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Article Impact Assessment Local Regulations that Pro Poor Character as an Instrument Society Transformation

HS Tisnanta[1], Rudy[1], Widodo Dwi Putro[2], Oki Hajiansyah Wahab[3]
1.Lecturer at the Faculty of Law, University of Lampung
2.Lecturer at the Faculty of Law, University of Mataram
3.Researcher at Centre for Public Policy and Human Rights Studies Faculty of Law, University of Lampung

Abstract
Understanding of poverty in this case related to powerlessness, isolation, vulnerability, and safety embody local legal products that pro Poor character is very important to be the policies platform that oriented to the fulfillment of the Poor rights. These conditions become the limiting factor for the Poor to fulfill their basic rights. Ideally, a legal drafter is also required to understand the sensitivity (responsiveness) of the poverty that is formulated within the framework of political economy. The approach that used in this study is a normative approach based law (statute approach). Insight study, clarification of information related to the legislative process of the present day, research team also uses in-depth interviews and Focus Group Discussion with several speakers who are considered competent. The findings of this study, there are some weaknesses in the design of local drafting regulations as stipulated in Law No. 12 of 2011. Weaknesses related to understand the principles of law and the legal use of language make the legal drafter mostly still stuck into the technical sciences of legislation and regulations. The study found a model approach to Article Impact Assessment (AIA) as a model of drafting regulations that pro Poor character. The implication of law resulting product will be pro Poor character. AIA model implementation seeks to encourage pro Poor character and protect character can become driving instrument society transformation.
Keywords: The Poor, Regulation, AIA, Transformative Law

I. Background

Local autonomy is an instrument that opens opportunities and policy options that can accelerate the development process and poverty reduction (J Ruland; 1992 BC. Smith; vol.6, Jesse Ribot; 2004) in order for decentralization has been instrumental in reducing poverty, it takes a framework and strong decentralization institutions (Sharif Hidayat; 2006).

Relative to the things it needs the efforts to improve institutional capacity and resources (the local regulations) that qualified in the management of autonomous authority (William Rivera; 2004). In addition to the increased resources it will also encourage the formulation quality and implementation of policies designed properly so that the pro-Poor policies taken to be the facilities delivery of services to the Poor and to create good governance for poverty reduction (D. Rondineli; 1981, Danny Burns; 1994).Policy formation, in the form of local legal products should be oriented on poverty reduction. Formation of local regulations should consider the conditions, aspirations and limitations of the Poor, especially when dealing with bureaucratic procedures in accessing public services. Fulfillment the rights of the Poor requires setting that uses a flexible standard norm for handling their limitations condition (Roberto Unger; 2007).

With such a flexible standard norm is expected local legal products which was published can guarantee the freedom aspect, accessibility, availability and suitability requirements and conditions of the Poor to public services. However the process of legislation which only emphasizes the political elite characters will be great potential to neglect the rights of society in the formulation of local regulations provisions.

One important aspect of legislative process is academic paper preparation. Efforts to achieve access to justice in the legislative process are an endeavor to open the opportunities for the Poor in one hand and to increase the capacity of local government in this case legal drafting on the other hand. Capacity development in order to improve the quality of legislation is conducted by Huls and Stoter (2003) to review contemporary theories related to the improvement of quality legislation in the Netherlands both normative and empirical. This sort of thing is done solely to improve mastery and understanding about formation theories so that can improve the performance of the parties involved in the legislative process.

Thus access justice as assessed by Otto (2012) not only focuses on the problem of the search for justice in the Court, but more than that is in the process of legislation. Relevance of access to justice in the context of legislative process is an attempt to mainstream pro Poor policies. Improving the quality legislation is one aspect of academic drafting process aimed at building a substantive dialogue in the process of policy formulation and local legal products. In other words, access to justice in the legislative process is an attempt to mainstream a very fundamental initiative of both parties to involve others and to be involved in the process so the communication goes in terms of framework and clear objectives. The opening space intensive dialogue between the public and

the legal drafter will be able to provide input to the effort of extracting the real conditions, needs and solutions of the problem to be solved.

