulations complement overarching government policies, it is thought that having a government body empowered to oversee regulations near to the heart of government is essential. According to the OECD statement above, Dr. Cesar Cordova, Senior Director at Jacobs, Cordova & Associates, stated his opinion that an institution that focuses on the function of managing laws and regulations is needed when implementing regulatory reform in an international public lecture titled "Setting and Appraising Regulatory Institution" at the Indonesian College of Law Jentera Campus.[8]

In another discussion, Pedro Andres Amo and Delia Rodrigo stated that there are at least 3 (three) roles of government organs tasked with reforming regulations, which are as follows:[9]

1. *Coordination and Supervision*

   Coordination and supervision roles are characteristic of government organs such as Denmark, Mexico, and South Korea for regulatory reform. These roles are described below; *"A key role of oversight bodies is to coordinate and supervise, ensuring regulatory reform meets quality standards, complies with a general economic strategy, and that Regulatory Impact Analysis (RIA) is undertaken appropriately. In that sense, channels of communication between regulators and bodies must be properly settled."*
2. *The Challenge Function*

   This role is held in Australia, Denmark, and the UK, among others. The role is described below; *"The challenge function empowers the oversight institution with the competence of questioning regulation and its reforms by assessing the quality of regulatory policy through RIA and the gatekeeper function. It means the capacity to veto a regulation which does not fulfill the requirements of quality, giving the oversight body an important amount*

[7] Bayu Dwi Anggono, "Lembaga Khusus di Bidang Pembentukan Peraturan Perundang-undangan: Urgensi Adopsi dan Fungsinya dalam Meningkatkan Kualitas Peraturan Perundang-undangan di Indonesia", *Jurnal Legislasi Indonesia*, Vol. 17 No. 2, Juni 2020, p. 141.

[8] Pusat Studi Hukum & Kebijakan Indonesia, March 4th, 2020, "*Badan Pengelola Regulasi untuk Sistem Peraturan yang Lebih Baik*", Available on website: https://pshk.or.id/aktivitas/badan-pengelola-regulasi-untuk-sistem-peraturan-yang-lebih-baik/, Accessed on August 18th, 2023.

[9] Pedro Andres Amo and Delia Rodrigo, "Background Document on Oversight Bodies for Regulatory Reform", paper presented at the Regional Capacity-Building Seminar on Regulatory Tools and Policies, Tunisia, 2007, p. 4-6.

of power."

3. *Advice and Support*

   Government agencies in charge of regulatory matters in the UK and Japan have this position. This role's detailed description is as follows: "Offer guidance and assistance in fostering and sustaining a shift in regulators' culture. This often low-priority activity might be accomplished with comprehensive instructions, ongoing training, and, if needed, the provision of specialized skills even with the help of outside experts.

The design of government organs in the field of laws and regulations with varied kinds is tailored to the demands of the numerous countries that form them. Southeast Asia has also established government organs in the field of laws and regulations in the spirit of regulatory reform, including Malaysia, namely the *Malaysia Productivity Cooperation* (MPC), and Vietnam through the *Vietnam National Assembly*, as well as the adoption of *Regulatory Impact Analysis* (RIA). The member countries of ASEAN are increasingly prioritizing good regulatory practices through adopting RIAs, ASEAN Good Regulatory Practices, and government organs specially constituted to deal with laws and regulations to foster regulatory quality improvements.

As previously noted, establishing a specific government organ demonstrates that state organs in the constitutional system have experienced significant development. The concept of separation of powers in the Trias Politika, which includes executive, legislative, and judicial institutions, as developed by Montesquieu, has shifted to suit the needs required in government. The design, structure, and function of state organs, which are increasingly evolving in a variety of varieties and forms, are intriguing to analyze in more depth.

Based on what has been stated previously, scientific writing on the design of government organs in the sphere of law in the spirit of regulatory reform in Indonesia is required to achieve clarity of idea. Some issues that must be answered are how the design of government organs in the field of laws and regulations in Malaysia and Vietnam, then the ideal design in the formation of government organs in the field of laws and regulations in Indonesia so that this research paper is titled "Design of Government Organs to Realize Regulatory Reform in Indonesia: Learning from Malaysia and Vietnam."

