



# The Existence of Legal Principles and The Changing Times: Challenges and Adaptations in The Formation of Laws and Regulations

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**Abstract:** The formation of legislation in Indonesia in practice often faces challenges in applying legal principles consistently. Legal principles are fundamental concepts in the legal system that function as guidelines in the formation and application of laws and can be understood as basic principles that become the basis for the formation of legal regulations. This article examines the existence of legal principles in the context of rapid change in the times, how the process of forming legislation can reflect adaptation to changing times and also provides examples of legislation that successfully integrates legal principles with the needs of modern society. This research uses qualitative normative juridical research methods that focus on legal norms found in laws and norms that live and develop in society. The goal is to find out how the existence of legal principles in the context of rapid changes in the times, how the process of forming legislation can reflect adaptation to the changing times and find out examples of legislation that have succeeded in integrating legal principles with the needs of modern society. The findings of this study show that the existence of legal principles does not only depend on its ability to maintain timeless basic principles, but also on its ability to transform according to the context of the times because the formation of laws must be able to adapt to change. The success of the legal principle in integrating with the needs of modern society can be seen from the creation of the Personal Data Protection Law (PDP Law), the Omnibus Law, the Law on Trade Through Electronic Systems and the ITE Law (Information and Electronic Transactions).

**Keywords:** Changing Times, Lawmaking, Legal Principles, Modern Regulation

## Introduction

In the midst of the rapid and rapid flow of change and development of the times, the formation of law in Indonesia faces significant challenges to remain relevant and responsive to various problems that arise to provide benefits to society. The complexity of global problems in the development of the times also gives birth to various challenges that encourage the need for adaptation and transformation of the legal and legislative system which is required to be present not only as normative rules, but also as adaptive means that are able to respond to the dynamics of modern society. However, behind the need for fast and adaptive law, there is a legal principle as an important and fundamental essence that serves as a guide for the formation of legal norms and law enforcement that should not be

forgotten. (Djumikasih, 2022) Basically, in every formation of various legal regulations, it is always rooted in the existence of the legal principles that underlie the making of these regulations. Legal principles are the basic rules and principles of abstract legal principles that generally underlie the implementation of law. (Ali, 2007) According to Paul Scholten, principles are basic thoughts, which are contained in and behind the respective legal systems formulated in the rules of law and the decisions of judges. (Halilah & Arif, 2021) The principle of law is referred to as the heart of the rule of law. First, because legal principles are the broadest basis for the birth of a legal regulation. (Dr.Ermanto Fahamsyah, 2016) This means that legal principles function as fundamental guidelines that guide the process of forming laws and regulations to be in accordance with the values of justice, certainty, and the usefulness of these regulations for the community. Second, legal principles are also the reason for the birth of legal regulations. (Dr.Ermanto Fahamsyah, 2016)

In the formation of laws and regulations, legal principles are values that are used as a guideline in pouring norms or the content of regulations into the desired form and structure of laws and regulations, with the use of appropriate methods and following predetermined procedures. (Putri et al., 2018) In general, the principles of general law that can be specifically applied to the formation of laws and regulations include the principle of *lex specialis derogat legi generali* (laws and regulations that are specific in nature to set aside general laws and regulations); *lex posteriori derogat legi priori* (new laws and regulations that set aside old laws and regulations); *lex superiori derogat legi inferiori* (higher laws and regulations override lower laws and regulations). (Rokilah & Sulasno, 2021) The general legal principles for the formation of laws and regulations are included in Law Number 12 of 2011 concerning the Formation of Laws and Regulations, as amended by Law Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning the Formation of Laws and Regulations, along with good principles and principles of the content of laws and regulations according to positive law. (Siagian & Utama, 2021)

Regarding the formation of legislation in Indonesia, in practice it often faces challenges in applying legal principles consistently. (J. I. Law, 2025) Political pressure, time constraints and lack of understanding of the importance of legal principles as the basis for making regulations cause the drafting of regulations not in accordance with the basic principles of law which also shows that there is a gap between the formation of laws and regulations and the practice of their implementation.

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principles of law which also shows that there is a gap between the formation of laws and regulations and the practice of their implementation.