Substantially, material embodiment local legal products that pro Poor character strongly influenced by the existence and role of the designer/legal drafter. A legal drafter has a very important role because he/she is a local policy translator into a local regulation norm. A legal drafter is required to not only be able to formulate alignments forms of local regulations by affirmative setting but also has the ability to understand the problems are faced by the people, especially the Poor.

The problem that often arises is in the level of academic paper preparation and legislation drafting where the authorities lack the ability of regulations mechanism. This condition has an impact on the legal products resulting. No wonder that often found local regulation produced in each region is somewhat similar in fact not much different in terms of content as copy and paste committed against other regulations. The uniformity of the products produced, indicating that the process of determining an object or materials to be regulated in the local regulation often don't depart from the identification of society real needs.

These conditions certainly continued capacity building for the legal drafter to be able to understand the conditions of the Poor besides a legal drafter also is expected to understand the relationship between local development frameworks with the establishment of local regulations in relation to the people objective conditions in the local area. Through an understanding the limitations of the Poor in accessing legal services it is expected that the legal drafters were able to formulate norms that are affirmative.

II. Problems

Based on the background above, the issues to be examined in this study are:

1. How are the weaknesses of formulation design on local regulations contained in Law No. 12 of 2011?
2. How are pro Poor formulation model drafting regulations that encourage the society transformation?

III. Methods

Approach to the problem used in this study is a normative approach. In accordance with scientific knowledge character, law practical knowledge as the authoritative normologi, also used the legislation approach (statute approach). With this approach will be developed methods of applying good regulation formation principles. In addition, for deepening the study, clarification and confirmation of the research related to the legislative process also uses in-depth interview and Focus Group Discussion with several speakers who are considered competent.

IV. Discussion

4.1 Reading Act 12 of 2011 Weaknesses

Law No.12 of 2012 about the Establishment of legislation is the implementation of Article 22A of the Constitution of the Republic of Indonesia 1945, which stated that "Further provisions on the procedure for the establishment of legislation further stipulated by the law "[1].

Law No. 12 of 2011 was an improvement of the weaknesses on the Act No.10 of 2004. Excess Law No.12 of 2011 compared to Act 10 of 2004, set academic paper as a requirement in the preparation of the Draft Law or Provincial Draft Regulation and District/City Draft Regulation. Addition academic paper preparation techniques contained in Appendix I. Besides that, in addition to design regulation, formation stages of legislation involving researchers and experts (Article 99).

However, Law No.12 of 2011 also contains weaknesses. There are three fundamental problems of weaknesses Act No.12 of 2011 on Principle, Participation, and Language.

a. Principle

Every law was made always based on a number of principles or basic principles. The principle of law is the foundation of law. According to Satjipto Rahardjo the principle of law, not rule of law. However, there is no law that can be understood without knowing the principles of law within it. These legal principles give meaning to the ethical rules of law and the rule of law[2].

Sajtipto Rahardjo likens the legal principle as heart of the rule of law on the basis of two (2) reasons[3]: First, the principle of law is the basis of the most extensive for the birth of the rule of law. This means the application of legal regulations can be returned to the legal principle. Second, the legal principle as it contains ethical demands,

[1] The scope of the substance legislation is expanded not only the law but also includes other legislation, in addition to the Constitution of the Republic of Indonesia Year 1945 and the People's Consultative Assembly. Law No. 12 of 2012 became the Qibla guide formation of legislation in Indonesia.

[2] Satjipto Rahardjo, 1980, *Hukum dan Masyarakat*, Angkasa, p. 87

[3] *Ibid.*,

the legal principles described as the bridge between the rule of law to the ideals of social and ethical views of society.

Article 5 Law No.12 of 2012 explain the principles of legislation includes: (a) clarity of purpose, (b) forming an institutional or official right; (c) synergy between the types, hierarchy, and material content; (d) could be implemented; (e) usability and usefulness; (f) clarity of formulation, and (g) openness.