2. Research Method

In this research, the author uses a normative juridical approach, namely legal research that employs secondary data sources. This research will not use observations or interviews with respondents and will instead concentrate on juridical concerns concerning legal principles related to the constitutional design of specific institutions for managing laws and regulations in an effort to harmonize regulations. Based on its nature, this research is explanatory, which means it describes or explains a symptom in greater depth and reinforces existing hypotheses. In terms of its form, this research is prescriptive, with the goal of providing solutions or suggestions to problems.

Furthermore, to enhance the argument in answering the problem, this paper will

quote legal theories and legal opinions from writings linked to the problem under research. This research collects data through library research and internet access. This research is carried out while using legal principles from comparative law and legal history. Then, the results of this research are expected to have a prescriptive-analytical form of research, namely research that aims to provide solutions or suggestions to overcome problems.

3. Results and Discussion

Design of Government Institutions in the Field of Laws and Regulations in Malaysia and Vietnam

In the mid-1960s, as countries' relations increased, the spirit of regulatory reform began to spread throughout the world, infecting diverse countries. Relations between countries often begin with political matters, but as these relations evolve, they begin to shift toward greater economic relations. The economic relationship is not as simple as it seems. Behind it, it turns out that economic rivalry exists between countries, which causes each country to compete to foster efficiency and increase its competitiveness.

Various nations have made various efforts to spur this high efficiency, one of which is arranging regulatory reform. The government is increasingly promoting regulatory reform measures as part of the deployment of state administration to support government activities. In general, the understanding of the efficiency terminology in this regulatory perspective is *"better policy results at lower cost."*[10] A number of countries then established their own jargon under the banner of *"better policy results at lower cost"*.

Several countries with the establishment of a specific government organ in the field of laws and regulations later realized this regulatory reform endeavor. The discourse on forming a specific organ that is centralized as a regulation is extensively embraced in several countries, including Malaysia and Vietnam. When reviewed, Malaysia and Vietnam are still regarded as developing countries, not to mention the progress in the regulation field. Both countries have a regulatory reform spirit, as evidenced by the adoption of the *Malaysia Productivity Cooperation* (MPC) in Malaysia and the *Vietnam National Assembly* in Vietnam, which focuses on regulating all matters in the field of laws and regulations in the country, as detailed below:

1. MALAYSIA

Malaysia is a member of ASEAN and is situated in close proximity to Indonesia. Due to its history as a British colony before becoming a British Commonwealth nation, Malaysia is a federal state with a political structure akin to that of the United Kingdom.[11] The duties of the Head of State are performed by a King, and Malaysian government issues are managed by a

[10] Sadiawati, *et al*., 2015, *Strategi Nasional Reformasi …*, p. 16.

[11] Merdeka.com, January 23rd, 2023, "*Bentuk Negara Malaysia Serta Sistem Pemerintahannya, Menarik Dipelajari*", Available on website: https://www.merdeka.com/jatim/bentuk-negara-malaysia-serta-sistem-pemerintahannya-menarik-dipelajari-kln.html, Accessed on September 22nd, 2023.

cabinet led by a Prime Minister. Malaysia's legislative power employs a bicameral system in the formulation of laws and regulations. The holders of legislative power are the Upper House, the Senate, or the Council of State, and the Lower House, the House of Representatives.[12]

Malaysia is renowned as a country that follows the *Anglo-Saxon* legal system, also known as the *Common Law System*, whose legal sources are court decisions through which legal rules are established and become rules that are typically binding on society. Apart from court decisions, there are also customs, written laws and regulations, and state administrative regulations. Malaysia is one of the countries that has the initiative and has moved to overcome various problems in the regulation field.

One of Malaysia's regulatory reform attempts is to appoint a specific entity, namely the *Malaysia Productivity Cooperation* (MPC), which has long been established since 1960 to handle all concerns pertaining to laws and regulations. Initially known as the *National Productivity Corporation* (NPC), the *Malaysia Productivity Cooperation* (MPC) was renamed and designated as an entity to enhance regulatory productivity in the country.

