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## Analysis of Law Number 20 of 2023 and the Role of Academic Manuscripts in Indonesian Law Formation

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### Abstract

*Article 43 paragraph (3) of Law Number 12 of 2021 requires that every Draft Bill (Rancangan Undang-Undang/RUU) submitted by the President, the People's Representative Council, or the Regional Representative Council must include an Academic Manuscript. This document contains a scientifically proven legal study outlining the necessity of regulating a problem and its resolution in the Draft Bill. The Academic Manuscript serves as a key reference during the legislative planning process. This study explores the role of the Academic Manuscript in law formation and analyzes the RUU on Amendments to Law Number 5 of 2014, focusing on its alignment with the Academic Manuscript. Using legal and empirical approaches, the research evaluates the application of norms under the Law on the Legislation Drafting, which mandates an Academic Manuscript for drafting laws. Law Number 20 of 2023 accommodates strategic issues highlighted in the Academic Manuscript. However, during the discussion process, the RUU underwent significant changes, with over 50% of its substance added. Despite these additions, the Academic Manuscript remained unchanged. Ultimately, the RUU led to the repeal of Law Number 5 of 2014 and its replacement with Law Number 20 of 2023, which redefines the regulations concerning the State Civil Apparatus.*

### Keywords

Academic Manuscript, Law Formation, Legislative Process, State Civil Servant.

## 1. Introduction

Law Number 12 of 2011 concerning the Establishment of Legislation (*Undang-Undang Pembentukan Peraturan Perundang-Undaangan/UU PPPU*) was formed as an embodiment that Indonesia is a country based on law, thus as a country based on law, all activities in the life of society, nation, and state are carried out based on laws in accordance with the Indonesian national legal system (Adinugraha et al., 2021; Munawar et al., 2021). The national legal system is the law that applies in Indonesia, all of whose elements are integrated and mutually support each other in the context of prevention, enforcement, and development of law in Indonesia which is based on Pancasila and the 1945 Constitution of the Republic of Indonesia. As a country of law, Indonesia has a concept of limiting power in the implementation of its state power. This limitation is manifested as a basic law which then developed into the basic idea of the emergence of modern constitutionalism, so that a state of law can also be called a constitutional state, namely a state that is limited by a constitution (Asshiddiqie, 2006; Harjono, 2020; Afhami, 2021). The meaning of the constitution in its original language has a broader meaning than just a constitution. The constitution means the whole of the regulations, both written or Constitution (*Undang-Undang Dasar/UUD*) and unwritten (conventions) that are binding on how a government is run (Syahuri, 2004).

The constitution as the embodiment of a nation's political ideals functions to direct and regulate the people in achieving their goals, which are then followed up by the people (through the constitution) by forming state institutions that are tasked with representing them along with the scope of authority attached to them. This is in accordance with the opinion of Barendt (1998), in his book *An Introduction to Constitutional Law*, stating that the constitution of a state is the written document or text which outlines the powers of its parliament, government, courts, and other important national institutions (the constitution of a country is a written document or text that outlines the powers of parliament, government, courts, and other important national institutions). Indonesia, which adopts a presidential system of government, divides power in the formation of legislation, this is regulated in the 1945 Constitution of the Republic of Indonesia Article 5 paragraph (1), namely that the President has the right to submit a Draft Bill (*Rancangan Undang-Undang/RUU*) to the House of Representatives (*Dewan Perwakilan Rakyat/DPR*). In this case, there is a correlation in the implementation of government between the executive in relation to the legislative function (*regeringsdaad*). This is in accordance with the dichotomy theory, where the legislature as policy making (*taak stelling*) and the executive as policy executing (*taak verwezenlijking*). In the implementation of state functions, there is a mutually influencing relationship in the implementation of executive and legislative powers. This relationship is also an effort by the legislature to control executive power (Asshiddiqie, 2011; Rosyidah et al., 2023).