## Methodology

In this study, a qualitative normative juridical research method is used, namely an approach that refers to and relies on legal norms contained in laws and regulations and norms that live and develop in society. Normative juridical research was chosen because this study focuses on the study of legal principles in the context of changing times related to social life and law formation, not on empirical observations in the field. The object of the research is the legal principles used in the process of forming legislation in Indonesia related to the context of changing times. The data analysis used is a qualitative approach to primary data and secondary data. The data collection in this study is by literature study obtained using secondary data, namely data obtained indirectly, in the form of a number of information obtained from journals, books, articles and legal regulations related to the title of the research. (David Tan, 2021) This research was carried out in the period from February to April 2025 with the use of legal libraries and data from relevant academic journals.

## Result and Discussion

### Definition of Legal Principles

Legal principles are fundamental concepts in the legal system that serve as guidelines in the formation and application of laws and can be understood as basic principles that become the basis for the formation of legal regulations. (Aji et al., 2024) Legal principles can provide direction and purpose for the legal system and reflect the values embraced by society. In other words, legal principles serve as a framework of thought that directs the process of legislation and law enforcement. Some experts state the meaning of the legal principle as follows: (Journal et al., 2025)

1. Legal principles are fundamental concepts in the legal system that serve as guidelines in the formation and application of laws and can be understood as basic principles that become the basis for the formation of legal regulations. (Aji et al., 2024) Legal principles can provide direction and purpose for the legal system and reflect the values embraced by society. In other words, legal principles serve as a framework of thought that directs the process of legislation and law enforcement. Some experts state the meaning of the legal principle as follows: (Journal et al., 2025)
2. Sajipto Rahardjo stated that the principle of law is the "heart" of the legal regulation, which is the basis for the birth of legal regulations. This principle contains ethical values and demands, serving as a bridge between the rule of law and the social ideals of society;
3. Roeslan Saleh by quoting Paul Scholten, explained that the principle of law is a basic thought that is general and becomes the foundation of a legal system. This shows that legal principles are not just norms but also include the underlying values;
4. Van Eikema Hommes argues that legal principles should not be considered as concrete norms, but rather as general bases or guidelines for the formation of positive laws. It emphasizes the importance of principles as a guide in the practice of law;

5. The Liang Gie defines the principle as a general proposition that is stated in general terms without suggesting specific ways of its implementation, so that it can be applied to a series of actions to provide proper instructions. (Ngutra, 2016)

Legal principles play an important role in shaping the structure and function of the legal system because they reflect the ethical and social values of society. Understanding the principles of law as the basis for forming regulations is important to be able to better understand how law operates in a broader social context. In the context of changing times, legal principles not only play a role as static principles but must also be able to adapt to the social life of the community that continues to develop. (Rokilah & Sulasno, 2021) Legal principles must be implemented consistently in the rulemaking process to continue to ensure that the regulations formed reflect the values of the community. The changes in the world in this digital era are inseparable from new challenges for legal development, including the need to adapt legal principles to emerging issues such as personal data and cybercrime. (Irvita et al., n.d.) The transformation that occurs in various aspects of people's lives today, both social, economic, and cultural, which includes changes in people's mindsets, behaviors, and structures, refers to the changing times that continue to develop.

### **Formation of Legislation**

The process of forming legislation is a series of stages that must be passed to create a valid and effective law. This process begins with the identification of needs or problems that need to be addressed through legislation, which can come from community input, policy analysis, or evaluation of existing regulations. After the need is identified, the next stage is the preparation of an academic manuscript containing an in-depth analysis of the issues to be regulated as well as recommendations related to the substance of the proposed law. From this academic manuscript, a draft of the Bill (RUU) was prepared, detailing the proposed provisions and the implementation mechanism. Before being submitted to the legislature, it is important to conduct public consultations to obtain input from a wide range of stakeholders, including the general public and non-governmental organizations. After that, the draft bill is submitted to the legislative body, where it will be discussed in depth through several stages, including reading, explanation, and discussion in the relevant commission. If the bill gets majority approval in the plenary session, then the bill will be passed into law. After signature by the head of state, the law is promulgated in the state gazette and officially takes effect. (Dalimunthe, 2017)

