

# THE URGENCY OF DEVELOPING A REGULATION'S DATABASE RELATED TO PRIVATE INTERNATIONAL LAW

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## ABSTRACT

*Regulatory organization is one of the items in the Second Legal Reform initiative under Jokowi's administration. There are 3 (three) priorities in this area, namely: (1) quality lawmaking; (2) evaluating all problematic laws and regulations; and (3) developing an integrated legal repository. The latter is important for 2 (two) reasons: First, to meet legal provisions. Second, to provide easy information access of laws and regulations to the public. As one of the countries competing to attract investment as a means to grow its national economy, it is time for Indonesia to have its own legal framework that addresses issues surrounding Private International Law (PIL). Indonesia currently still refers to Dutch-legacy PIL, namely Articles 16, 17, and 18 A.B, with most of other provisions dispersed under different laws and regulations. Indonesia is yet to have a single PIL codification. A bill and law would take longer time to develop; at the same time, there is growing demand for the access of PIL information. A development of PIL database is therefore seen as an urgency in Indonesia. Legal problem in this article are what is the correlation between PIL and the development of foreign investment in Indonesia, and how is the development of PIL database. This study employs normative jurisdiction approach and uses empirical data on PIL database development as an initiative undertaken by the Directorate General of Legal Administrative Affairs (Ditjen AHU) of the Ministry of Law and Human Rights of the Republic of Indonesia. The study finds that a PIL database has never been developed by any institution/agency, resulting in the public's difficulty in accessing PIL-related information. This study concludes that having an accurate PIL database could make business process and other legal relations involving foreign elements easier and quicker to solve as well as having the potential to boosting investment. At a higher level, a quality database provides greater access of information to public, allowing public participation in controlling the government's actions and policies especially in lawmaking.*

*Keywords: regulatory database, private international law, public information, foreign investment*

## A. INTRODUCTION

The national development in Indonesia envisions a just and prosperous society as enshrined in the the nation's philosophy *Pancasila* and the 1945

Constitution. To that end, the Government of the Republic of Indonesia seeks to build and strengthen its economic system, including by unlocking investment potentials as much as

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possible. Investment is vital in fueling economic growth, as it can drive significant increase of output. Investments may also boost employment opportunities and wealth as the result of the society's increased income.<sup>3</sup>

Being only one of the many countries competing to attract investments and shaping a strong national economy, Indonesia faces great challenges in its path. In a world that moves towards a unified market, interdependency between equally sovereign countries increase. At the same time, it is not just interdependency that we are witnessing but also the fact that countries need each other to maintain political and economic stability whilst fulfilling their national interests.<sup>4</sup>

As a free and sovereign country, and with the aim to increase investment and international trade, Indonesia reasonably need a set of legislations and regulations concerning matters that fall under Private International Law (PIL) regime.<sup>5</sup> With the

high number of foreign persons and juristic entities in Indonesia, legal relations arise in many areas from family law, e.g. due to marriage, divorce, child adoption, inheritance, or division of marital asset, to trade law, e.g. due to sale and purchase, property rent, leasing, franchising, and joint venture financing that involve cross-border trade. All of these relations may bind foreign persons or entities in Indonesia or foreign persons or entities with Indonesian citizens or entities.

Presently, the PIL that applies in Indonesia is the PIL devised during the colonial era, namely Articles 16, 17, and A8 of A.B. (*Algemeene Bepalingen Van Wet Geving Voor Indonesie* dated 30 April 1847).<sup>6</sup> The articles govern persons/principles of citizenship (Article 16 A.B.), different laws that apply to movable and immovable properties (*lex rei sitae*, Article A.B.), and laws that apply to certain actions (*locus rehit actum/lex loci celebrationis*, Article 18 A.B.)

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<sup>3</sup> Robert Endi Jaweng, et.al., Long Road for Business Licensing Reform "Evaluation of the Implementation of Action Plans for improvement of Ease of Doing Business in the Regions", Jakarta: Asian Development Bank, 2015, page. 1.

<sup>4</sup> Arfan Faiz Muhliizi, Regulatory Structuring in Support of National Economic Development, Jakarta: National Law Development Agency, Jurnal Rechtsvinding Volume 6, No. 3, December 2017, page. 34.

<sup>5</sup> Ali Said, a Workshop in Indonesia's Private International Law, Organized by National Law Development Agency, 29 September 1983.