How is good regulation, Article 6 Law No.12 of 2011 explain the substance of the legislation must reflect the principle of: (a) guardianship, (b) humanity, (c) nationality, (d) kinship; (e) archipelago; (f) diversity; (g) justice (h) equality before the law and government; (h) order and legal certainty, and/or balance, compatibility, and harmony. The principles of this law still abstract still need to be derived into a positive norm. On the principle of equality before the law and government, for example, raises questions. How is the principle of equality before the law and government realized if the social basis of law still covered social inequality.

On the principle of justice, for example, how to make the legislation with the justice closer? The social structure pyramid tubs legal footing; getting to the top of the pyramid, less number of people who live at the top of the pyramid; conversely, getting to the bottom of the pyramid, more people who are at the base of the pyramid. As we know, majority of people in Indonesia are located at the base of the pyramid are a lower class, workers, small farmers, fishermen, motorcycle drivers, vegetable vendors around. Despite their large number, but they fight over small cake prosperity. Accommodate the interests of the legislation in each of two different conditions, just like unfair to treat differently two similar conditions. Justice can only be understood if it is positioned as a state to be realized by the law. If the principle is the foundation for the birth of law, what juridical consequences if any legislation contrary to those principles, for example, legislation is against the principles of humanity, justice, diversity, and equality before the law?

Test material laws in Indonesia can only be granted if it proved to be contrary to the system of higher regulatory hierarchy (Article 7 and 9 Law No.12 of 2011). But we can't ask a judicial review of legislation as opposed to those principles. Law No.12 of 2011 supposed to regulate the consequences of legislation to the contrary, especially with relatively universal principles such as humanity, diversity, and justice (*lex non est lex iniusta*).

b. Participation

Normatively, Article 96 governs the Public Participation. Society is entitled to oral or written input in the formation of legislation through: (a) public hearing, (b) working visit; (c) socialization, and/or seminars, workshops, and/or discussion.

Participation spaces such as seminars, workshops, and discussions are still exclusive for educated class. While working visit to the area or with other languages, absorbs the aspirations, still a patron-client relationships. Unequal relationships tend to distort communication. Especially when coupled weak capacity in public political bargaining with the official and formal political institutions.

Only public hearings that allow grassroots can participate and that's only responsive nature. Public hearing is usually only realized when grassroots do demonstrations because the channels to articulate their interests clogged. It means, the grassroots participation itself doesn't have space to say what is fair or unfair for them. Laws are still made in which farmers, fishermen; workers can't speak up and get involved.

That's why every publish of Labor regulations got resistance from labor action, the rules relating to land are rejected by farmers, forest-related regulations met with resistance from indigenous peoples. Instead, we never heard employer action to refuse products of labor regulations, land, water resources, mining, and forestry.

Other participation canals need to be opened. Our societies actually have social capital
within civic participation such as chat, discussion, and mutual assistance. The citizen participation is the opposite of democratic representation. While a representative democracy assumed power entrusted to the elected representatives of the electoral process in order to fight the aspirations, then how citizen participation in civic decision-making affecting the public. The democratic citizen can participate through chatting people up in the form of deliberation. Act 12 of 2012 hasn't been explicitly set the form of citizen participation affects societies on how to enable the formation of legislation.

Then how is the process of agreeing the legal product? This question is the essence of 'citizen participation'. When we want to achieve a product of certain laws and regulations, there is a principle which reads: decision/agreement/products or valid legal claims to the validity of the law that's only the product is approved by any subject or person affected by the legislation.

For example, when the local government wanted to regulate pedicabs free area, then before the Act was decided, there are principles that can't be denied: to involve parties who are subject to it. They are pedicab drivers, pedicab owners, pedicab user society, road users, people who care pedicab and all are affected by the rules it should be assumed as citizens who will be affected by the regulations. Thus, the subject of the weakest and Poorest in the forum is able to express their opinion, because the most foolish ones also have the right.