When the law has been officially promulgated even though there is a legal fictional principle that assumes that everyone knows the law, including citizens living in the interior and outermost, even so, socialization is still very important to be carried out so that the community understands and can apply the law properly. (Prianto et al., 2025) In addition, an evaluation of the implementation of the law needs to be carried out to ensure its effectiveness and revise if deficiencies are found. This process emphasizes the importance of public participation, transparency, and adaptation to changing times in the formation of legislation that is responsive to the needs of the community. According to Law No. 12 of 2011 concerning the Formation of Laws and Regulations, in forming laws and regulations, laws and regulations must be based on the principles of good formation including: (Rokilah & Sulasno, 2021)

1. The principle of clarity of purpose is that every formation of laws and regulations must have a clear goal to be achieved;
2. The principle of proper institutions or forming organs is that every type of legislation must be made by an authorized institution or official;
3. The principle of conformity between the type of material and content is that in the formation of legislation, it must really pay attention to the appropriate content material with the type of legislation and regulations;
4. The principle that can be implemented is that every legislative formation must take into account its effectiveness both philosophically, juridically and sociologically;
5. The principle of usefulness and usefulness is that every legislation is made because it is really needed and useful in regulating the life of society, nation, and state;
6. The principle of clarity of formulation is that every law and regulation must meet the technical requirements for the preparation of laws and regulations. Systematics and the choice of words or terminology and legal language must be clear and easy to understand so that they do not cause various kinds of interpretations in their implementation;
7. The principle of openness is that in the process of forming laws and regulations, starting from planning, preparation, drafting and discussion, it is transparent. Thus, the entire community has the widest opportunity to provide input in the process of making laws and regulations.

### **Challenges and Adaptations in the Formation of Legislation**

Challenges and adaptations in the formation of legislation are important issues faced by the modern legal system that keeps up with the times. The legislative process must be able to respond to rapid social, technological, and political changes. The following is an explanation of these challenges and adaptations. Challenges in the Formation of Legislation include:

1. **Over Regulation and Overlapping Regulations:** The large number of regulations produced often causes confusion and uncertainty for the public. This creates problems where existing regulations are ineffective and difficult to implement consistently. (National, 2024) One of the factors is the egocentrism of the owners of regulatory authority which makes the existence of regulatory obesity or legal obesity that we have heard very often in the State of our country Indonesia.
2. **Social and Technological Change:** Rapid technological developments are creating new issues that require proper legal regulation. Lawmakers often do not have enough technical expertise to understand the implications of technological innovations, which can result in inappropriate or even excessive regulation. (Yamani, 2024) In addition to having a positive impact, of course, technology that is increasingly developing also has a negative impact such as giving rise to new problems and there are no regulations that can regulate it, thus creating a void or legal uncertainty.
3. **Politics and Interests:** The law-making process is often influenced by political interests, which can overlook the aspirations of the people. When laws are politicized, decisions taken may not take into account justice and the needs of the entire society. (Kurnia et al., 2023) There is more than one rule that does not cause justice for society but is used to fulfill political interests only.



4. **Limited Resources:** A comprehensive process of changing the law requires sufficient time, effort, funds, and expertise and certainly not a little. If government institutions lack resources, the legislative process can be hampered. As we know that making regulations is not an easy thing. For example, Indonesia took many years to make its own criminal regulations to replace the regulations inherited from the colonial country. (National, 2024)

The existence of legal principles is very important to answer the challenges that arise from changing social dynamics. (Prianto et al., 2025) The rapid change of the times, especially triggered by technological advances and globalization, also demand continuous legal adaptation. Law can no longer be viewed as a static set of rules, law must be able to function as a tool to regulate social behavior and as a means for change. In this case, legal principles such as "justice" and "legal certainty" are becoming increasingly important. (Pipit Mulyah, Dyah Aminatun, Sukma Septian Nasution, Tommy Hastomo, Setiana Sri Wahyuni Sitepu, 2020) Laws must provide effective protections for individuals without impeding innovation, and must have the capacity to adapt to rapidly evolving new technologies. Without a clear legal principle that is able to accommodate these changes, it is likely that society will face legal uncertainty that actually worsens social inequality.