The MPC was originally created by the Malaysian government as part of its efforts to modernize governance and address the shortcomings of domestic regulations in order to take into account market competition, global connectivity, and scientific and technological advancements that power business and usher in the Fourth Industrial Revolution. The Malaysian government is adaptable in that it needs new approaches to create a thorough, current, and long-lasting policy and regulatory framework in order to take into account the changing economic environment.[13]

While stakeholders want transparent, consistent, and current laws and regulations, the Malaysian government is in charge of creating the favorable policy and regulatory framework needed to support civil society and excellent corporate competitiveness. Malaysia has established a rule-making methodology to strengthen Good Regulatory Practice (GRP) with the aim of achieving better regulation through planned analysis, informed decision-making, and transparency. This has been made possible by the increased use of regulatory management tools, such as regulatory impact assessment, ex-post evaluation, and stakeholder engagement, which have been promoted by the Asia-Pacific Economic Cooperation (APEC), World Bank, and OECD.

To facilitate the implementation of the GRP, the government introduced *the National Policy on the Development and Implementation of Regulations* (NPDIR) on July 15th, 2013, and designated the MPC as the institution in charge of implementing the NPDIR.

[12] Annisa Fianni Sisma, November 1st, 2022, "*Memahami Parlementer Kerajaan, Sistem Pemerintahan Malaysia*", Available on website: https://katadata.co.id/agung/berita/6360b144652cc/memahami-parlementer-kerajaan-sistem-pemerintahan-malaysia, , Accessed on September 22nd, 2023.

[13] Abdul Latif Abu Seman and Mohd Yazid Abdul Majid, "Good Regulatory Practice in Malaysia", in Ponciano Intal and Maria Pangestu, 2019, *Integrated and Connected Seamless ASEAN Economic Community*, Jakarta: Economic Research Institute for ASEAN and East Asia (ERIA), p. 242.

Subsequently, the NPDIR was improved based on the principles of the *Whole-of-Government Approach*, namely improving "*accountability, transparency, accessibility, inclusivity, cost-benefit assessment, predictability, and proportionality*," resulting in the launch of the *National Policy on Good Regulatory Practice* (NPGRP), which Malaysia's Principal Secretary approved on June 22nd, 2021.[14]

The MPC then creates a regulatory development guideline and mandates that all federal ministries and agencies—including departments, statutory bodies, and commissions—apply GRP and RIA when creating new regulations and revising old ones. Primary laws, regulations, and the derivative regulations derived from them are included in the intended scope. It is therefore possible to refer to the MPC as the gatekeeping body for any regulatory impact that the regulator forms. The MPC is also in charge of assessing the suitability of the regulations that have been created and educating all institutions on how to follow sound rulemaking practices.

It can be understood that GRP is a process, system, tool, and method for improving regulatory quality. GRP focuses on ensuring that the regulations released are fit for purpose and will achieve what was previously intended. It is explained that the principles of GRP are that every regulation must be clear and effective, have a strong legal and empirical basis, be evaluated for effectiveness, be consistent with other regulations and bilateral, regional, and international agreements, and not be a technical barrier or discriminatory. According to data from the World Bank, adopting GRPs can improve the regulatory environment and generate better conditions for sustainable growth and investment.[15]

MPC's true application is that it has created a system for lowering unnecessary regulatory burdens (RURB) along the whole value chain of the firm. Inadequate rules and poorly executed regulations lead to needless burdens. Disruptive technology have rendered many laws and regulatory frameworks outdated, yet they are still in place. Many additional regulations—especially those pertaining to state and municipal governments—are being examined for possible repeal. Due to these initiatives, data indicates that with the introduction of NPDRP in 2021 and NPDIR in 2013, the application of RIA has increased rapidly.

Despite being relatively recent, Malaysia's experience with GRP and MPC has generated exceptional outcomes. Malaysia has demonstrated that more business-friendly rules and a more favorable regulatory environment may contribute to economic growth and investment.[16] Creation of a comprehensive institutional ecosystem to support the the GRP,