<sup>6</sup> Sudargo Gautama, Association of International Civil Law Worldwide, Prints II, Bandung: Alumni, 1984, page. 9.

However, specialized areas of the law, such as areas relating to technology, insolvency, mining, marriage, and investment are governed by different laws and regulations by sector (*lex specialis*); in other words, a complete, comprehensive, and systematic laws codified or harmonized for PIL are not yet available.

The need to have written PIL in Indonesia has emerged for some time. Efforts undertaken to renew Indonesia's PIL could be traced back to 1983, led by the National Law Development Agency (BPHN), chaired at the time by Teuku Radhie, SH with the support from Prof. Mr Dr Sudargo Gautama as the lead researcher. They produced an academic manuscript and an PIL Bill.<sup>7</sup> The bill undergone revisions, with the last revision made in 1997/1998.<sup>8</sup> The process, however, has not been completed. As the result, Indonesia lags behind three other Asian countries that have ratified their PIL: Japan, who has had PIL regime since

1898,<sup>9</sup> China (1918), and Thailand (1939). The Netherlands has also passed a new PIL framework on 19 May 2011.<sup>10</sup> In view of these international experiences, PIL is urgently needed in Indonesia. But up to now, the preparation of the PIL Bills has not been completed, still in the study stage of academic draft and not yet included in the list of national legislation programs (Prolegnas), so that considering the complex and time-consuming process of drafting PIL, while the need for PIL-related information continue to increase and with the dispersed state of PIL regulations in Indonesia, there is a need for Indonesia to design an PIL database.

Indeed, designing a database containing all applicable legislations and regulations is one of the priorities under the Second Legal Reform Framework. It falls under regulatory organization agenda that covers 3 (three) areas:

1. Strengthening lawmaking process
2. Evaluating entire laws and regulations

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<sup>7</sup> National Law Development Agency, Workshop on Private International Law, Jakarta: National Law Development Agency, 1984. Sudargo Gautama, Association of International Civil Law Worldwide, Prints II, Bandung: Alumni, 1984, page. 9.

<sup>8</sup> Ministry of Justice of the Republic of Indonesia, *Bill of Private International Law 1997/1998*, Jakarta: Ministry of Justice of the Republic of Indonesia, 1997.

<sup>9</sup> *Act No. 10 of 1898 concerning Application of Laws in General [Horei]*. This law was amended by *Act No. 27 of 1989. Act No. 78 of 2006 concerning General Rules of Application of Law* revoked and replaced Act 1989 and changes entirely Japan's PIL. See Masato Dogauchi, "New Private International Law of Japan: An Overview", *The Japanese Annual of International Law*, vol. 50, pg. 3 dst (2007).

<sup>10</sup> HRS, Indonesia need Codification of Private International Law, <http://www.hukumonline.com/berita/baca/lt505175d29a703/indonesia-butuh-kodifikasi-hukum-perdata-internasional> accessed on 13:40 2 August 2019.

### 3. Creating an integrated legal database.

This database is crucial from the point of view of public service. With respect to PIL, the ability to provide comprehensive information concerning regulations, case references, and PIL literatures to stakeholders is vital and strategic to ensure that the public enjoys legal certainty and receive quality legal services.

Indonesia already has an PIL unit under the International Law Directorate that is nested under the Directorate General of Legal Administrative Affairs (Ditjen AHU) of the Ministry of Law and Human Rights of the Republic of Indonesia (MoLHR). The PIL unit's responsibilities include providing legal opinions and recommendations on matters relating to PIL. An PIL database is important to develop, as a database of this kind is currently not available, and the public faces significant difficulty to access PIL-information due to distance, costs, time, and the lack of updated PIL information.

Taking the above into account, this article seeks to discuss the following 2 (two) questions:

1. What is the correlation between Private International Law and the development of foreign investments in Indonesia?
2. How is the development of Private International Law database?

## **B. RESEARCH METHOD**

Based on the problems and background discussed above, this study employs the normative jurisdictional approach.<sup>11</sup> This study relies on literature research and empirical data provided by the PIL Unit under DITJEN AHU as the party that develops PIL Database Application.