Adaptation in the formation of legislation is a response to social, political, economic, and technological dynamics that develop in society. (Primary, 2025) Along with the rapid change of times, whether it is related to globalization, technological advancements, or changes in social values, the formation of legislation must be able to respond to various challenges and needs of society in a more flexible, responsive, and dynamic manner, including:

1. **Responding to Social and Technological Change**

Legal adaptation to rapid technological changes, which poses new challenges in social life. For example, in the digital age, many new issues related to personal data protection, cybercrime, and copyright in the digital world require new laws or revisions to existing ones. (Idris et al., n.d.) In this context, legislative adaptation is very important to ensure that the law can regulate activities that were previously unreachable by existing rules. The establishment of legislation related to technology must prioritize the principles of justice, legal certainty, and the protection of human rights, while taking into account the social and economic impacts of the application of new technologies

Laws in the digital age must be designed to provide effective protection for technology users, while still making room for innovation. Laws related to technology must prioritize flexibility, so that they can continue to be relevant to very rapid technological changes. For example, laws related to e-commerce or personal data protection must be able to adapt to software developments, online platforms, as well as related issues such as artificial intelligence (AI) and big data. (Kurnia et al., 2023)

2. **Globalization in the Formation of Legislation**

In an increasingly connected world, a country can no longer form legislation that is isolated from international developments. Issues such as international trade, climate change, human rights, and transnational crime demand harmonization of laws between countries. (C. J. Law et al., 2025) For example, in international treaties on the protection

of human rights, each country is obliged to adapt its laws to be in line with international commitments that have been agreed upon.

The formation of laws at the national level must take into account and reflect applicable international norms, without sacrificing the sovereignty of national law. (Setiawan & Hoesein, 2025) This also requires a flexible adaptation mechanism in the legislation process, so that the law remains relevant in the global context. For example, member countries of the World Trade Organization (WTO) must amend or adapt their legislation to reflect the agreements reached in the international forum. (Simanjuntak et al., 2021)

### 3. Responsive and Inclusive Legislative Process

A legislative process that is responsive to the aspirations of the community is indispensable and is a very important part. In the context of law-making, it serves not only as a tool to regulate social behavior but also as a means to make better social changes. The law-making process must be inclusive, involving a wide range of relevant parties, including civil society, the private sector, and academia. (Published, 2025) This aims to ensure that the resulting laws are not only legally relevant, but also able to reflect the real needs of the community. Public consultation in the legislative process is also important to create laws that are responsive to social change. Mechanisms that provide space for community participation in formulating legislation are needed so that people feel involved in making laws that affect their lives. (Ahmad Yasin, 2022)

The formation of legislation in developing countries, one of which is Indonesia, faces various challenges, for example, adaptation in the formation of legislation must pay attention to the existing social and economic reality. In addition, special attention needs to be paid to the capacity of the bureaucracy involved in the legislation process, so that the resulting laws can be implemented effectively. While there is a push to update laws to keep pace with the times, this process is often hampered by various internal factors, such as limited human resources, politicization of the law, and resistance from interested parties. Therefore, the adaptation of legislation in developing countries needs to take into account the local context and the existing reality, while adhering to the basic principles of universal law.

## Examples of Legislation That Integrate Legal Principles and Modern Needs

Examples of legislation that have succeeded in integrating legal principles with the needs of modern society include several laws in Indonesia. This law was drafted by combining basic legal principles, such as justice, legal certainty, and utility, with the needs of the digital era, the challenges of globalization, and rapid social and technological changes. Here are some of them:

### 1. Personal Data Protection Law (Undang-Undang Perlindungan Data Pribadi) in Indonesia

Law No. 27 of 2022 concerning Personal Data Protection (Undang-Undang No. 27 Tahun 2022 tentang Perlindungan Data Pribadi) is an example of adapting legal principles to answer the needs of modern society in the digital era. The law is based on the principles of human rights protection and justice, but is also responsive to the challenges of the information technology era, such as the misuse of personal data. Using

clear provisions regarding the rights of data subjects and the obligations of data managers, this law bridges the protection of individual privacy with the need for data management in the digital age. This law is expected to minimize the occurrence of violations or misuse of personal data of Indonesian citizens, prevent the occurrence of personal data violations/misuse and with the sanctions stipulated in this Personal Data Protection Law, it further strengthens its position and legal force. (Manurung & Talib, 2022)