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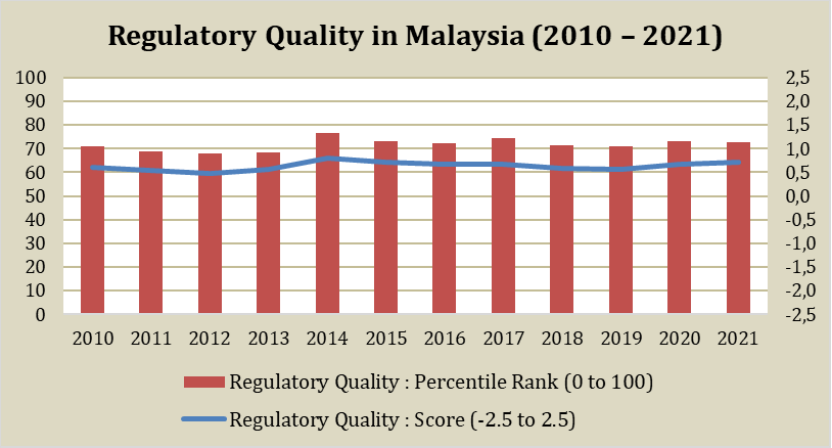
[14] Business Today, July 16th, 2021, "*Putrajaya Strengthens Regulatory Reform Agenda Through National Policy On Good Regulatory Practice*", Available on website: https://www.businesstoday.com.my/2021/07/16/putrajaya-strengthens-regulatory-reform-agenda-through-national-policy-on-good-regulatory-practice/, Accessed on September 23rd, 2023.

[15] Alfredo Gonzalez Briseno, *et al.*, 2019, *Regulatory Governance for Development and Growth: Malaysia's Experience with Good Regulatory Practices*, Washington, D.C.: World Bank, p. 9.

[16] *Ibid*.

enabling the careful execution of several elements of the reforms carried out by the Malaysian government. MPC reaffirmed that Malaysia's objective for regulatory reform to enhance the nation's business climate is on the right track. MPC stressed that efforts are being made steadily and deliberately to enhance the regulatory environment, which is a key component of the business climate, from national strategy to enforcement.

The regulatory quality component of GRP implementation in Malaysia has improved somewhat in recent years. Malaysia's regulatory quality has improved, according to statistics from the "Worldwide Governance Indicators (WGI) Project," with a percentile rank of 70.81 in 2010 and a percentile rank of 72.60 in 2021, indicating a score rise of 0.61 to 0.72 (the overall score goes from -2.5 to 2.5). The evolution of Malaysia's percentile rank and regulatory quality score between 2010 and 2021 is shown in Graph 1.



Grafik 1. Regulatory Quality In Malaysia
From: https://info.worldbank.org/governance/wgi/

According to the graph, there has been an increase in regulatory quality scores and rankings in Malaysia in recent years. The rest of Malaysia's scores and rankings are more stable. It places Malaysia among the Southeast Asian countries with a fairly good regulatory quality score and ranking. The implementation of GRP, which positively impacts the score and rating of regulatory quality, is also inextricably linked to the MPC's role and existence.

2. VIETNAM

As we go on to the next topic of discussion, Vietnam is a member of ASEAN. Vietnam is a single-party communist country. Vietnam's head of state, the prime minister, assists the president.[17] Regarding the creation of laws and regulations in Vietnam, the 498-member Vietnam National Assembly is the government body responsible for this task. The Vietnam National Assembly is considered to be the highest authority in Vietnam since it possesses legislative authority and is positioned above the administration and judiciary.

[17] Silvia Estefina Subitmele, December 29th, 2022, "*Ibukota Negara Vietnam Adalah Hanoi, Ketahui Bentuk Pemerintahannya*", Available on website: https://www.liputan6.com/hot/read/5166711/ibukota-negara-vietnam-adalah-hanoi-ketahui-bentuk-pemerintahannya, Accessed on September 22nd, 2023.

Representative organ in the constitution, or in full, *"the highest representative body of the People and the highest body of State power of the Socialist Republic of Vietnam*." This organ of government has supreme supervisory powers over all government functions as well as the implementation of the constitution and laws.[18]

Vietnam has also made major contributions to national liberation, reunification, development, and defense through the *Vietnam National Assembly* and the adoption of the RIA. It has achieved national unity, renovation, and development. The *Vietnam National Assembly* is the only specific organ in charge of formulating and amending the constitution and laws. Furthermore, the *Vietnam National Assembly* formulates the principles and procedures for drafting regulations, including community needs, consultation, and coordination in implementing RIA.