A regulation can be said to be good if it meets six requirements, namely lawfulness and realization of principles of justice; effectiveness and efficiency; subsidiary and proportionality; feasibility and enforceability; coordination and; simplicity, clarity, and acceptability. Thus, in drafting regulations, it must be supported by various study data in order to be able to approach the requirements as mentioned above. The data and study results are then known as the Academic Manuscript (Setiadi, 2011; Rokilah & Sulasno, 2021). The Academic Manuscript is a reference in the formation of laws, thus in order to form a good law, a good Academic Manuscript is also needed, so that there is a strong connection between the Academic Manuscript and the law to be made. According to the PPPU Law, the formation of laws in its implementation is divided into three stages, namely the Pre-Legislation stage, the Legislation stage, and the post-Legislation stage. At the

Pre-Legislation stage, the process of RUU, Preparation for the preparation of a RUU consisting of review, research and preparation of the Academic Manuscript, dissemination of the RUU Academic Manuscript, techniques and mechanisms for preparing the RUU, Drafting the RUU, dissemination of the RUU. The Legislation stage includes the process of Discussion of the RUU by the DPR together with the Government, Ratification, stipulation, and enactment. While the Post-Legislation Stage goes through the process of Documenting the Law, Disseminating the RUU manuscript, Counseling, Implementation of the Law, Evaluation of the Law. From these stages, it is known that the preparation of the Academic Manuscript is included in the Pre-Legislation stage (Lamada & Gumilang, 2020; Gusman & Syofyan, 2023). The preparation of a good Academic Manuscript will greatly help realize the depth of the substance of the draft legislation to be prepared (Lamada & Gumilang, 2020).

Based on the 2019 national legislative program, the RUU on Amendments to Law Number 5 of 2014 concerning State Civil Apparatus (*Aparatur Sipil Negara/ASN*), has been submitted in the national legislative program since 2019. Following up on the national legislative program above based on the Letter of the President of the Republic of Indonesia Number R-28/Pres/06/2020, concerning the Appointment of Government Representatives to discuss the RUU ASN, the Government has assigned the Minister of State Apparatus Empowerment and Bureaucratic Reform (*Kementerian Pendayagunaan Aparatur Negara dan Reformasi Birokrasi/MenPANRB*), Minister of Finance, Minister of Home Affairs and Minister of Law and Human Rights, either individually or jointly, to represent the Government in discussing the RUU ASN. There are three main issues in the RUU ASN, namely injustice for Government Employees with Work Agreements (*Pegawai Pemerintah dengan Perjanjian Kerja/PPPK*); loss of legal status for honorary workers/non-permanent employees; and the dissolution of the ASN Commission. The RUU ASN began to be discussed on January 18, 2021 and was agreed upon in a plenary session on October 3, 2023, meaning that it took 2 years and 10 months to discuss the RUU ASN and then agreed to become the ASN Law (replacing Law Number 5 of 2014).

After the RUU ASN was passed and then enacted as Law Number 20 of 2023 concerning ASN, the title and content were different from the Academic Manuscript and attachments to the RUU submitted in the DPR RI national legislative program. The Academic Manuscript and RUU submitted in the national legislative program were amendments to Law Number 5 of 2014, while the ASN Law issued in 2023 (Law Number 20 of 2023) was not an amendment but rather a replacement and revocation of the old ASN Law (hereinafter referred to as Law Number 5 of 2014). This is not in accordance with the study or academic manuscript (Donelan, 2022). Based on the description above, the author is interested in discussing: First, legally, the Academic Manuscript becomes a scientific basis to guarantee the quality of the formulation of the RUU. Second, compliance with the substance of the RUU to the Academic Manuscript is important to maintain the integrity of the legislation. Third, if the substance of the Academic Manuscript is not complied with, the legal consequences that arise can be inconsistencies in norms, legal uncertainty, and the potential for material testing at the Constitutional Court. Thus, this study aims to analyze the implications of this disobedience in the formation of laws.

