RECHTENSTUDENT JOURNAL
Volume 6 Number (3) December 2025, pp. 238-253
DOI: https://doi.org/10.35719/rch.v6i3.393
Published by the UIN KHAS Jember, Indonesia
ISSN: 2723-0406 | E-ISSN: 2775-5304 Available online 23 December 2025

The Politics Behind Omnibus Legislation: Flexibility and Power in Indonesia's Lawmaking Process

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Article

How to cite:
Torik Abdul Aziz Wibowo, **'The Politics Behind Omnibus Legislation: Flexibility and Power in Indonesia's Lawmaking Process'** ((2025) Vol. 6 No. 3 Rechtenstudent Journal Sharia Faculty of KH Achmad Siddiq Jember State Islamic University.

DOI:
10.35719/rch.v6i3.393

Article History:
Submitted: 16/11/2025
Reviewed: 28/11/2025
Revised: 04/12/2025
Accepted: 16/12/2025

ISSN:
2723-0406 (printed)
E-ISSN:
2775-5304 (online)

Abstract

The adoption of the omnibus method as a legislative strategy to address regulatory complexity in Indonesia has sparked considerable debate, given that it constitutes an entirely new approach within the country's legal framework. This article seeks to examine two key dimensions. First, the political configuration underpinning the enactment of Law No. 11 of 2020 on Job Creation; and second, the subsequent incorporation of the omnibus method into Law No. 13 of 2022 on the Formation of Legislation, alongside the role of the Constitutional Court in adjudicating its constitutionality through judicial review. Methodologically, the analysis employs both historical and conceptual perspectives. The findings reveal, first, that an elitist political configuration significantly shaped the adoption of the omnibus method in the Job Creation Law. The asymmetrical composition of parliament, marked by the dominance of pro-government coalitions, enabled a highly flexible regulatory framework for its implementation. Second, the Constitutional Court, through its ruling, failed to provide clear constitutional guidance on the legitimacy of the omnibus method, thereby allowing the legislature and the president to amend the Job Creation Law via a Government Regulation in Lieu of Law (Perpu) a mechanism that effectively bypassed the constitutional mandate set forth in the Court's own decision.
Keywords: *Omnibus Method, Politic, Legislation*.

Abstrak
Pemilihan metode omnibus sebagai solusi penataan dan penyelesaian persoalan regulasi di Indonesia menimbulkan diskursus tersendiri, mengingat omnibus sebagai metode baru dalam legislasi Indonesia. Artikel ini bertujuan untuk melakukan analisa terhadap dua hal. Pertama, konfigurasi politik dibalik penerapan metode omnibus dalam pembentukan undang-undang No 11 Tahun 2020 tentang Cipta Kerja; kedua, pengaturan metode omnibus dalam Undang-Undang Nomor 13 Tahun 2022 tentang Pembentukan Peraturan Perundang-Undangan; serta peran Mahkamah Konstitusi dalam menavigasi konstitusionalitas metode omnibus melalui kewenangan pengujian undang-undang. Dalam analisa tersebut, artikel ini menggunakan pendekatan hirstoris dan konseptual. Kesimpulan yang dihasilkan adalah pertama, konfigurasi politik yang elitis cenderung mewarnai penerapan metode omnibus dalam UU CK, serta komposisi parlemen yang tidak seimbang dengan dominasi koalisi pendukung pemerintah menghasilkan fleksibilitas pengaturan metode omnibus. Kedua, MK melalui putusannya gagal menavigasi konstitusionalitas metode omnibus sehingga memberikan peluang DPR-Presiden untuk melakukan perbaikan UU CK melalui mekanisme Perpu yang mengesampingkan mandat konstitusional dalam Putusan MK.
Kata Kunci: *Metode Omnibus, Politik, Perundang-undangan.*

Introduction

The idea of using the omnibus law method has become a government policy choice in regulatory reform. This was evident in President Jokowi's inaugural speech, which called on the House of Representatives (DPR) to jointly issue a single law that simultaneously revises several, even dozens, of laws, known as the omnibus law.[1]