The *Vietnam National Assembly* has fulfilled its function as a legislator and performed its legislative function. Since its first term, the *Vietnam National Assembly* has laid a solid legal foundation for law-governed development, with governance by and for the people. The existence of the *Vietnam National Assembly* has also contributed significantly to national development and international integration. Many laws have been promulgated to ensure the rights of the people to social tenure and management in accordance with the constitution and laws. The *Vietnam National Assembly* has provided guidelines for the procedure of drafting and discussing draft laws and regulations in a centralized manner so that the resulting law products can be well-controlled.[19]

Vietnam's regulatory reform journey began with streamlining administrative procedures, which started in the 1990s. However, the work's substance only became apparent in the 2000s, particularly since 2007. As another direction of work, Vietnam has made significant efforts to better harmonize domestic laws in line with international norms and practices. The OECD also notes that the *Law on Promulgation and Legal Normative Documents*, introduced in 2008 and updated twice in 2015 and 2020, announces the obligation to be implemented by all levels of government and that the *Vietnam National Assembly* conducts regulatory impact assessments through RIA when developing its legal documents.

This law requires the implementation of RIA to review the economic, social, legal, and/or administrative impacts of draft laws and regulations proposals. Furthermore, the law appoints the *Ministry of Justice* (MOJ) as the entity in charge of coordinating and assessing lawmaking. *The Administrative Procedure Control Agency* (APCA) shall report to the Prime Minister on the effects of administrative procedure changes regularly under

[18] The University of Melbourne, "*Southeast Asian Region Countries Law: Vietnam*", Available on website: https://unimelb.libguides.com/c.php?g=930183&p=6722023, Accessed on September 22nd, 2023.

[19] Vo Tri Thanh and Cuong Van Nguyen, "Regulatory Coherence: The Case of Viet Nam", in Derek Gill and Ponciano Intal, 2016, *The Development of Regulatory Management Systems in East Asia: Country Studies*, Jakarta: Economic Research Institute for ASEAN and East Asia (ERIA), p. 361.

Decree No. 63/2010/ND-CP, which also makes it easier to monitor impact assessments related to administrative procedures. Administrative procedures should be regularly controlled throughout the implementation process with the goal of eliminating unnecessary and cumbersome procedures, decreasing costs and time for the public and businesses.

Impact assessment reports are published on the *Vietnam National Assembly's* website (for laws) as well as the websites of MOJ and related ministries (for low-level legal documents). According to Article 8 of Decree 34/2016/ND-CP, the entity proposing the lawmaking project to create the RIA report before drafting the legal document and to solicit opinions and criticism on the draft RIA. Article 36 of the 2015 amendment legislation mandates that RIAs be published online with other documents related to the lawmaking proposal, such as official letters and review reports.[20]

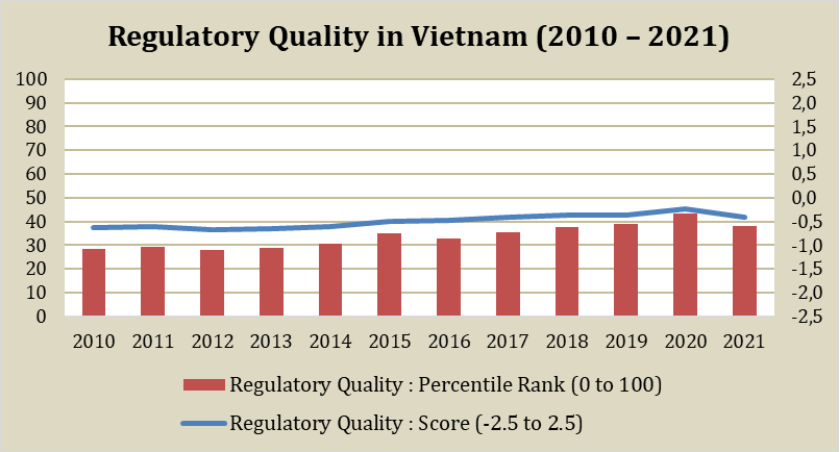
Vietnam has made efforts to promote the process of law reform and strengthen the legal system. For the first time in 2020, the government held a nationwide online conference on developing, improving, and enforcing laws. On December 11th, 2020, the Prime Minister issued Instruction No. 43/CT-TTg on improving the quality of legislation, strengthening the legal system, and enhancing the effectiveness of law enforcement. Along with the passage of the Amendment to the Law on Legal Document Publication. Beginning in 2022, the legislative process will be strengthened to develop more specific regulations to increase accountability and strengthen inter-institutional coordination in receiving and providing feedback on draft laws, ordinances, and resolutions, as well as better regulating policy-making.