2. Job Creation Law (Undang-Undang Cipta Kerja)

Law No. 11 of 2020 concerning Job Creation (Undang-Undang No. 11 Tahun 2020 tentang Cipta Kerja ) is an effort to harmonize the principle of legal certainty with the need to accelerate economic development. It aims to simplify regulations to support economic growth, in line with the principles of efficiency and legal certainty. Expanding employment opportunities for the Indonesian people, making entrepreneurs and capital owners more free to invest and opening up business land so that economic growth increases new jobs created through strategic policies. Through an omnibus approach, the law integrates various sectoral regulations to simplify bureaucracy and encourage investment. Although there are pros and cons, this law reflects efforts to adapt the principles of efficiency and usefulness in responding to global economic challenges. (S. et al., 2020)

3. Laws on Trade Through Electronic Systems (Undang-Undang Tentang Perdagangan Melalui Sistem Elektronik)

Law No. 7 of 2014 on Trade with electronic trade regulations (Undang-Undang No. 7 Tahun 2014 tentang Perdagangan) shows the adaptation of the principles of justice and consumer protection in the context of the digital economy. Article 65 of the Trade Law requires e-commerce business actors to provide data and/or information completely and correctly so that it will make it easier to trace its legality. Currently, the Ministry of Trade (Kemendag) together with other Ministry agencies and related stakeholders are drafting implementing regulations in the form of relevant Draft Government Regulations related to e-commerce trade as an implementation of the mandate of Article 66 of the Trade Law. This is a good start because finally Indonesia has a legal basis to manage electronic transaction trading. This regulation provides a legal basis that protects business actors and consumers in electronic transactions, which is now increasingly dominant in the e-commerce era. This law answers the needs of a society that is increasingly dependent on information technology while maintaining the principle of legal certainty. (Paryadi, 2018)

4. Information and Electronic Transactions (Undang-Undang Informasi dan Transaksi Elektronik)

Law No. 19 of 2016 (amendment to Law No. 11 of 2008) is one of the regulations that adjusts the principle of legal certainty to the development of information technology. This Act provides a legal basis for regulating electronic transactions, cyber protection, and cybercrime. The existence of this regulation shows that the government wants to provide a sense of security for all information technology users, including social media users who are almost all Indonesian users of the social media. So that social media users can feel safe in carrying out interactions in social media, including in the protection



of their personal data, the government guarantees security, justice and legal certainty. (Saragih et al., 2020)

The example of the law above shows how legal principles such as justice, legal certainty, efficiency, and protection of human rights can be adapted to the needs of modern society, without neglecting the fundamental principles that are the foundation of law formation. This step reflects the ability of the law to evolve in harmony with social and technological dynamics, ensuring that regulation is not only a tool of control, but also an effective solution to society's problems. Overall, the four laws reflect the ability of the legal system to adapt without losing its roots in principle. This proves that laws that are responsive to the times will remain relevant and effective in maintaining social order, while encouraging sustainable development. Measures like these are important to ensure that the law is not just a static document, but also a dynamic instrument that reflects the needs of modern society.

## Conclusion

The existence of legal principles rests not only on its ability to maintain timeless basic principles, but also on its ability to transform according to the context of the times. By understanding the challenges and opportunities that exist, legal principles can continue to be relevant in responding to the needs of society and global developments. The existence of legal principles remains the spearhead in maintaining the sustainability and relevance of the law itself. Efforts to update and adapt legal principles to the development of the times are very important so that law is not only a regulatory instrument, but also an agent of change that is able to facilitate the creation of a more just and prosperous society in the face of ongoing changes. The formation of laws must be able to adapt to the changing times and this is reflected in how the formation of laws and regulations responds to social and technological changes, globalization, and the legislative process which is now more responsive and inclusive. The presence of the Personal Data Protection Law (PDP Law), the Job Creation Law (Omnibus Law), the Law on Trade Through Electronic Systems and the ITE Law (Electronic Information and Transactions) are examples of the success of legal principles integrating with the needs of modern society.

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