President Jokowi's strong political will in implementing the omnibus law approach is demonstrated by the enactment of Law Number 11 of 2020 concerning Job Creation (Job Creation Law). This law contains at least 1,200 articles, amending, revoking, or regulating material that impacts more than 79 existing laws.[2] The application of the omnibus method has at least several benefits, namely: (i) Shortening the legislative process that wants to make changes to many regulations; (ii) Preventing deadlock in the discussion of Draft Laws (RUU) in parliament; (iii) Cost efficiency of the legislative process, considering that using the usual method requires the availability of funds for each RUU; and (iv) Harmonization of regulations will be maintained, considering that changes to many provisions spread across various laws are made in one omnibus law.[3]

Due to all these technical and substantive issues, the Job Creation Law was then declared conditionally unconstitutional by the Constitutional Court (MK) through MK Decision Number 91/PUU-XVIII/2020 concerning the Formal Review of Law No. 11 of 2020 concerning Job Creation. The legal implication of this decision is that the Job Creation Law is unconstitutional if no improvements are made within a maximum of 2 (two) years. Regarding the omnibus law method, the MK in this decision mandated lawmakers to establish a standard legal basis as a guideline for the formation of laws using the omnibus law method, which has its own special characteristics.[4]

Law No. 13 of 2022, as the second amendment to Law No. 12 of 2011 on the Formation of Legislation (UU PPP), formally introduced the omnibus method into Indonesia's legislative system through Article 64(1a)–(1b), allowing laws to add, amend, or repeal provisions of the same hierarchy under one framework. However, the PPP Law still lacks clear parameters for applying this method both in scope and content since the use of the term "may" gives drafters discretion without firm criteria. This absence of guidelines on when to apply the omnibus versus the regular method has led to confusion and legal uncertainty in the drafting process.[5]

Second, there is no procedural difference between the formation of laws using the omnibus method and the formation of laws using the regular method. Although several

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[1] Bayu Dwi Anggono, *Pokok-Pokok Pemikiran Penataan Peraturan Perundang-undangan di Indonesia,* (Jakarta: Konstitusi Press, 2020), 172.

[2] Ida Bagus Gede Putra Agung Dhikshita, dkk, "Politik Hukum dan Quo Vadis Pembentukan Undang-Undang dengan Metode Omnibus Law di Indonesia", *Jurnal Legislasi Indonesia* No. 2 Vol. 19, Juni 2022170.

[3] Bayu Dwi Anggono, *Op.cit,* 183.

[4] Legal Considerations of the Constitutional Court Decision No. 91/PUU-XVIII/2020 on the Formal Review of Law Number 11 of 2020 concerning Job Creation.

[5] General Explanation of Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation.

advantages of the omnibus method have been previously outlined, this method also has several weaknesses, namely: (i) it tends to be pragmatic and less democratic; (ii) it limits the space for participation, thus contradicting deliberative democracy; (iii) it reduces the accuracy and caution in its drafting; and (iv) it has the potential to exceed constitutional provisions due to limited participation and a lack of caution in the process.[6] The weaknesses of the omnibus method indicate the need for more specific regulations regarding the procedures for formulating legislation using the omnibus method.

Mahfud MD explained that laws, as legal products created through a political process, are influenced by the political configuration in which they are created. Democratic political configurations tend to produce responsive and populist legal products. Authoritarian political configurations, on the other hand, tend to produce conservative and orthodox legal products.[7] This relationship demonstrates the urgency of ensuring that laws, as legal products, are formed through a democratic political process, resulting in laws that respond to societal needs and are accepted by the public. Furthermore, the Constitutional Court, through its authority to examine the constitutionality of a law, plays a crucial role in navigating constitutionalism within the omnibus law system.

Research Method

This article is the crystallization of socio-legal analysis[8] using a historical approach and a statutory approach. These two approaches are used to trace the process behind the CK Law as a pilot project for the omnibus method by lawmakers (the House of Representatives and the President), and to analyze how the Constitutional Court navigates constitutionality.