Regulation quality is closely related to economic growth and productivity. The regulations in existence in a region can make a substantial contribution to economic development and people's welfare. Until now, Vietnam is still in the process of continuous institutional and legal reform. With the existence of a government organ that oversees all matters in the field of laws and regulations, it is expected to have an impact on improving economic life in Vietnam. Furthermore, Vietnam has made significant progress in adopting digital solutions for regulatory reform by encouraging major changes for efficiency.[21]

Based on data obtained from the WGI Project, regulatory quality in Vietnam has improved from a percentile rank of 28.23 in 2010 to a percentile rank of 37.98 in 2021, resulting in a score rise of -0.63 to -0.40 (overall score ranges from -2.5 to 2.5). Graph 2. demonstrates the development of scores and percentile rankings in the regulatory quality aspect in Vietnam from 2010 to 2021.

[20] OECD, 2022, *Supporting Regulatory Reforms in Southeast Asia*, Paris: OECD Publishing, p. 128.

[21] Vietnam News Agency, March 11th, 2022, "*Digital Solutions Useful for Vietnam in Regulatory Reform*", Available on website: https://en.vietnamplus.vn/digital-solutions-useful-for-vietnam-in-regulatory-reform/223347.vnp, Accessed on September 23rd, 2023.



Grafik 2. Regulatory Quality In Vietnam
From: https://info.worldbank.org/governance/wgi/

Based on this graph, it can be seen that Vietnam has made significant developments in the recent decade. As seen in 2010, Vietnam received a percentile rank of 28.23 with a score of -0.63 and improved to a percentile rank of 43.27 with a score of -0.22 by 2020. This increase is certainly a positive thing, albeit Vietnam had a slight decrease in rank and score in 2021 as a result of the COVID-19 pandemic.

As previously indicated, the practice of government organs in the field of laws and regulations in Malaysia and Vietnam can be classified as government organs carrying out their duties and authorities in terms of increasing regulatory reform efforts. Malaysia's organ design is a specific institution with the primary function of ensuring the entire process of forming applicable laws and regulations, whereas Vietnam's organ design is an assembly in the field of laws and regulations with the position of the *highest representative organ*. The formation of legal products by the government on the territory of the two countries can be properly planned, coordinated, and centralized through a specific organ in the field of laws and regulations.

Regulatory reform is described by the OECD as "changes that improve the quality of regulations".[22] The ultimate purpose of regulatory reform is to generate higher quality regulations that safeguard citizens while also increasing economic growth. The two data points represented in the graph show that regulatory reforms in Malaysia and Vietnam have had a major impact on enhanced economic growth in both countries.

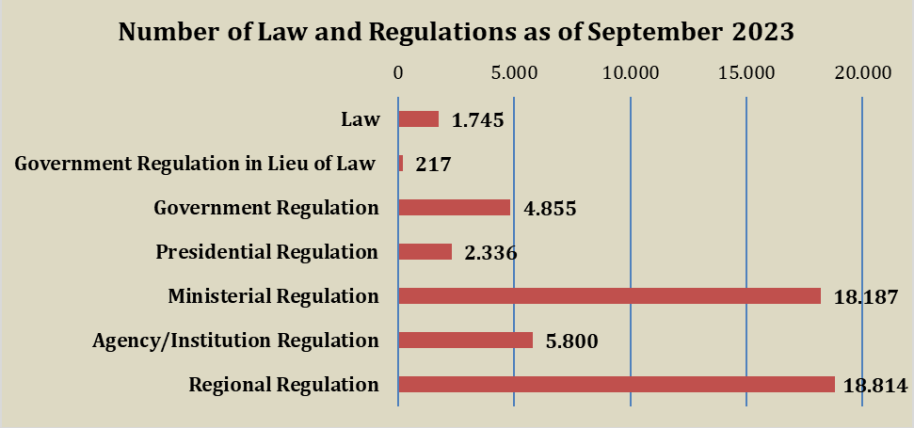
Ideal Design in the Establishment of Government Organs in the Field of Laws and Regulations in Indonesia

Indonesia is a unitary state. Because it is a *unitary state*, the power of governance is concentrated in the hands of the central government (centralization), including the authority to form regulations. While the central government still has authority, state

[22] OECD, 1997, *The OECD Report on Regulatory Reform: Synthesis*, Paris: OECD, p. 11.

organizational entities in the various areas may be given some of it. Nevertheless, the transfer of power does not grant local governments the authority to enact laws that are in opposition to federal laws.[23]

According to the Database of Laws and Regulations, as of September 2023, Indonesia has 57.857 regulations, with a record of 55.093 valid regulations and 2.762 invalid regulations. Of the total number of regulations, the most issued regulations are Ministerial Regulations and Regional Regulations, with a total of 18.187 regulations and 18.814 regulations. While the least amount is Government Regulation in Lieu of Law (Perppu), which is a total of 217 regulations.