If there was one of them doesn't agree, then the law has no legitimacy applies even legality. This course is ideal, because the principle is to be ideal. If there are no principles, then we are permissive with product legislation. If

we are too permissive, then the legal products only become a political compromise. But if we use that principle, we can discuss and compromise and even questioned the interest becomes an ideal, whether the law reflects public aspirations or simply the result of 'cow-trading'[4] political.

Therefore, the participation of citizens supposed to prior before academic paper and design is made so that great ideas need to devise a regulation has been raised since the beginning based on the needs of citizens. But appendix I in Act 12 of 2011, an academic paper can only be conducted by academics.

Instead, the grassroots aren't easy to participate directly. It can be seen from the General Provisions Article 1 point (11) which states that the academic paper is an academic research results or assessment of the law against certain problems that can be answered scientifically. In fact, systematic guidance and academic paper format in Annex 1 is made such a thesis.

c. Language

Language is the house of thinking. Language plays an important role in how we arbitrate. Law with all its dynamics is mediated by language. We can't avoid the law as a matter of language. Legislation is highly dependent on the language. Without language, how to communicate the legislation? Because it is built on language construction; only through language, people understand and comply with the intent, purpose, and formulating rules.

Inside the language there are narrative and meaning so does on the law, which according to Cover: '*no set of legal institutions or prescriptions exists apart from the narratives that locate it and give it meaning*'[5]. Law as text, of course not only involves syntactic[6], but also semantic[7], and pragmatic. In Appendix Act 12 of 2011 describes a variety of language legislation as follows:

> "Language Legislation is basically subject to the rules of grammar Indonesian, both the formation of the word, sentence formulation, technical writing, and spelling. But the language of legislation has its own style characterized by clarity of understanding, candor, standard, harmony, and obedience in accordance with the principle of legal requirements in both the formulation and writing".

According to appendix Law Act 12 of 2011, the characteristics of language legislation and regulations include:

a. straight forward and certain to avoid similarity of meaning or ambiguity;
b. patterned sparing only the necessary words were used;
c. objective and pressing subjective taste (not emotion, in expressing the purpose or intent);
d. standardize the meaning of words, phrases or terms are used consistently;
e. provide a definition or limited definitions carefully;
f. writing words that are singular or plural is always formulated in the singular.

The characteristics of the language legislation and regulations that emphasized on Act 12 of 2011 was so mechanistic; as if the subject of regulation is not human, and if it was going to be treated as human beings, ignoring the particularities of each human being. Statutory language should be objective, standardize the meaning of words, writing words that are singular or plural is always formulated in the singular, causing the use of rigid legal language in the legislation because the law assumes that the text should not be contaminated with multiple interpretations and subjective sense. Is the legal language completely objective?

Text is a product of mind (subjective) that objectification. The text is not purely objective, since the text product of the human mind. According to Derrida, the text also tends to be ambiguous and contains a plurality of meanings. Any selected rigid word or language that is defined in the legislation; it still remains an open possibility of different interpretations by different people. Moreover, the legislation is a political product. The contents of legislation presumed objective to itself (self-contained), which seemed esoteric, waterproof, and not contaminated with economic-socio-politic factors. The legislators and designer who make regulation text also are influenced by the perspective of education, gender, ideology, age, sexual orientation, background, family and social class. Thus, the claim of objectivity is a sociological-psychological claim anyway but that "is not recognized" or "is refuted" by Law No.12 of 2011.

Act No.12 of 2011 which emphasizes writing meaningful words singular or plural is always formulated in the singular is imposing an impossible thing. Activities formation of legislation is an interpretation activity. Interpretation activities are activities that are polyphonic. Interpretation diversity loaded with meaning. Meaning of the text will never be singular: it saves a new interpretation that we never would have thought. Therefore, all the signs in the law would open the possibility of meaning. The text didn't stand alone. When the rules are

[4] Budi Hardiman, *Demokrasi Deliberatif: Teori, Prinsip, dan Praktik*, paper on civil society forum "Program Pemberdayaan Masyarakat Sipil dalam Proses Otonomi Daerah" in Yogyakarta in August 24, 2005

[5] R. Cover, 1983, '*Foreword: Nomos and Narrative'*, Harvard Law Review, 97, p. 4

[6] Syntactic study the docking between one sign with another. Central concern in syntactic is form or structure of language sign, so it is closely related to grammar

[7] Semantic study the docking between the signs and the meaning. Focus on the semantic is language signs

written it is still not the norm but just text alone. The texts become the norm when it's interpreted and it's placed in the context.