Result and Discussion

Political Configuration and Anomalies of the Omnibus Method Pilot Project

As previously mentioned, the idea of implementing the omnibus method in lawmaking was first proposed by President Joko Widodo in his inaugural address for his second term.[9] In fact, the idea was never even mentioned or elaborated on during the 2019 presidential election campaign. Despite various analyses and electoral considerations, the agenda for regulatory simplification using the omnibus method was outlined in Presidential Regulation Number 18 of 2020 concerning the 2020-2024

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[6] Bayu Dwi Anggono, "*Onmibus Law* sebagai Teknik Pembentukan Undang-Undang: Peluang Adopsi dan Tantangannya dalam Sistem Perundang-Undangan Indonesia", *Jurnal RechtsVinding* No. 1 Vol. 9, April 2009. 28.

[7] Moh. Mahfud MD, *Politik Hukum di Indonesia,* (Depok: PT Raja Grafindo Persada, Cet. 9 2018), hlm. 373.

[8] It is framed within the broader context of comparative socio-legal research and combines doctrinal legal analysis with socio-legal inquiry, pertaining to both law in the books and law in action. Thomas Seku Marah, "The Enforcement of Anti-Corruption Laws in Indonesia and Sierra Leone: A Socio-Legal Perspective" *Rechtenstudent Journal* 5, No. 3, 2024, 198.

[9] I Putu Eka Cakra & Aditya Yuli Sulistyawan, "Kompabilitas penerapan konsep Omnibus Law dalam Sistem Hukum Indonesia" *Jurnal Crepido* 2, No. 2, 2020, 61.

National Medium-Term Development Plan (RPJMN 2020-2024), which stems from the president's vision and mission. This clearly demonstrates that regulatory simplification is a government policy priority.[10]

In the 2020-2024 RPJMN, Indonesia's economic growth target is expected to increase by an average of 5.7-6.0 percent annually. The primary focus of economic expansion in 2020-2024 is driven by increased investment. Thus, the investment growth target (gross fixed capital formation) for both domestic and foreign private sector is set at 6.6-7.0 percent per year.[11]

Indonesia faces three key challenges to achieving an advanced and competitive economy: low ease of doing business compared to other Southeast Asian countries, a slowdown in economic growth between 2010 and 2018, and uneven regional development across the nation.[12] This situation is evidenced by the tendency of foreign investors to invest in neighboring countries rather than in Indonesia. President Joko Widodo stated that 33 Chinese companies had decided to invest abroad. However, none of these Chinese companies invested in Indonesia. Furthermore, the President lamented that in 2017, 73 Japanese companies decided to relocate. 43 invested in Vietnam, 11 in Thailand and the Philippines, and only 10 in Indonesia.[13]

The obstacles to Indonesia's economic growth are caused by a low and uneven business and investment climate. In fact, Price Waterhouse Coopers (PWC) and the World Bank suggest that Indonesia will have one of the four largest economies in the world by 2050. [14] This is based on Indonesia's many potentials that can be utilized by investors, including: (1) the availability of abundant natural resources; (2) the availability of an abundant workforce due to a very large demographic bonus; (3) a large population that creates a large market potential; and (4) increasingly equitable and adequate infrastructure improvements.[15]

Bappenas identified regulatory and institutional barriers as major obstacles to Indonesia’s economic growth, emphasizing the need for a simple, flexible, and innovative regulatory framework to support national goals. To address this, the government seeks to deregulate investment procedures and harmonize licensing rules

[10] JM Muslimin & Novita Akria Putri, “Politic-Legal Review of the Revised-Bill of the Corruption Eradication Commision and Omnibus Law” *Jurnal Media Hukum* 28, No. 2, 2021, https://doi.org/10.18196/jmh.v28i2.11403.

[11] Republik Indonesia, *Lampiran I Peraturan Presiden Nomor 18 Tahun 2020 tentang Rencana Jangka Menengah Nasional Tahun 2020-2024*, (Jakarta: Lembaran Negara Tahun 2020 Nomor 10) I.22.

[12] Republik Indonesia, *Naskah Akademik RUU Cipta Kerja*, (Jakarta: Badan Pembinaan Hukum Nasional, 2020), 4.

[13] Ihsannudin, “Presiden Jokowi Kecewa Calon Investor Lari ke Negara Tetangga” https://nasional.kompas.com/read/2019/09/04/16425441/presiden-jokowi-kecewa-calon-investor-banyak-lari-ke-negara-tetangga diakses pada Jum’at 12 Mei 2023 Pukul 13:00 WIB.

[14] Republik Indonesia, *Op Cit.*, 6.