## **2. Methods**

This research is qualitative research using normative legal methods or doctrinal legal research, which is equipped with an empirical approach. The legal method is used because this research focuses on law as the main object, while the empirical approach is applied to analyze data regarding the application of legal norms,

especially related to the Law on the Formation of Legislation (*Pembentukan Peraturan Perundang-Undangan/PPPU*) which requires an Academic Manuscript as a requirement for the formation of laws. This research includes a study of legal principles, legal rules as values, applicable legal regulations, and the legal system currently applied (Mertokusumo, 1986). The library materials used in this study include three main categories: first, primary legal materials, namely basic norms, rules, provisions or basic regulations, and laws and regulations that are the main sources of law. Second, secondary legal materials, which function as supporting primary legal materials, in the form of literature, journal articles, and related research results that provide further explanations. Third, tertiary legal materials, which include reference materials such as legal dictionaries, encyclopedias, or other sources that provide instructions and explanations for primary and secondary legal materials. The empirical approach used aims to analyze the application of legal norms in practice, including how the obligation to prepare Academic Manuscripts is implemented in the process of forming laws. By integrating legal analysis and empirical data, this study is expected to provide a comprehensive picture of the applicable legal system and an evaluation of its implementation.

### **3. Result and Discussion**

#### ***3.1. Legal Review of Academic Manuscripts in the Formation of Legislation***

As a country based on law, in all aspects of social, state, or national life, in terms of government, the Indonesian state must have a legal basis. Based on the 1945 Constitution of the Republic of Indonesia. The state has an obligation to organize the implementation and application of domestic development regarding laws that have a design that is integrated and continues in a domestic legal system that guarantees the protection of the obligations and rights of all Indonesian citizens. The definition of a State of Law refers to a state where the actions of the government and its people are based on law to prevent arbitrary actions from the government and actions of the people carried out according to their own will (Thohari, 2015; Rokilah, 2020). In the constitution of the 1945 Constitution of the Republic of Indonesia, Article 1 paragraph (3) expressly states that Indonesia is a state of law. The meaning of this statement contains the implication that the implementation of national, state, and state life in Indonesia must be based on applicable legal regulations (Hasan & Mustafa, 2022; Umam et al., 2023). The applicable legal regulations are interpreted as the existence of legal regulations in the form of statutory regulations that have a very important position in the Indonesian legal system, thus the formation of statutory regulations must be attempted to be carried out in a planned, systematic, and integrated manner, so that the statutory regulations produced/formed are in accordance with the legal needs of society, realistic, and applicable (Syarief, 2021; Hosnaidah et al., 2023).

Law as a set of rules that regulate various events that occur today will always lag behind the very rapidly changing social dynamics of society. In facing the rapidly changing social dynamics of society, the formation of statutory regulations is certainly inseparable from supporting variables. These variables are data and information on past conditions that are useful as lessons, current conditions that need solutions, and ideal conditions as a desired ideal. The data and information above are obtained from the results of research and studies supported by the opinions of experts and can also be obtained from peer-reviewed studies of best practices, both in Indonesia and other countries as comparative material. With the existence of such data and information, it will greatly assist policy makers and make it easier for those who RUU and regulations to formulate norms that are expected to be able to harmonize legal ideals/hopes (*das sollen*) with the reality of life in society (*das sein*) (Setiadi, 2011; Asmarudin et al., 2024). Academic

Manuscripts are likened to portraits that contain various things related to the regulations to be made. From this portrait, it can then be determined that the regulation will institutionalize what already exists in society (formalizing) or the regulation is actually contrary to what already exists so that it can change conditions in society or what is commonly called law is a tool for social engineering (Purwanda et al., 2024). So that with the existence of Academic Manuscripts, policy makers and designers of laws and regulations will be helped in determining the substance/material of the contents that need to be regulated, how the construction of the regulations is, when the regulations apply and are applied, which institutions will apply, what are the implementation procedures, what supporting factors are needed and so on in order to support the implementation of the regulations in question. So, it can be concluded that the Academic Manuscript must contain at least a philosophical basis/foundation, a legal basis, and a sociological basis and contain the material to be regulated (Rokilah & Sulasno, 2021).