## **C. DISCUSSION**

### **1. Correlation Between Private International Law and the Development of Foreign Investment in Indonesia**

Until today, Indonesia is yet to have a single codified PIL. PIL-related regulations

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<sup>11</sup> A normative research is a research where data sources are limited to literature resources or secondary data. A normative research refers to previous studies on (1) legal principles, (2) system of the law, (3) vertical and horizontal synchronization, (4) comparative legal studies, and (5) history of the law. For more information see Soerjono Soekanto and Sri Mamudji, *The Role and Use of Libraries in Legal Research*, Jakarta: Center for Documentation of Law, Faculty of Law, University of Indonesia, 1979, page. 15.

are widely dispersed under different and specialized legal framework, e.g. in the Civil Code (*Burgerlijk Wet Boek/BW*), Trade Law Code (WvK), Bankruptcy Law, Electronic Information and Transaction Law, Capital Market Law, Mining Law, Marital Law, and Labor Law. There is, however, an overarching legal framework for PIL, namely *ALGEMENE BEPALINGEN VAN WETGEVING (AB)*.

There are three main provisions relating to PIL in AB:

1. Article 16, which governs that a person's legal capacity shall be determined based on the national law to which the person is a subject (*LEX PARTIE*). Therefore, Indonesian citizens, regardless of their physical locations, are bound by their national law with respect to their legal status and capacity;
2. Article 17, which governs that an immovable property shall be appraised according to the national laws that apply in the jurisdiction where the property is located (*LEX RESITAE*);
3. Article 18 AB, which governs that actions are legally assessed according

to the laws that apply in the jurisdiction where the actions occur (*LOCUS REGIT ACTUM*).

These articles are references, as they point to other legal systems that could be national or foreign laws.<sup>12</sup>

PIL covers legal matters extensively, among others matters relating to Persons, Adoption, Properties, Wills, Contracts, and Specialized Legal Fields – the latter most commonly relating to economy or international trade.

In Indonesia's nine vision or *Nawa Cita*, one of the agenda items is a mandate for Indonesia to be competitive and has economic independency. Increasing economic competitiveness by creating a favorable investment climate is therefore one of the country's national priorities in the Mid-Term Development Plan (RPJM) 2015-2019. Specifically, the objectives of increasing investments as laid out in RPJM 2015-2019 are:<sup>13</sup>

1. Reducing time of investment permit processing at central and local levels to no later than 15 (fifteen) days per type of permit by 2019;

<sup>12</sup> Ari Purwadi, *Fundamentals of Private International Law*, Surabaya: Center for Law and Development Studies (PPHP), 2016, page. 18.

<sup>13</sup> Cross-Border Trade AE Working Group, *Legal Analysis and Evaluation Related to Cross-Country Trade*, Jakarta: National Law Development Agency, 2018, page. 2.

2. Reducing time and number of procedures to starting a business to just 7 (seven) days and 5 (five) procedures by 2019 as part of Indonesia's effort to increase its Ease of Doing Business (EoDB) rank;
3. Increasing foreign and domestic investment to Rp933 (nine hundred and thirty three) trillion by 2019 with domestic investment accounting for 38.9 (thirty eight point nine) per cent.

There are 2 (two) policy pillars designed to support investment strengthening. The first pillar is efficient business permit processing for better investment and business climate. The second pillar is to increase domestic investment by promoting inclusive investment. Both pillars must be integrated and synchronized at central and local levels.

To boost investment it is indeed important to have favorable investment and business climate as one of the features in Indonesia's economic competitiveness. Efforts have been undertaken by the Government of Indonesia to that end, including the

issuance of several economic de-regulation 'packages' intended to lift competitiveness and stimulate economic growth.<sup>14</sup>

From 2015 to present, the government has issued a total of 16 (sixteen) Economic Policy Packages. By year, the government issued 8 (eight) packages in 2015, 6 (six) in 2016, and 1 (one) in 2017. The policies are varied and affect various sectors and issues, including policies concerning EoDB that was issued in April 2016. The most recent package was Package XVI, issued in November, and intended to attract foreign capital and investment. This package mainly covers tax holiday and relaxation of the Investment Negative List (DNI).<sup>15</sup>

EoDB is one of the globally recognized standards. The EoDB list is used by investors to inform their international business expansion or investment decisions. Issued annually by the World Bank Group, EoDB rank is a result of 10 (ten) assessment indicators and survey in each participating country – the indicators and survey include taxation and international trade, both are areas

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<sup>14</sup> Licensing AE Working Group, *Analysis and Evaluation related to Permit*, Jakarta: Badan Pembinaan Hukum Nasional, 2018, pg. 1

<sup>15</sup> <https://www.bappenas.go.id/id/data-dan-informasi-utama/publikasi/paket-kebijakan-ekonomi/>, accessed on 2 July 2019.

covered by PIL.