[15] Farida Hidayati, et.al, “ndonesia's economic resilience through Resource Diversification: an overview from a national resilience perspectiveIndonesia's economic resilience through Resource Diversification: an overview from a national resilience perspective” *European Public & Social Innovation Review* 11, 2025, 1-18, DOI:10.31637/epsir-2026-2147.

to improve Indonesia's Ease of Doing Business ranking from 73rd in 2019 to 40th by 2024.[16]

To improve investment regulations and accelerate job creation, the government enacted the Job Creation Law (Law No. 11 of 2020) using the omnibus method, which consolidated and simplified 79 outdated and overlapping laws related to investment and small businesses into 11 clusters. This method allows multiple legal amendments or repeals to be made through a single law, significantly shortening the legislative process. Reflecting this efficiency, the President urged the DPR to ratify the Job Creation Law within 100 days, demonstrating the omnibus method's role in expediting broad legal reforms.[17] This is proven by the president's political stance, which encourages the DPR to ratify the CK Law within 100 days, which was formed using the omnibus methods.[18]

The use of the omnibus method in forming the CK Law created formal issues in legislation. In Decision No. 91/PUU-XVIII/2020, the Constitutional Court declared the law formally flawed because it applied a method not recognized in the PPP Law. Moreover, the Academic Manuscript lacked analysis of the method's compatibility, although Satya Arinanto noted in a public hearing that the omnibus approach was not entirely new in Indonesia's legislative practice.[19] His opinion is based on several regulatory products whose content changes and revokes several other regulations at once, such as MPR Decree No. V/MPR/1973 concerning the Review of MPRS Decree Products, MPR Decree No. I/MPR/2003 concerning the Review of the Material and Legal Status of MPRS and MPR RI Decrees (1960-2002), Law No. 7 of 2017 concerning General Elections and Law No. 32 of 2004 concerning Regional Government.[20]

The Constitutional Court's ruling shows that the omnibus method used in the CK Law differs significantly from earlier examples. While scholars like Satya Arinanto and Jimly Asshidiqie note that the method is not new to Indonesia, previous uses such as in Law No. 7 of 2017 on General Elections, which revoked three related laws through its transitional provisions, still followed the PPP Law's guidelines. In contrast, the CK Law directly amended 79 laws within its substance, making its approach far broader and procedurally distinct.[21] The principle of public participation was also problematic in the process of drafting the Job Creation Law. This was due to the minimal public participation, reflected in only 64 meetings implementing the principle of public

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[16] Hilman Butarbutar & Umanto, "Analysis of Formulation of National Development Risk Management Policy Using Regulatory Impact Analysis Method," *Journal of Governance* 10, Issue 1, 2025, 194.

[17] Adnan Hamid, "A critical study of the Job Creation Law No. 11 of 2020 and its implications for labor in Indonesia" *International Journal of Research in Business and Social Science* 10, No. 5, 2021, DOI:10.20525/ijrbs.v10i5.1271.

[18] Sekertariat Kabinet, "Presiden Jokowi Targetkan Omnibus Law Selesai Sebelum 100 Hari Kerja" https://setkab.go.id/presiden-jokowi-targetkan-omnibus-law-selesai-sebelum-100-hari-kerja/ diakses pada Senin 15 Mei 2023 Pukul 10:00 WIB.

[19] DPR RI, *Catatan Rapat Rapat Dengar Pendapat Umum Panja Baleg dengan Prof. Dr. Satya Arinanto, S.H., M.H. & Dr. Bambang Kesowo, S.H., LL.M. atas RUU tentang Cipta Kerja 29 April 2020,* (Jakarta: Badan Legislasi DPR RI, 2020).

[20] Testimony as an expert witness in the Constitutional Court Decision Number 91/PUU-XVIII/2020 in the Formal Review of Law No. 11 of 2020 concerning Job Creation.

[21] Jimly Asshiddiqie, *Loc Cit.,* 18.

participation, while the Job Creation Law consists of approximately 1,200 articles that impact 79 laws.[22] This demonstrates the disparity between public participation and the breadth of material contained in the Job Creation Law.