The philosophical basis means that the preparation of the Academic Manuscript must be in accordance with noble values/ideals/legal will, where an Academic Manuscript contains the highest values of goodness, which in Indonesia is Pancasila which contains the values of divinity, humanity/compassion, unity, democracy and social justice for all Indonesian people (Rodríguez, 2022; Wahyuni, 2024). The legal basis means that in every formation of a law, it must have a valid value of validity, whether it is valid formally in relation to the procedural series or valid materially in relation to the content/substance regulated in the laws and regulations (Widijowati, 2022). Finally, the sociological basis means that in the formation of legislation, it means that the provisions contained in the legislation in question are appropriate, harmonious, and in line with the legal awareness, legal needs, and legal beliefs of the community. In its preparation, the Academic Manuscript must be able to answer at least three main substance issues. First, is it true that a new law is needed to address certain problems or needs. Second, what are the contents of the Constitution, including the scope, norms, and substances regulated. Third, what is the process that must be gone through to compile and ratify regulations, starting from the planning stage, drafting, discussion, to ratification in accordance with the applicable legislative mechanism (Putri et al., 2024).

After the issuance of Law Number 13 of 2022 concerning the Second Amendment to the PPPU Law, there have been changes in the technique of compiling the Academic Manuscript, namely in forming a Law, it is necessary to conduct a study that has an impact on aspects of people's lives and aspects of the state's financial burden, the preparation of which is supported by analysis using certain methods, including the Regulatory Impact Analysis (RIA) method and the Rule, Opportunity, Capacity, Communication, Interest, Process, and Ideology (ROCCIPI) method. The second Amendment to the PPPU Law also regulates public participation in the formation of the Academic Manuscript. Public participation means that in every formation of a RUU, there is a right for the public to provide input (verbal and/or written) in every stage of the formation of legislation starting from planning, drafting, and discussion. The right to provide an opinion is especially given to individuals or groups of people who are directly affected and/or have an interest in the RUU being formed, so that the issuance of a Law does not harm the interests of certain groups of people either directly and/or indirectly.

### ***3.2. Substantive Compliance of the RUU on Amendments to Law Number 5 of 2014***

The discussion process of the RUU ASN carried out by the DPR RI RUU ASN Special Committee and the Government has been in accordance with the provisions of laws and regulations and accommodates the substance in the Academic

Manuscript of the RUU ASN. The discussion process is carried out in stages as listed in Table 1:

**Table 1.** Law Draft Meeting

<b>Time</b>	<b>Meeting</b>
January 18, 2021 and April 8, 2021	Working Meeting on the First-Level Deliberation of the Special Committee on the RUU with the Government
June 28, 2021	Public Hearing of the Special Committee for the RUU with the Ombudsman of the Republic of Indonesia, Non-Category Honorary Teachers and Education Personnel ( <i>Guru dan Tenaga Kependidikan Honorer Non-Kategori/GTKHKNK</i> ) <sup>35+</sup> , Indonesian Parliamentary and Legislative Monitoring Forum ( <i>Forum Pemantau Parlemenaria dan Peraturan Perundang-undangan Indonesia/FPPPI</i> ), and Indonesian K2 Honorary Association ( <i>Perkumpulan Honorer K2 Indonesia/PHK21</i> )
June 28-29, 2021	Public Hearing of the Special Committee for the RUU with Academics and Experts
January 13, 2022 and March 21-22, 2022	Internal Meeting of the RUU Working Committee with the Government
June 19-21, 2023	Meeting of the RUU Panja Consignment with the Government
July 4, 2023	Internal Meeting of Panja RUU
July 7-9, 2023 and July 14, 2023	Drafting Team and Synchronization Team Meeting of the Panja Draft Bill
August 28, 2023	Meeting of Panja RUU on the delivery of Mini Final Opinions of Factions and Final Opinions of the Government
September 26, 2023	Level I working meeting between Commission II DPR RI and MenPANRB, Minister of Finance, Minister of Home Affairs, and Minister of Law and Human Rights
October 3, 2023	Plenary Session of the House of Representatives Agenda for Level II Talks/Decision Making on the RUU on Amendment to Law Number 5 Year 2014 on ASN