Various criticisms actually addressed to the statutory language there are away from the context. To create certainty, the language law rigidly enforced using exclusive sentences, grammatical structure imposed, the terminology is limited. Our legal language are difficult to understand and confusing the public, not friendly for grassroots society which stereotypically categorized as a layman, legal blindness. Regarding to language, Act No.12 of 2011 should open space for public participation. Society as the target and the user of legal documents should ensure that legislation is composed by populist language, and easily understood by the people who are socially constructed as a layman.

4.2 AIA MODEL AS THE FORMULATION MODEL WHICH PRO POOR LOCAL REGULATION

4.2.2 Article Impact Assessment (AIA), Lawmaking Model Pro Poor Character

Law development has resulted in discrimination to society groups so they lose access and control over resources. The asymmetry of the relationship between law and society has led to injustice and inequality in social, economic, and political. The limitation ability of law to accommodate all the circumstances and values of society life should be anticipated as much as possible so that quality arrangements will be better. Limitation ability of law caused by two main aspects substantive law according to Atiya[8] resulted law that is not good or bad:

> *Law may be bad because they are technically bad; for instance, because they are obscure, ambiguous, internally inconsistent, difficult to discover, or hard to apply to variety of cırcumstances and secondly, laws may be substantively bad simply in the sense that they produce unacceptable results-injustice or plain idiocy, or less extremely, because they are inefficient and expensive, or produce inconsistencies or anomalies between like cases.*

The opinions above are point to two important aspects that must be observed, namely the technical aspects and substantial aspects. Technical aspects and substantial aspects by Atiya are the thing that can make a regulation bad. Atiya opinion above also regarding to diction or choice of words which is technically defined by the legal drafter and technical diction is then charged substantive that make the regulation character is pro Poor or not. It can be inferred from Atiya opinion that it is important to see the result or substantively impact of word choices that are technically made by the legal drafter.

Related to the things above, Satjipto Rahardjo said that the preparation of the legislation consists of two main stages, namely the stage of sociological (socio-political) and the juridical stage. In the sociological stage it takes place the processes to finalize an idea and/or issues would then be brought into the judicial agenda. If the idea was successfully continued, form and content can be changed, which is increasingly sharpened (articulated) than when it appears. At this point, it will proceed to the judicial stage which are the work really involves the formulation rule of law. This stage involves an intellectual activity that purely juridical commonly handled by law expert[9].

If we consider the sociological and juridical process is closely related to what is proposed by Atiya in the context of substantive technical. It means the regulation formulation, either by Satjipto Rahardjo or Atiya, the process requires a very close relationship between the substantive technical language Atiya and sociological-juridical language Satjipto. This indicates that the formation process of law legislation is a very complex process. Legislation is not only an act of formulating norms into legal texts are performed by a group of people who have the authority to do so, but its reach extends to the struggle and socio-political interaction force that surrounds and is in the vicinity. In this context, there is a need to explain the causal relationship between juridical technic and social-political consequences.

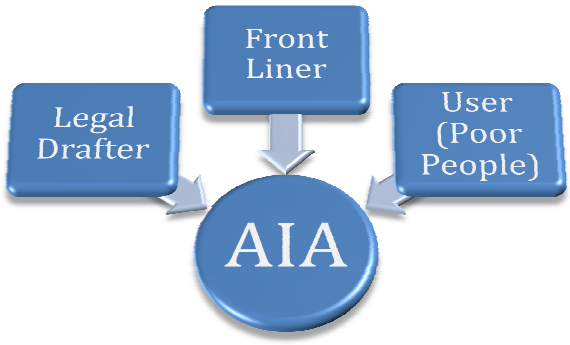
Ironically in practice, the academic papers preparation and draft local regulations then only bring up the judicial technical aspects and left substantive social aspects. This problem has appeared in the National Strategy of access to justice which states that legal education including legislation designer education is more technical-normative. This is a weakness that must be mapped and is found the solution by universities.