Grafik 3. Total Number Of Regulations As Of September 2023
From: https://peraturan.go.id/

Based on this data, it can be seen that the quantity of laws and regulations is fairly high, but the quality in the field is still lacking. In fact, this is based on a variety of laws and regulations problems, among others: *First*, 'obesity' or an excess of laws and regulations (*hyper-regulation*) at the central and regional levels, which impedes economic development, particularly private investment and the effectiveness of public services. *Second*, *overlapping*; *Third*, *multi-interpretation*; *Fourth*, *inconsistency*; *Fifth*, ineffectiveness; *Sixth*, creating *unnecessary burden*; *Seventh*, creating a *high-cost economy*; *Eighth*, legislation is oriented towards desire and quantity, not based on needs and quality; and *Ninth*, a database of legislation that is not integrated.[24]

It is felt that the government has not set the right policies to address numerous problems in the field of laws and regulations. The unsystematic and partial policies have not optimally encouraged overall economic growth. Regarding regulations in Indonesia, the OECD considers that coordination appears to be an expensive item in creating regulations so that one regulation overlaps with another. Regional policies frequently collide with higher-

[23] Sadiawati, *et al*., 2015, *Strategi Nasional Reformasi …*, p. 6.
[24] Ida Bagus Rahmadi Supancana, 2017, *Sebuah Gagasan tentang Grand Design Reformasi Regulasi Indonesia*, Jakarta: Universitas Katolik Atma Jaya, p. 2-4.

level regulations.[25] As a result, the government is supposed to foster a more holistic approach (*a whole-government approach*) in every policy formulation or regulation formation in order to produce consistent and quality regulations. Furthermore, from an institutional standpoint, Indonesia currently lacks a government organ with the specifically formal function of examining regulations.[26]

Furthermore, in 2012, the OECD initiated and recommended that Indonesia implement institutional arrangements by establishing a National Legislation Center that regulates all matters in the field of laws and regulations centrally. In its report, the OECD considers that Indonesia needs to establish a specific institution authorized to make regulatory decisions based on evidence and coordination with other institutions in the government.[27] This is considered effective to be a real solution, rather than merely talk, through the frameworks of institutions to carry out regulatory reform in Indonesia.

The effectiveness of having a government agency dedicated to overseeing rules in a nation should serve as a model for other nations, with Indonesia's constitutional practice serving as one such example. In actuality, there have been numerous and protracted obstacles to the establishment of a comparable government body in this nation; however, up until this point, the Ministry of Law and Human Rights has been responsible for harmonizing regulations until a dedicated body specializing in laws and regulations is established.

The idea of establishing a centralized national government organ to regulate all matters relating to the formation of laws and regulations is subsequently followed up through Law Number 15 of 2019 regarding Amendments to Law Number 12 of 2011 regarding the Formation of Laws and Regulations (henceforth referred to as Law Number 15 of 2019). Despite changes with Law Number 3 of 2022, the provisions regulating the establishment of ministries or institutions in the sphere of laws and regulations have not been eliminated and remain provisions that apply until now. It demonstrates that the legal politics of the construction of ministries or institutions in the field of laws and regulations has become a common consensus projected by the government in order to address various problems of laws and regulations.

There are explicit arrangements connected to this specific organ in several articles of Law Number 15 of 2019, including duties and authorities, which are mentioned in Article 23, Article 26, Article 47, Article 49, and Article 54. However, based on these regulations, it does not further regulate the form, position, organizational structure, or period of formation

[25] Hukumonline, August 15th, 2022, "*Tiga Rekomendasi Hasil Review Regulasi di Indonesia*", Available on website: https://www.hukumonline.com/berita/a/tiga-rekomendasi-hasil-review-regulasi-di-indonesia-lt502b5cc49679c/, Accessed on September 23rd, 2023.