Of the three main topics in the Academic Manuscript of the ASN Bill, there are ten materials that need to be discussed together between the DPR and the Government. Based on the results of the discussion of the Bill which was then passed into Law Number 20 of 2023 concerning ASN, it was found that in substance Law Number 20 of 2023 concerning ASN has fulfilled the substance as in the Academic Manuscript of the ASN RUU as described in Table 2:

**Table 2.** Results of discussions at the DPR and Government meetings

No.	Substance of the Academic Manuscript of the RUU ASN	Topics and Results in Approving the ASN RUU to Become the ASN Law
1.	The gap in status and personnel system will only lead to jealousy and unequal treatment of employees working in the same government agency, so a single personnel system is the most acceptable.	Law Number 20 of 2023 divides ASN into Civil Servants (PNS) and PPPK, with equal welfare, rights, and obligations. It replaces "Central" and "Regional PNS" with "ASN Employees" (Articles 5–12, 21–25, and 72).
2.	It is necessary to add new nomenclature regarding employees who do not have the status of PNS and PPPK in this RUU, including the addition of the nomenclature of Honorary Workers, Non-Permanent Employees, Non-PNS Permanent Employees, and Contract Workers.	Law Number 20 of 2023 eliminates the recognition of Honorary Workers, Non-Permanent Employees, Non-PNS Permanent Employees, and Contract Workers, prohibiting non-ASN appointments for ASN roles (Article 65).
3.	Honorary, non-permanent, and contract workers with at least 3 years of service must be appointed as PNS through administrative selection and data verification, bypassing exams.	Law Number 20 of 2023 (Article 66) mandates completing non-ASN employee arrangements by December 2024. Direct PNS appointments are rejected for contradicting the merit system and burdening fiscal balance. Non-ASN employees may become PPPK through objective tests and selection.
4.	Direct PNS appointments involve data verification and validation by BKN or relevant ministries/state institutions to check administrative completeness.	It has been accommodated in the discussion of the RUU ASN and agreed upon in a plenary meeting. This is also in accordance with the provisions of Article 66 and the explanation of Article 66 of Law Number 20 of 2023.
5.	PPPK are Indonesian citizens appointed by work agreements for up to 3 years to perform government duties in leadership roles or essential public services.	The RUU ASN discussion, as per Article 1(4), unified PNS and PPPK under the single term "ASN Employees" in Law Number 20 of 2023.
6.	All ASN employees are covered by five social security programs: Health, Work Accident, Old Age, Pension, and Death Insurance, as mandated by Laws Number 40 of 2004 and Number 24 of 2011.	It has been accommodated in the discussion of the RUU ASN and agreed upon in a plenary meeting. This is also in accordance with Article 21 of Law Number 20 of 2023.
7.	The existence of the ASN Commission needs to be abolished.	The ASN Commission, initially proposed to oversee ASN management, was abolished and its duties transferred to the Ministry of Administrative and Bureaucratic Reform for efficiency and simplified governance, as per Article 70(3) of Law Number 20 of 2023.
8.	The implementing regulations for the revised ASN Law must be stipulated no later than six months from the date this Law comes into effect.	It has been accommodated in the discussion of the RUU ASN and agreed upon in a plenary meeting. This is also in accordance with Article 68 of Law Number 20 of 2023.
9.	Honorary, non-permanent, non-PNS permanent, and contract workers must be appointed as PNS within six months to three years of the Law's enactment.	As per number 3 above.
10.	When this Law comes into effect, the Government is not permitted to procure honorary workers, non-permanent employees, non-PNS permanent employees, and contract workers.	As per number 2 above.