Hence, the research team to advance the model Article Impact Assessment (AIA) which can represent substantive-technical requirements in more detail in each formulation norm than the current model which is only seen in general as a result of the regulations application. AIA model can be integrated in the academic paper preparation draft local regulations so that the overall preparation of draft legislation has technical-juridical substantive-sociological values. In practice, the AIA will ask some indicators of legal empowerment to three stakeholders namely the legal drafter, service front liner, and the user (the Poor).

[8] P.S. Atiya, *Law & Modern Society*, Oxford University Press, Great Clasredon – London, 1995. p. 203

[9] Satjipto Rahardjo, 2003, *Sisi-Sisi Lain Hukum di Indonesia* , Penerbit Buku Kompas, Jakarta, p. 135

Graphic 1 Triadic Scheme in AIA Models



4.2.3 Legal Empowerment Indicator in AIA Framework

The imbalance between the legal and social situation embodied in the form of poverty. Poverty is characterized by a malfunction of the law in ensuring the fulfillment most fundamental rights in the context of access to justice for the Poor. That's why it needs legal empowerment, not only for the Poor, but it is even more important in the context of this study is the legal empowerment against the academic papers and draft local regulations.

Concretely, AIA model will test whether each formulation of norms in each chapter draft local regulations have legal value empowerment with specific indicators that will be discussed in this subsection. In relation to access justice for the Poor, the AIA should be used within the framework of legal empowerment. Thus the legal empowerment indicators will be a check list for the legal drafter when testing each chapter the formulation of norms in the local regulation.

What are the legal empowerment indicators? UNDP in this regard stating that the *Access to Justice is the "ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards"*[10]. UNDP also added that *"Access to justice is closely linked to poverty reduction since being Poor and marginalized means being deprived of choices, opportunities, access to basic resources and a voice in decision-making"*[11]. Thus, the indicator can be formulated in terms of the legal empowerment is an opportunity, choice, access, capability. In the context of AIA application, the legal drafter should examine whether the norms in the draft chapters open the opportunities as well as provide access to the public option and the ability of the Poor to obtain a guarantee of human rights or not?

The Commission for Legal Empowerment of the Poor (CLEP) states that *"the fight against poverty by identifying and providing the Poor with legal and institutional tools that allow them to benefit from greater security and to create wealth within the rule of law"* (CLEP 2006 : 1)[12]. The indicators can be abstracted are safety and well-being. In this context, the legal drafter should be able to test whether the norms are formulated can provide the security and well-being or not?

John W. Bruce et al in his report to USAID states that: *"Legal empowerment of the Poor occurs when the Poor, their supporters, or governments-employing legal and other means-create rights, capacities, and/or opportunities for the Poor that give them new power to use law and legal tools to escape poverty and marginalization. Empowerment is a process, an end in itself, and a means of escaping poverty"*[13]. Indicators that can be abstracted are right, capacity, and opportunity. In the context of AIA, the question of legal drafter is whether the norms defined in the draft legislation can guarantee the rights, improve capacity, and provide opportunities to the Poor or not?

[10] UNDP, 2005, Programming for Justice: Access for All, www.undp.org/governance/docs/Justice_Guides_ProgrammingForJustice-Access-ForAll.pdf.

[11] UNDP (2004) Access to Justice Practice Note, www.undp.org/governance/docs/Justice_PN_En.pdf

[12] Commission on Legal Empowerment of the Poor (2006), Agreed Principles and Conceptual Framework, http://legalempowerment.undp.org/

[13] Bruce, John W., Omar Garcia-Bolivar, Tim Hanstadt, Michael Roth, Robin Nielsen, Anna Know, and Jon Schmidt (2007), Legal Empowerment of the Poor: From Concepts to Assessment , Burlington, VT: ARD Inc. for USAID, http://www.ardinc.com/upload/photos/676LEP_Phase_II_FINAL.pdf.