Indonesia currently occupies 73<sup>rd</sup> position, has remained stagnant due to compare with previous year 2019 and dropping one rank from 72 in 2018. The country's EoDB rank is the second objective of Indonesia's investment strengthening efforts according to Policy Package XII. There are 11 (eleven) indicators that the World Bank uses to assess a country's position – the indicators reflect the achievements of the public sector (government) in improving its business and investment regulations and climate. The indicators are:<sup>16</sup>

1. *Starting a business;*
2. *Dealing with construction permit;*
3. *Getting electricity;*
4. *Registering property;*
5. *Getting credit;*
6. *Protecting minority investor;*
7. *Paying taxes;*
8. *Trading across borders;*
9. *Enforcing contract;*
10. *Resolving insolvency;* and
11. *Labor market regulation*

Using a standardized measures as its methodology, the World Bank does not

randomly rank countries in the survey. EoDB result is used as a reference for Indonesia's potential investors. EoDB rank reflects increased trust to Indonesia as investment-worthy. Trust is crucial; it determines whether investors would be willing to make long-term investment instead of one-off bet in the country. The Government is continue to do everything in its power to improve investment climate. Various initiatives to simplify business regulations and process are expected to make doing business in Indonesia easier.<sup>17</sup>

One of EoDB's indicators is trading across border, which is also a field covered by PIL. Cross-border trade can be simply defined as an economic relations between countries that involve voluntary exchanges of goods and/or services to generate gains of trade. There are a multitude of issues relating to PIL, as there are vast forms of trade from the simplest ones, e.g. barter to the sophisticated derivative transactions. International trade is governed by multilateral legal frameworks, such as the Agreement to Establish the World Trade Organization, and regional frameworks such as the

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<sup>16</sup> Cross-Border Trade AE Working Group, Op., Cit., pg. 3

<sup>17</sup> Nufransa Wira Sakti, *Brace the Ease of Doing Business*, Jakarta: Media Keuangan, 2016.

ASEAN Free Trade Area, as well as bilateral frameworks.<sup>18</sup> Considering the complexity, having a clear regulatory framework that can provide legal certainty to foreign investments seeking to invest in Indonesia is critical.

There are many factors that lead a country to eventually enter into international trade, among others: (1) to meet its domestic needs of goods and services; (2) to generate trade gains and increase state revenue; (3) differences arising from the state of a country's various forms of capital, e.g. natural, climate, human, culture, and population that lead to comparative advantages between countries on production output and capacity; (4) differences in knowledge and technology mastery to manage economic resources; and/or (5) globalization where no single country is able to exist on its own.<sup>19</sup>

International trade has both positive and negative impacts to the countries involved. The *first* positive impact is stimulation of economic growth.<sup>20</sup>

*Second*, countries and nations are brought closer, as the collective sense of needing each other and friendships are forged.<sup>21</sup>

*Third*, job creation. An exporting country involved in international trade may need to increase its production volume for exports, and this may lead to companies requiring more workers. Companies absorb more employment-seekers and offer extensive and various work opportunities for Indonesian workers. *Fourth*, increase in trade gains and foreign exchange reserve. International trade can be a source of foreign exchange reserve and trigger producers and employers to maximize their production capacities. In turn, producers will want to optimize their production output to increase profits. *Fifth*, comparative advantage from production specialization. Both Indonesia and India are able to produce bikes, for instance, but Indonesia excels in quality over India – therefore Indonesia can specialize in bicycle manufacturing. *Sixth*, international trade drives the transfer of modern technology. International trade

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<sup>18</sup> Cross-Border Trade AE Working Group, Op. Cit., page. 5.

<sup>19</sup> Ibid

<sup>20</sup> Robert Fitzgerald, *The Rise of the Global Company*, Cambridge: Cambridge University Press, 2015#), page. 42 in Cross-Border Trade AE Working Group, Legal Analysis and Evaluation Related to Cross-Country Trade, Jakarta: National Law Development Agency, 2018

<sup>21</sup> Robert Fitzgerald, *The Rise of the Global Company*, Cambridge: Cambridge University Press, 2015#), page. 42 in Cross-Border Trade AE Working Group, Legal Analysis and Evaluation Related to Cross-Country Trade, Jakarta: National Law Development Agency, 2018



enables manufacturers or companies to study production techniques used in a different country, which are more sophisticated and efficient, to be adopted locally and optimize their own manufacturing process. *Seventh*, international trade may prevent a crisis in a country. In the event of a large-scale harvest failure in Indonesia, for example, food crisis can be mitigated by importing rice. *Eight*, international trade rationalizes prices. Through international trade, Indonesia may generate gains by importing goods that would be more expensive when produced locally. *Ninth*, international trade boost domestic economic activities; it drives production process and favorably affect manufacturers and workers through increased employment.