The RUU ASN which was later agreed upon as the ASN Law Replacement RUU and enacted as Law Number 20 of 2023, has been formed in accordance with the procedures for the formation of laws and regulations as stipulated in the PPPU Law and DPR RI Regulation Number 2 of 2020 and has substantially accommodated strategic issues in the Academic Manuscript as explained above. There are differences between the Academic Manuscript and the draft RUU in the dynamics and dialectics of the discussion of the RUU between the RUU Special Committee and the Government, which is normal as long as it is carried out according to procedures and objectives. The differences include that in the process of discussing the RUU in question, it was agreed that the changes that occurred were fundamental and exceeded 50% (fifty percent) of the substance of the regulations, so that it was agreed that Law Number 5 of 2014 concerning ASN would be revoked and replaced with Law Number 20 of 23. Although in substance the RUU ASN which was later enacted as Law Number 20 of 2023 concerning ASN has been in accordance with or even exceeded expectations, where there are several strategic issues which are new additions that are not included in Law Number 5 of 2014 concerning ASN as mentioned above, in the process of forming Law Number 20 of 2023 concerning ASN, the Academic Manuscript used is the Academic Manuscript of the RUU on Amendments to the ASN Law and during the RUU in question being discussed by the Indonesian House of Representatives and the Government, the Academic Manuscript in question was not changed to an Academic Manuscript to replace the ASN Law, but still uses the Academic Manuscript of the RUU on Amendments to Law Number 5 of 2014 concerning ASN.

### ***3.3. Legal Consequences in the Event of Failure to Comply with the Substance of the Academic Manuscript in the Formation of Laws***

In the formation of a regulation, there are often problems/problems, including overlapping regulations, disharmony between regulations and excessive regulations in terms of quantity. In fact, regulations are an important element in a state of law to carry out efforts to achieve national goals, so that there should be no problems with the regulations themselves (Wahyuni & Huda, 2021; Yudanti & Setiadi, 2022). With the existence of the Academic Manuscript, it is hoped that the law-making process will run well and not prioritize the political process, although politicization in the formation of laws is something that cannot be avoided. However, with the existence of the Academic Manuscript, it is hoped that it will be able to maintain the corridors that must be obeyed by the legislators (Mubarok et al., 2020; Prayogo & Chornous, 2020). Thus, it is hoped that the law will be formed not only in accordance with procedures but in substance as a legal instrument that is able to resolve existing legal problems. The requirement to include the Academic Manuscript is to fulfill 3 (three) principles in the formation of legislation, namely the substantive principle containing the content of the legislation to be formed, the formal principle containing the form of the legislation to be formed, and the procedural principle containing the institution that forms the legislation and the process that is gone through in forming the legislation (Flores, 2009).

Normatively in Article Law 43 paragraph (3) PPPU and Article 2 of the DPR RI Regulation Number 2 of 2020 concerning the Formation of Laws, every law submitted by the President, DPR, or Regional Representative Council (*Derwan Perwakilan Daerah/DPD*) must be accompanied by an Academic Manuscript. The requirement to include the Academic Manuscript is an attributive order to the legislator in forming the law. The authority of the legislator in forming the law is determined by law as the fulfillment of the Principle of Legality in the formation of laws. Ideally, an Academic Manuscript should be used consistently for the same substance and scope of regulations as the RUU to be formed, meaning that the Academic Manuscript is truly used as a reference in the formation of the intended

Law and the resulting Law is not much different from the Academic Manuscript that is its source. In the formation of the ASN Law which is the object of this research, the author found that substantively the strategic issues, targets, content materials, and scope of regulations contained in the Academic Manuscript have been accommodated into the norms of the Articles in Law Number 20 of 2023, although this must go through a long discussion and deliberation process between the Indonesian House of Representatives and the government. However, in terms of process and procedure, there are still notes where the Academic Manuscript has not been changed following the direction of legal politics in the process of discussing the intended RUU ASN. If only the Academic Manuscript was consistently used as a reference and guide, the Indonesian House of Representatives as the initiator of the RUU ASN, should have been able to adjust the title of the Academic Manuscript to the results of the dynamics of the discussion of the RUU ASN, meaning that the Academic Manuscript is not only a static document and a complement to the procedure.