Following its enactment, the Job Creation Law faced controversy due to inconsistencies in its content, with the draft changing from 905 to 1,035 pages, and later 1,187 pages after promulgation. These revisions highlight the President's excessive influence in the legislative process and reveal procedural deviations that undermined the law's formal validity. Consequently, the drafting of the Job Creation Law departed from Indonesia's legislative norms, reflecting a process marked by executive dominance and weak democratic practice.[23]

The Job Creation Law reflects an orthodox and flawed legal product, granting the government broad discretion through numerous implementing regulations. The Constitutional Court found that the law lacked clarity of purpose and formulation, resulting in 49 implementing regulations with 466 delegated provisions spread across various levels of authority, leading to hyperregulation and overlap. This structure exposes excessive executive control and poor legislative quality. As Idul Rishan observed, the CK Law failed to meet key indicators of sound lawmaking such as legality, validity, participation, transparency, prudence, and public acceptance, due to its weak legal foundation under the omnibus method, undemocratic deliberations, unaccountable processes, and substantive changes made after enactment..[24]

The Constitutional Court and the Legitimacy of the Flexibility of the Omnibus Method

The adoption of the omnibus method in the PPP Law is inseparable from Constitutional Court Decision No. 91/PUU-XVIII/2020 in the formal judicial review of Law No. 11 of 2020 concerning Job Creation. In this decision, the Constitutional Court mandated improvements, one of which was to standardize the omnibus method before it was implemented in the formation of legislation.[25]

Although the Constitutional Court found the CK Law procedurally flawed, it declared it conditionally unconstitutional rather than void an anomaly since a law with formal defects should lack legal validity. The Court acknowledged the government's intent to address regulatory overlap and boost investment through the omnibus method but emphasized that good intentions cannot justify procedural violations, as both

[22] Sigit Riyanto, dkk., *Kertas Kerja: Catatan Kritis terhadap UU No. 11 Tahun 2020 tentang Cipta Kerja,* (Yogyakarta: FH UGM, 2020), 14-15.

[23] Rifan Aditya, "Inilah Perjalanan UU Cipta Kerja, Mulai Disahkan MPR Hingga Diteken Jokowi", Suara.com, 3 November 2020, diakses tanggal 20 Juli 2022, https://www.suara.com/news/2020/11/03/150603/inilahperjalanan-uu-cipta-kerja-mulai-disahkan-dprhingga-diteken-jokowi?page=al

[24] Idul Rishan, "Evaluasi Peforma Legislasi dalam Pembentukan Omnibus Law Cipta Kerja: Kajian Legisprudensi", *Undang: Jurnal Hukum*, Vol. 05 No. 01 2022, 55-59.

[25] Constitutional Court Decision No. 91/PUU-XVIII/2020, Legal Consideration, 413.

objectives and procedures are essential to maintaining a constitutional and democratic rule of law.[26]

H.L.A Hart explains that the legality of a regulation so that it can be called a law is based on two rules, namely the Primary Rule and the Secondary Rule.[27] The primary rule measures whether a rule contains a command, prohibition, or guideline for carrying out an action (material). Meanwhile, the secondary rule serves as an identifier of the law (formal). This means it can be recognized as legal. Conversely, it states that a command that cannot be identified as legal is no different from the command or coercion of a robber. The formal test relates to the fulfillment of the Secondary Rule, so a rule can be said to be legal.[28]

A similar phenomenon has occurred previously, namely in the Constitutional Court Decision No. 27/PUU-VII/2009 in the formal review of Law No. 3 of 2009 concerning the Supreme Court. The Constitutional Court stated that the law was formally flawed because it did not meet the guidelines for the formation of laws, especially regarding quorum and decision-making as regulated in the House of Representatives Decree No. 08/DPR RI/I/2005.2006 concerning the Rules of Procedure of the House of Representatives as a regulation that further regulates the procedures for the formation of laws as regulated in Article 22 of the 1945 Constitution of the Republic of Indonesia. Although declared formally flawed, on the basis of expediency, the Constitutional Court did not declare it unconstitutional, on the contrary, the Constitutional Court stated that the Supreme Court Law was constitutional and remained in effect.[29]

Interestingly, throughout the history of formal judicial review at the Constitutional Court, only in these two decisions has the Constitutional Court declared the law being formally flawed. However, in both decisions, the Constitutional Court did not immediately declare it unconstitutional. Instead, it affirmed its validity. This phenomenon has created a precedent that a law can be formally flawed as long as it is legally enforced through a Constitutional Court decision.