Graphic 2 Legal Empowerment Indicators in AIA Framework

Concretely, AIA model will test whether each formulation of norms in each chapter draft local regulations provide an opportunity or not? Giving options or not? Provide/improve the ability or not? Provide security or not? Opening access welfare or not? Provide/improve capacity or not? Through field research continued, the questions posed to see: first, a common perception of three stakeholders (legal drafter, front liner, the Poor) in meaning diction (choice of words) that are used in the formulation of local regulation norms; second, in which the extent of diction on each chapter meets legal empowerment indicators.

From the explanation above, this study is clearly going to encourage transformation process of law. Observe some legislative process and experience help legislation design, legislative drafting process is too focused on the judicial technical issues, but very little attention to give "nutrition" on the legislation content itself. In transformative law, the function of law is not only to maintain order, the law can be an instrument in social change, encourage change by changing patterns of relationships or relationships within a society become more equitable. The relation in question here is the issue of social class inequality, gender, environment, minority, subaltern groups; depending on the context. Changes in the nature-culture remodel structures between the layers of classes in society, gender relations, the environment, and so on.

Adaptive dynamics of law as written by Harold J. Berman in his book Law and Revolution; Berman thesis, among others, the law - as exemplified in the experience of law according to the Western countries tradition - are constantly changing, organic growth, both in the conceptual and substantive - normative order and structural order. Go beyond Berman thinking, the law is not only undergone a transformation over itself, but also has the power to change the condition. Transformative law question is how comprehensive change to a better situation. However, the change is not merely a change in the surface condition. Rather, the fundamental changes, changing relationships and the patterns of relationships in society; these changes as a fundamental social transformation.

This transformative law itself is not born out of a vacuum chamber, but the message contained in the Fifth Precept in Pancasila. Law No.12 of 2011 explicitly calls it a philosophical foundation. It means, Pancasila is metanorm or source of all sources of law. All positive law is emitted from the values of Pancasila. Equitable and civilized humanity and precepts social justice for all Indonesian people is a fundamental right derived in Section 27, 33, and 34 from the Constitution of 1945.

Social Justice for All Indonesian People is the highest mandates of Pancasila, and how to make is specific on the legislation? For example, many foreign companies make contracts with the government and fellow companies in Indonesia which contains "black" clauses that endanger the society at large. Thousands, even tens of thousands contracts, there is no entity that controls or auditing the contract. Contract is made only by mutual agreement of the author, though the contracts could have an impact for many people who do not participate in the contract. Patients with cancer and AIDS for example, are difficult to access the company's products because of high prices due to the company exclusive rights. What if there is a conflict between the companies' exclusive rights with citizens' fundamental rights? From the perspective of transformative law, progressive legislation is born to accommodate and to save the basic rights of citizens.

Once again, unfortunately Law No.12 of 2011 only cite Pancasila up to 8 (eight) times without intending to give an example of how to break the Pancasila attachments to get the legislation closer into social justice. Transformative law is different from the law as a tool of social engineering. In the view of law as a tool of social engineering, society is seen as an object of regulation. Determinant of the regulation is to be ruler engineered a change to become a more modernist society. Social change will probably happen, but not necessarily with social transformation. Transformative law rejects this status quo and submissive thinking. Conservative view and status

quo cause we do not dare to make changes and considers as an absolute doctrine to be implemented. Such an attitude, citing Satjipto Rahardjo only reinforces the maxim "the law for the law" instead of "the law for human". It is not easy to remodel a social order through the law, especially if it's already built established order. To change the solid order, may not only be charged on the shoulders of legislators, law firm, and the drafters of legislation alone, but also involves other societies such as subaltern groups and grassroots.