On the other hand, international trade is not void of negative impacts – some have been felt by Indonesia.<sup>22</sup> *First*, it creates a sense of dependency to other

countries, i.e. foreign products especially when the products are not domestically available. *Second*, it creates an issue of economic imperialism. Trade can be used as a weapon to govern and putting pressure on other countries, and economic dependency could encroach other areas. *Third*, in reality, international trade can easily be turned into free-trade arrangement that favors developed countries.<sup>23</sup> *Fourth*, it can lead to severe exploitation of natural and human resources. In the long-term, countries with rich natural resource may suffer from resource curse and grow into importers instead of exporters. In the case of Indonesia, the country that was once an oil producer is now a net-importer of oil. *Fifth*, fierce competition and fall out between countries. This may occur when two or more exporting countries are targeting the same markets. In textile, for example, Indonesia and India – both are textile producers – may be competing to

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<sup>22</sup> Hikmahanto Juwana, *MEA: Diuntungkankah Indonesia? Kajian dalam Hukum Perdagangan Internasional*, presented during the 91<sup>st</sup> Anniversary of the Study of the Law in Indonesia's Tertiary Education, Depok, 28 October 2015. (Depok: Faculty of Law University of Indonesia, 2015). See also Analysis and Evaluation Report from Cross-Border Trade AE Working Group, *Analysis and Evaluation of Law related to Trading Across Broder* Jakarta: National Law Development Agency, 2018

<sup>23</sup> Joseph Stiglitz, *Making Globalization Work*, (London: Allen Lane, 2006), pgs. 62-63. For issues faced by developing countries, see for example Mahbub ul Hag, "Third World and World Economic Order", in T. Mulya Lubis and Richard M. Buxbaum, *The Role of Law in the Economy in Developing Countries*, (Jakarta: Yayasan Obor Indonesia, 1986), pages. 306-370. See also Analysis and Evaluation Report from Trading Across-Border on Analysis and Evaluation Working Group, Jakarta: National Law Development Agency, 2018.

get their products in United States' markets as a textile-importing country.

The success of the world's large economies is in part determined by their activities in international trade.<sup>24</sup> The Chinese domination in the past through its 'silk route' policy is one example.<sup>25</sup> Other countries followed China's footsteps – Spain had the *Spanish Conquistadors*, the UK established the East India Company,<sup>26</sup> and the Netherlands founded the *Verenigde Oost-Indische Compagnie* (VOC). As for Indonesia, international trade has been occurring for centuries in the archipelago.<sup>27</sup>

From the discussion above, we can conclude that economic development needs to be accelerated so that policies can be used to make doing business easier and to minimize business risks. These need to be complemented by a rigorous legal framework that allows not only ease of doing business, but also protection against unhealthy competition in this era of borderless global economy.

Regulatory certainty and information that is easily accessible by the public is one of the vital prerequisites to realize business certainty. By having a solid system in Indonesia, foreign investors may easily obtain all information relevant to PIL. Therefore, having an PIL regulatory database where regulations are neatly organized is important.

During this time, especially in the field of special law, related PIL rules are spread in various regulations. There is no institution yet which compiles a database related of PIL. Therefore, the need of establishment a database of regulation related PIL is very important, because if we wait for the PIL Bill will takes time while the need for such rules is urgent.

## **2. Development of Private International Law Database**

Specifically, there are 2 (two) reasons behind this need: First, to meet regulatory provisions that require the government to put all laws and regulations passed into state gazettes. Second, a regulatory

<sup>24</sup> Huala Adolf, *International Tragde of Law*, Jakarta: Rajawali Pres, 2014, page. 2.

<sup>25</sup> Peter Frankopan, *The Silk Roads: A New History of the World*, London: Bloomsbury, 2015, pages. 1-26, See also Analysis and Evaluation Report from Trading Across-Border on Analysis and Evaluation Working Group, Jakarta: National Law Development Agency, 2018.