In his comparative study, Tushnet divides the mechanisms for judicial review into two: strong-form and weak-form. In the strong-form typology, the judicial institution's interpretation serves as a standard benchmark that cannot be avoided or overturned, except in three cases: (i) the court changing its interpretation; (ii) changes in (informal) judicial practice; and (iii) constitutional amendments. In the weak-form typology, these three instances also allow for changes in the court's interpretation of the constitution. However, the distinction is that in this typology, the legislator can enact a regulation

[26] Tim Penyusun, Hukum Acara Mahkamah Konstitusi, (Jakarta: Skertariat Jenderal dan Kepaniteraan MK RI, 2010), 92

[27] Theo Huijbers, Filsafat Hukum, (Sleman: PT Kanisius Yogyakarta, 1995), 43.

[28] Sri Soemantri, Hak Uji Material di Indoensia, (Bandung: Alumni, 1997), 6.

[29] Constitutional Court Decision No. 27/PUU-VII/2009, Legal Considerations, 92.

that differs from the judicial institution's interpretation, regardless of its constitutionality.[30]

Given the final and binding nature of the Constitutional Court's decisions, the Indonesian Constitutional Court falls into the strong-form typology. After all, the Constitutional Court's interpretation will serve as the benchmark for the constitutionality of a regulation. However, Tushnet himself points out that this strong-form typology creates considerable tension between the judicial review institution (court) and the regulatory body.[31] The use of the conditional ruling (conditionally constitutional/unconstitutional) was chosen because it is considered more effective in its application. This is because, essentially, there are no significant changes to the norms being tested by the Constitutional Court.[32] Thus, the implementation of this ruling actually portrays a relationship between the Constitutional Court and legislators, which tends to be compromising.

This fact proves Ran Hirschl's assertion that the institutionalization of judicial review is a hegemonic maneuver that exploits public trust in the judiciary. When political power issues controversial legal products, the public is forced to accept the decisions of judicial institutions through judicial decisions.[33] There are two main elements of the amendment to the PPP Law related to the follow-up to Constitutional Court Decision No. 91/PUU-XVII/2020: the adoption of the omnibus method and the strengthening of meaningful public participation.

The adoption of the omnibus method introduces flexibility in lawmaking, as outlined in Article 64 paragraphs (1a) and (1b) of the PPP Law. It allows draft legislation to be prepared by adding new provisions, amending related regulations, or repealing laws of the same hierarchy, consolidating them into a single legal framework. This provision is actually in line with the concept of harmonization of laws and regulations which requires an inventory of existing regulations, identification of problems, evaluation, and revocation of unnecessary regulations.[34] However, the use of the phrase "may" in paragraph (1a) allows all lawmakers to apply the omnibus method in exercising their regulatory authority.

The inclusion of flexibility in the omnibus method was deliberate, as explained by the Coordinating Minister for Economic Affairs during discussions with the House of Representatives. He suggested moving the definition from Article 1 to Article 64(1b) to

[30] Pleaders, "Strong and Weak form of Judicial Review", diakses pada Rabu, 2 Agustus 2023 Pukul 10.50 WIB. https://blog.ipleaders.in/strong-weak-form-judicial-review/.

[31] Mark Tushnet, *Weak Courts, Strong Rights: Judicial Review and Social Welfare Rights in Comparative Constitutional Law,*(Priceton: Princeton University Press, 2008), 22-23.

[32] Faiz Rahman, "Anomali Penerapan Klausul Bersyarat dalam putusan Pengujian Undang-Undang terhadap Undang-Undang Dasar", *Jurnal Konstitusi,* Vol. 17 No. 1, Maret 2020, 46-47.

[33] Indra Perwira, "Refleksi Fenomena *Judicialization of Politics* pada Politik Hukum Pembentukan Mahkamah Konstitusi dan Putusan Mahkamah Konstitusi", *Jurnal Konstitusi* Vol. 13 No. 01 Maret 2016, 29.