V. Conclusion

There are some weaknesses in the Act No.12 of 2011 which became the basis for the academic paper preparation on product legislation. First, related legal principles as the foundation of law that gives ethical meaning for the rule of law system. Unfortunately the legal principles as enshrined in Article 5 Law No.12 of 2012 is still abstract and still need to be derived into a positive norm. Law No.12 of 2011 should also regulate the consequences of legislation to the contrary, especially with relatively universal principles such as humanity, diversity, and justice (*lex non est lex iniusta*). Secondly, in terms of language; language plays an important role in how arbitrate. Legislation as text, of course not only involves syntactic, but also semantic, and pragmatic. The characteristics of legislation and regulations language that emphasized Act 12 of 2011 were so mechanistic. Our law language is getting away from the context. To create certainty, the law language rigidly enforced using exclusive sentences, grammatical structure imposed, the terminology is limited. At the end, the statutory language often difficult to understand and confusing the public, not friendly for grassroots society that stereotypically categorized as a layman, legal blindness. Regarding to language, Act 12 of 2011 supposed to open space for public participation, to ensure the legislation was drafted with language that is easily understood by people who constructed socially as a layman.

The imbalance between the legal and social situation embodied in the form of poverty. Poverty is characterized by malfunction of the law in ensuring the fulfillment of the most fundamental rights in the context of access to justice for the Poor. In concrete terms, the use of models Article Impact Assessment (AIA) will test whether each formulation of norms in each chapter draft local regulations have legal value empowerment with specific indicators. Concretely, AIA model will test whether each formulation of norms in each chapter draft local regulations provide an opportunity or not? Giving options or not? Provide/improve the ability or not? Provide security or not? Opening access welfare or not? Provide/improve capacity or not? Article Impact Assessment (AIA) also seeks to encourage the role of educated middle class to be pro-active in formulating any norms in the drafting of academic paper and local regulation pro Poor character and vision of justice. Implementation of Article Impact Assessment (AIA) would like to encourage the transformation of society through legal instruments aegis character.

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Dr. Hieronymus Soerjatisnanta, S.H., M.H.
Lecturer at the Faculty of Law, University of Lampung. Completing law degree from the University of Diponegoro (1985), Master of Law from the University Press (1998), and Doctor of Laws from the University of Diponegoro (2012). Tisnanta also follow the Sandwich-like program at the University of Flinders, Australia (2009), Tailor Made on Socio-Legal at Van Vollenhoven Institute, Leiden (2010). He is Chairman of the Center for the Study of Public Policy and Human Rights Studies (PKKPHAM) Faculty of Law, University of Lampung. His books that have been published: *Crisis and Challenge Legal Indonesian Welfare State* (2012), *Labor Law* (2009), and *Philosophy of Law* (2005).

Rudy, S.H., LL.M., LL.D.
Lecturer at the Faculty of Law, University of Lampung. Law degree from the Faculty of Law, University of Indonesia (2003), Master of Law from Kobe University, Japan (2007), and a Doctorate in Law from Kobe University, Japan (2012). Currently a researcher at the Center for Constitutional Studies and Legislation (PKK PUU). His books that have been published: *Local Government Law, Constitutionalism Perspective* (2012), *Constitutionalism Indonesian, Basic and Theory* (2013).

Dr. Widodo Dwi Putro
Lecturer at the Faculty of Law, University of Mataram. He teaches Philosophy of Law and Sociology of Law. In addition to teaching, he is also active as volunteer in Lembaga Studi Bantuan Hukum (Legal Aid Study Institute) in West Nusa Tenggara, involving in advocacy against eviction. His publications include three books: '*Balai Mediasi Desa*' (Village Mediation Centre) (2005) and '*Menolak Takluk: Newmont versus Hati Nurani*' (Refusing to Surrender; Newmont versus Conscience) (2007), *Critics to Positivism Paradigm* (Genta Publishing, 2012).

Oki Hajiansyah Wahab
Ph.D (Cand) in Law Science University of Diponegoro. He is also researcher at Centre for Public Policy Studies and Human Rights Studies (PKKPHAM) Faculty of Law, University of Lampung. His publications include three books: *Alienated in Their Own Homeland* (2012), *Human Rights on Indonesia Constitution* (2012), *Jongkok* (2013). Field of Study, Constitutional Law and Sociology of Law.