<sup>26</sup> See, for example, Nick Robins, *The Corporation that Changed the World: How the East India Company Shaped the Modern Multinational*, New York: Plutopress, 2011, pages. 19-40, See also Analysis and Evaluation Report from Trading Across-Border on Analysis and Evaluation Working Group, Jakarta: National Law Development Agency, 2018.

<sup>27</sup> Philip O. L. Tobing, *Shipping and Trade Laws Amanna Gappa*, Semarang: Satya Wacana, page. 197.

database is necessary as public information disclosure. Under the legal fiction theory, all citizens are required to know and understand the applicable rules and legislations.<sup>28</sup>

PIL database would be an important tool for investors to gain information. By having an operational database that contains accurate information, business or other legal processes involving a foreign element can be more quick and efficient. At a higher level, a publicly accessible database provides greater control for the public in monitoring government policies and actions, especially in lawmaking. The use of technology information in this matter is a strategic choice in strengthening public oversight and prevent frauds. Information disclosure according to applicable laws is one of the important elements in realizing an open and transparent government. Public assessment and opinions are a part of the freedom of expression that characterizes a country that upholds the rule of law and *Pancasila*.<sup>29</sup>

One of the government's current focus areas is to open as widely as possible access for foreign investors to enter

Indonesian market by opening jobs, streamlining licensing bureaucracy, eradicating illegal fees, and addressing other investment barriers – all require legal certainty. The government is also undertaking structural reform to make its institutions simpler and more agile, to transform their mindset, speed of service, speed of issuing permits, and improve their efficiency. In support of the government's initiative, MoLHR needs to improve especially in terms of providing speedy and accessible legal services backed by technology.

The existence and role of the Central Authority and International Law Directorate under Ditjen AHU is important since the law (always) evolve following changes in the society and the world. The increasingly globalized world is followed by cross-border civil practices among individuals, business entities, community groups, countries, and other entities.

Examples of international civil relations include legal relations between an Indonesian citizen and a foreign citizen – due to marriage or divorce that takes place in Indonesia or overseas, child adoption by a foreign citizen, co-

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<sup>28</sup> Arfan Faiz Muhlisi, *Jurnal Rechtsvinding*, Op., Cit., page. 15.

<sup>29</sup> Arfan Faiz Muhlisi, *Ibid.* pg. 16.

ownership of properties due to marital relations, property guarantee, inheritance, access to trade and commerce, e-commerce, business competition, growth of unicorn companies, and technology-driven service engagement (Uber, Grab, Gojek, etc.). For example there is a mixed marriage between Indonesian citizens and foreigners in the city of Jepara. The rapidly developing furniture industry in Jepara invited foreigners to establish a company in Jepara. Foreigners who founded a furniture company in Jepara, had to stay for a while for business matters. This condition triggers mixed marriages between Jepara women and foreigners. This has implications for economic, cultural and legal aspects especially on PIL.<sup>30</sup> Unfortunately, PIL information disclosure has not been able to keep up with public needs with quick information access unavailable at this time. Consequently, it is difficult for the public to access any information due to distance, costs, and time and lack of updated related PIL information. To address this, Ditjen AHU initiated the development of PIL App – a platform to access PIL-related

information. This is a strategic and innovative solution that is designed to be accessible by the public via the directorate general's website (<http://hpi-hi.ahu.go.id/>).

The application, developed by the PIL Unit under Ditjen AHU, will contain related PIL regulations, international conventions, and cases in Indonesia that can be used as references to settle PIL dispute in Indonesia. The application is also planned to be integrated with the electronic Legal Information Repository (JDIH) of BPHN. Pursuant to Presidential Regulation No. 33 of 2012, the Ministry is tasked to integrate JDIH under all ministries/institutions into a national repository. The integration is important to overcome inconsistent content of regulation database managed by different government agencies. Technology-based repository integration will create a single network of database management – data are fed by network members who will need to input their information to the network. In turn, a network user will be able to access legal products using a single search engine. This initiative expects to improve national legal development

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<sup>30</sup> <https://lib.unnes.ac.id/18579/1/3401409076.pdf>, accessed on October, 22, 2019

process, public service, and good governance by promoting transparent, effective, efficient, and responsible ways of managing legal documents and information that are comprehensive, accurate and easily accessible.<sup>31</sup>

The following illustrates how PIL information network is planned to operate:<sup>32</sup>

**1** Buka Aplikasi melalui laptop/PC/handphone dengan ketik <http://hpi-hi.ahu.go.id/>, akan tampil homepage aplikasi seperti gambar:



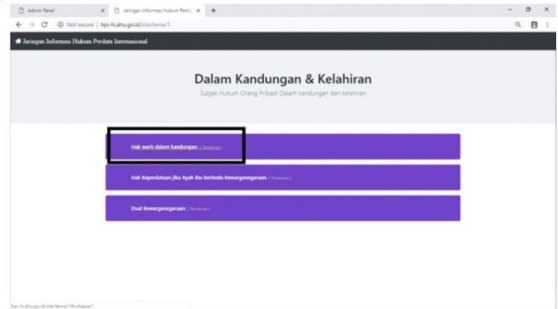
1. App is accessible via laptop/PC/smartphone. Type <http://hpi-hi.ahu.go.id/> and user will be directed to the page above.

**2** Pilih kategori yang ingin dilihat dokumennya, misal memilih Kategori "Dalam Kandungan dan Kelahiran", lalu klik.



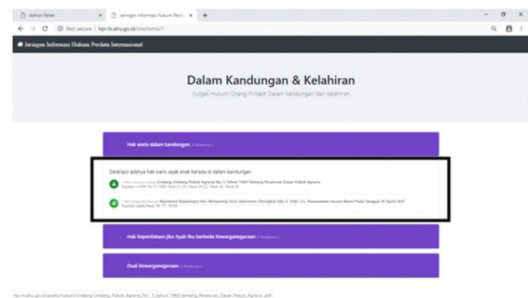
2. Click a document category, e.g. "In utero and Birth."

**3** Setelah itu akan keluar tampilan gambar seperti ini, dan pilih salah satu Tema, misal "Hak Waris dalam Kandungan":



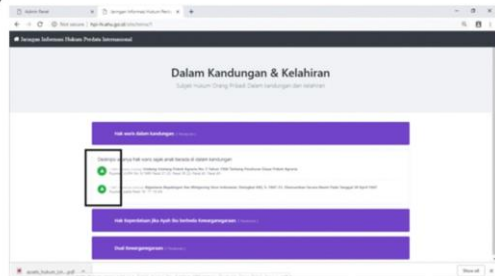
3. The next page will show user theme options under that category, e.g. "Inheritance for Fetus In Utero"

**4** Kemudian akan keluar tampilan berikut untuk dipilih regulasi yang akan di unduh:



4. Based on user's option, search engine generates a selection of regulations for user to download.

**5** Pilih **Download**, dan dokumen akan terbuka:



<sup>31</sup> <https://bphn.go.id/news/2019041611235885/Pengelolaan-Dokumen-Hukum-melalui-JDIH-sebagai-Layanan-Informasi-menjadi-wujud-peningkatan-kualitas-Pembangunan-Hukum-Nasional>, accessed on 10.40, 5 August 2019.

<sup>32</sup> Private International Law Information Network, <http://hpi-hi.ahu.go.id/>, accessed on 15.00, 4 August 2019

5. Click download and open the document.



Maka data langsung ter-input dalam Sistem.

**6** Selesai.

6. Finish.

By accessing information applications related to PIL, it will be easier for the public to find information related to PIL problems which so far, especially for special fields, are spread in various laws. Foreign investors also can use the PIL application to get information related to PIL if they want to invest in Indonesia. This is important to use it easily for foreign investors to get information through one application. With comprehensive information, foreign investors become convinced to invest in Indonesia, so that the government's goal to increase foreign investment in Indonesia will be achieved.

#### D. CONCLUSION

A legal and regulatory database is one of the priorities in regulatory re-organization and is vital for public service. PIL codification is not yet available in Indonesia, as Indonesia still refers to

Dutch legal regime, namely Articles 16, 17, and 18 A.B, and other regulations are dispersed in various sectors. At the same time, there is a growing need for PIL information, especially as the government is seeking to improve Indonesia's investment climate. Providing information on regulations, case references, and PIL literature sources to stakeholders is crucial and strategic in realizing legal certainty and providing quality legal services.

An accurate PIL database can help expediting and making legal relations more efficient for Indonesian and foreign citizens and entities, and has the potential to contribute to increasing foreign investment. At a larger scale, a quality database will provide the public with greater access to information thereby allowing the public to participate in monitoring the government's actions and policies, specifically in lawmaking.

This study recommends for Indonesia to develop its own PIL regulations to replace the older regime. This is an important step forward especially considering Indonesia's low ranks in EoDB and in Investing Across Border (IAB) index due to lack of legal certainty. An PIL database can help improving foreign

investment in Indonesia.