[26] Sadiawati, *et al*., 2015, *Strategi Nasional Reformasi ...*, p. 30.

[27] OECD, 2012, *OECD Reviews of Regulatory Reform ...*p. 46.

of this organ.[28] Not only is the establishment of a new ministry or institution specialized in the formation of regulations implied but there is also an additional special chapter pertaining to the monitoring and review of laws that have been in force. Prior to the passage of Law No. 15 of 2019, there was already a National Legal Development Entity (BPHN) that served as a centralized command from the planning stage to the analysis, monitoring, and review of laws and regulations, including the development of legal substance, legal structure, and legal culture.[29] But the fact that, along with the development of the implementation of the state administration and also the increasing problems related to the formation of laws and regulations, forces the government to find a way to overcome this. The choice of establishing a specific organ in the field of laws and regulations is increasingly becoming a concern.

According to Law Number 15 of 2019's Article 99A, which states that "the duties and functions of the Formation of Laws and Regulations are still carried out by the minister who organizes government affairs in the field of law, when the formation of the ministry or institution that organizes government affairs in the field of the Formation of Laws and Regulations has not been formed," Indonesia essentially has two options when it comes to the design of its government organs, which could be ministries or particular institutions outside of ministries.

In contemplating the establishment of such a ministry or agency formally responsible for regulatory coordination and oversight, the Indonesian government would benefit from taking a number of factors into account and learning from practices already in existence in several countries. It is worth noting that the specific design and existence of ministries and agencies should be determined as close to the center of government as feasible; this is useful to ensure that the regulations that will be formed can support all government policies as a whole.[30]

Examining the design of government organs in Malaysia, namely a specific institution with its primary function of ensuring the entire process of forming applicable laws and regulations, and Vietnam, namely the assembly in the field of laws and regulations, which has a position as the *highest representative organ*, in this case, it is recommended that the design that is ideal enough to be applied to government organs in the field of laws and regulations in Indonesia is in the form of a specific institution. This institution is under the President and is responsible to him through the coordinating minister. Later on, the task of this specific institution will be to regulate all government affairs in the sphere of legislation formation, as well as to undertake analysis, monitoring, and review of existing laws and

[28] Bayu Dwi Anggono, 2020, *Pokok-pokok Pemikiran Penataan Peraturan Perundang-undangan di Indonesia*, cet. 1, Jakarta: Konstitusi Press, p. 116.

[29] Marzuki, Husni Djalil, and Mujibussalim, "Kedudukan Badan Pembinaan Hukum Nasional dalam Menjalankan Fungsi Legislasi", *Syiah Kuala Law Journal*, Vol. 1 No. 3, December 2017, p. 69.

[30] OECD, 2012, *OECD Reviews of Regulatory Reform ...* p. 52.

regulations. As a result, it is envisaged that the existence of this institution can support regulatory reform efforts and overcome various problems in the field of laws and regulations in Indonesia.

Although there are many pros and cons related to the issue of establishing a ministry or institution in the field of laws and regulations, and the reality has yet to be realized, government organs in the field of regulation will be projected and expected to respond to the challenges of regulatory issues that are becoming increasingly felt worse in this country. Aside from that, this ministry or institution must adhere to the nation's legal ideals, which include regulatory structuring through the pruning of "obese" regulations, a comprehensive review, and efforts to harmonize and synchronize laws and regulations at both the central and regional levels.

4. Conclusion

The conclusions of this study are as follows:

a. The design of government organs in Malaysia through the *Malaysia Productivity Cooperation* (MPC), which is a specific institution with the primary function of ensuring the entire process of forming applicable laws and regulations, while Vietnam through the *Vietnam National Assembly*, which is an institution whose design is an assembly in the field of laws and regulations that has a position as the *highest representative organ*, has had a significant impact on the development of regulatory regulation of the two countries that are members of ASEAN.
b. b. Indonesia could want to take into account regulatory reform initiatives, which are then implemented by a number of nations through the creation of a dedicated government body for laws and regulations. According to Law Number 15 of 2019, Article 99A, Indonesia has two options for the structure of the government organ: it may be a ministry or a separate institution from the ministry. It is suggested that, in order to create the best possible design, taking inspiration from Malaysia and Vietnam, a particular institution be established. This institution would report to the President and be responsible for overseeing all government affairs related to the creation of laws and regulations as well as their analysis, monitoring, and review.

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