The obligation to include the Academic Manuscript in the formation of legislation must be interpreted that the Academic Manuscript is in accordance with the RUU being discussed. Although the norms of the articles in the PPPU Law and the Indonesian House of Representatives Regulation Number 2 of 2020 do not regulate in detail that the title and contents of the Academic Manuscript must be in accordance with the resulting Law, this inconsistency is not automatically allowed and considered to have fulfilled the Principle of Legality, because every formation of state regulations must be carried out based on good methods and procedures in accordance with statutory regulations. The application of the Principle of Legality in Constitutional Law and State Administrative Law is different from the Principle of Legality in Criminal Law. If in Criminal Law, the Principle of Legality means "everything that is not prohibited is permitted", the application of the Principle of Legality in the realm of Constitutional Law and State Administrative Law is different, namely "what is not regulated means it may not be done". The basis is the principle of *wetmatigheid van het bestuur*, namely that government actions must have a legal basis (Kusdarini, 2011). So, in the context of the obligation to include an Academic Manuscript in the formation of legislation, the Academic Manuscript included must be interpreted in accordance with the resulting Law. Based on the theory of authority, decisions or actions of Government Officials that are not based on the application of the Principle of Legality (*legaliteit beginsel/wetmatigheid van bestuur*) can be categorized as actions that exceed authority. This also becomes a loophole for the community or any party who feels that their interests are harmed by the inconsistency of the obligation to include the Academic Manuscript of the Amendment RUU used as the basis for the formation of the RUU which is then agreed to become the new ASN Law.

As a form of inconsistency, a judicial review can be submitted to the Constitutional Court with a request that the ASN Law be formally flawed due to a violation of one of the three principles of the formation of legislation, namely a violation of the principle of procedure and the process of forming regulations (*Verfahren der Ausarbeitung der Regelung*), namely related to the process that is gone through in forming the legislation, namely the process of not changing the Academic Manuscript of the RUU ASN to become an Academic Manuscript replacing the entire RUU ASN. So that Law Number 20 of 2023 concerning ASN has the risk of being declared invalid by the Constitutional Court through a judicial review process with the focus in the argument of the application being the obligation to include the Academic Manuscript in the formation of legislation must also be in line with the application of the Principle of Legality in Constitutional Law and the prohibition of exceeding authority as regulated in Article 9 in conjunction with Article 17 paragraph (1) of Law Number 30 of 2014 and its

explanation regarding Government Administration, which is manifested through the consistency of the Academic Manuscript of the RUU ASN, should be changed first when the discussion process of the RUU ASN has agreed to replace it, not change it. The consistency of the Academic Manuscript is important because the Academic Manuscript is a document resulting from a measurable scientific study which is a guideline in the formation of the Law.

#### 4. Conclusion

The obligation to include an Academic Manuscript in the process of forming legislation is an order from Article 43 paragraph (3) of the PPPU Law and for RUUs originating from the initiative of the Indonesian House of Representatives is regulated in Article 2 paragraph (3) of the Indonesian House of Representatives Regulation Number 2 of 2020 concerning the Formation of Laws. The Academic Manuscript is prepared based on the results of comprehensive literature studies and field studies. After the Academic Manuscript is prepared, the DPR can conduct a public test involving experts, practitioners, and stakeholders through workshops, seminars, or discussions. The public test needs to be carried out as material for improving the Academic Manuscript. After the Academic Manuscript is formed, then the DPR, assisted by expert bodies and experts, will prepare a RUU based on the Academic Manuscript that has been prepared. Based on the results of the discussion of the RUU ASN which was then enacted into Law Number 20 of 2023 concerning ASN, it was found that in substance Law Number 20 of 2023 concerning ASN has complied with the substance as stated in the Academic Manuscript of the Amendment RUU to the ASN Law, where of the 10 (ten) materials contained in the Academic Manuscript of the Amendment RUU to the ASN Law, 8 (eight) materials have been accommodated in Law Number 20 of 2023. The legal consequences of not complying with the Academic Manuscript in the formation of the Law are that it is contrary to the principle of legality in the formation of laws and regulations and the theory of authority in state administrative law. So that a Law that does not comply with its Academic Manuscript can be declared procedurally flawed by submitting a material test/judicial review to the Constitutional Court.

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