Aside from having this database developed by Ditjen AHU, tasked to provide PIL information service, repository integration between the DG's

and BHPN's will also be needed in the future, as BPHN is tasked to integrate all electronic repositories in the government based on President Regulation on JDIH.

## BIBLIOGRAPHY

### A. Books

- An Chen, "Trade as the Guarantor of Peace, Liberty and Security" dalam Wenhua Shan, Penelope Simons dan Dalvinder Singh (eds.), *Redefining Sovereignty in International Economic Law*, Portland: Hart Publishing, 2008
- Ari Purwadi, *Dasar-Dasar Hukum Perdata Internasional*, Surabaya: Pusat Pengkajian Hukum dan Pembangunan (PPHP), 2016
- Huala Adolf, *Hukum Perdagangan Internasional*, Jakarta: Rajawali Pres, 2014
- Nick Robins, *The Corporation that Changed the World: How the East India Company Shaped the Modern Multinational*, New York: Plutopress, 2012
- Philip O. L. Tobing, *Hukum Pelayaran dan Perdagangan Amanna Gappa*, Semarang: Satya Wacana, 1977
- Robert Endi Jaweng dkk, *Jalan Panjang Reformasi Perizinan Berusaha "Evaluasi Pelaksanaan Rencana Aksi Perbaikan Kemudahan Berusaha di Daerah"*, Jakarta: Asian Development Bank, 2015
- Robert Fitzgerald, *The Rise of the Global Company*, Cambridge: Cambridge University Press, 2015
- Sudargo Gautama, *Himpunan Perundang-Undangan Hukum Perdata Internasional Sedunia*, Cetakan II, Bandung: Alumni, 1984
- Soerjono Soekanto dan Sri Mamudji, *Peranan dan Penggunaan Perpustakaan di Dalam Penelitian Hukum*, Jakarta: Pusat Dokumentasi Hukum Fakultas Hukum Universitas Indonesia, 1979
- Tim Pokja AE Perizinan, *Analisis dan Evaluasi Hukum Terkait Perizinan*, Jakarta: Badan Pembinaan Hukum Nasional, 2018
- Tim Pokja AE Perdagangan Lintas Negara, *Analisis dan Evaluasi Hukum Terkait Perdagangan Lintas Negara*, Jakarta: Badan Pembinaan Hukum Nasional, 2018

### B. Journal Articles/Papers

- Ali Said, Lokakarya Hukum Perdata Internasional Indonesia, yang diselenggarakan oleh Badan Pembinaan Hukum Nasional, Di Jakarta pada tanggal 29 September 1983
- Arfan Faiz Muhlizi, *Penataan Regulasi Dalam Mendukung Pembangunan Ekonomi Nasional*, Jakarta: Badan Pembinaan Hukum Nasional, Jurnal Rechtsvinding Volume 6, Nomor 3, Desember 2017



Badan Pembinaan Hukum Nasional, *Lokakarya Hukum Perdata Internasional*, Jakarta: Badan Pembinaan Hukum Nasional, 1984

Hikmahanto Juwana, *MEA: Diuntungkanakah Indonesia? Kajian dalam Hukum Perdagangan Internasional*, disampaikan dalam acara Dies Natalis Ke-91 Pendidikan Tinggi Hukum di Indonesia, Depok, 28 Oktober 2015

Mutiara Hikmah, Sudah Saatnya Indonesia Memiliki Kodifikasi Hukum Perdata Internasional, Depok: Universitas Indonesia, *Majalah Hukum dan Pembangunan*, Nomor 2 Tahun XXXIII, Januari – Maret 2003

Nufransa Wira Sakti, *Mengerek Kemudahan Berbisnis*, Jakarta: Media Keuangan, 2016

### **C. Internet Sources**

<http://www.hukumonline.com/berita/baca/lt505175d29a703/indonesia-butuh-kodifikasi-hukum-perdata-internasional>

<https://bphn.go.id/news/2019041611235885/Pengelolaan-Dokumen-Hukum-melalui-JDIH-sebagai-Layanan-Informasi-menjadi-wujud-peningkatan-kualitas-Pembangunan-Hukum-Nasional>

<https://www.bappenas.go.id/id/data-dan-informasi-utama/publikasi/paket-kebijakan-ekonomi/>

## BIOGRAPHY

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