[34] Kementrian Hukum dan Hak Asasi Manusia, *Pengharmonisasian, Pembulatan, dan Pemantapan Konsepsi Rancangan Peraturan Perundang-undangan,* (Jakarta: Direktorat Jenderal Peraturan Perundang-undangan, 2010), 18-20.

avoid rigid general definitions and allow the method to adapt to future legal needs.[35] An alternative view, expressed by Ledia Hanifa Amaliah from the PKS faction, argues that the omnibus method should be limited to specific themes or fields. She proposed that its use in drafting legislation be restricted to a single, clearly defined area, ensuring focus and preventing overly broad application.[36]

However, these differing views do not receive support and tend to be ignored, thus becoming nothing more than a meaningless source of voice. This can actually be explained by Glen S. Kruts's thoughts on the factors that contribute to the success of legislative programs, namely: (i) a good relationship between parliamentary leaders and their members; (ii) a good relationship between the president and parliament; and (iii) the relationship between political actors, both executive and legislative.[37] In the context of adopting the omnibus method, these various factors become apparent.

First, the institutionalized authority for Interim Replacement (PAW) grants political party leaders significant power, creating a strong patronage relationship between party leaders and their representatives in parliament.[38] Therefore, it is highly unlikely that a member of the DPR will have a different opinion from his or her party on a draft law. This is evidenced by Bambang Wuriyanto's statement that all DPR members are subject to the general chairperson of their respective parties.[39]

Second, the establishment of excellent relations between the President and Parliament. In fact, the majority of members of the House of Representatives (DPR) for the 2019-2024 period are from the government coalition, with 427 members, or 74.3% of the total membership. Furthermore, all DPR leaders and 10 commission leaders also come from parties in the government coalition.[40] This demonstrates the imbalance between the government coalition and the opposition in parliament.

Third, the relationship between political actors, both executive and legislative, is evident in the large number of political party leaders serving as ministers under President Joko Widodo. At least four party chairmen are in Jokowi's second cabinet: Airlangga Hartarto (Golkar), Prabowo Subianto (Gerindra), Suharso Monoarfa (PPP),

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[35] DPR RI, *Risalah Badan Legislasi DPR RI Rapat Kerja dengan MenkoPolhukam, MenkoPerekonomian, dan Menkumham terkaitan Pembahasan RUU Perubahan Kedua UU No. 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan, Rapat I 7 April 2022,* (Jakarta: Badan Legislasi DPR RI, 2022).

[36] DPR RI, *Risalah Badan Legislasi DPR RI Rapat Kerja dengan MenkoPolhukam, MenkoPerekonomian, dan Menkumham terkaitan Pembahasan RUU Perubahan Kedua UU No. 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan, Rapat II 13 April 2022,* (Jakarta: Badan Legislasi DPR RI, 2022)

[37] Glen S. Krutz, "Tactical Manuvering on Omnibus Bills in Congress, *American Journal of Political Science*, Vol. 45 Issue 1. 2001, 210-223.

[38] Fitria Maharani Pratiwi, Problematika Pergantian Antar Waktu (PAW) Anggota Legislatif Ditinjau dari UU No. 17 Tahun 2014 tentang MPR, DPR, DPD, dan DPRD, *Skripsi,* Universitas Islam Indonesia, Yogyakarta, 2020, 121.

[39] Teguh Firmansyah, "Bambang Pacul: Kekuasaan di Republik Bergantung Ketum Partai", diakses pada 25 Mei 2023 Pukul 03: 21 WIB. https://news.republika.co.id/berita/rsydnu377/bambang-pacul-kekuasaan-di-republik-ini-bergantung-ketum-partai.

[40] Detik News, "Begini Peta Kekuatan DPR 2019-2024, Koalisi Jokowi Dominan", diakses Pada 25 Mei 2023 Pukul 04:30 WIB. https://news.detik.com/berita/d-4728867/begini-peta-kekuatan-dpr-2019-2024-koalisi-jokowi-dominan.

and Zulkifli Hasan (PAN).[41] The ministerial position requires reciprocity in the form of loyalty and fidelity to ensure a solid coalition. This loyalty and fidelity include uniformity and party support in the legislative process.[42]

These issues reveal growing cartelization between the President and the DPR, weakening checks and balances and resulting in poor legislative debate, evident in the adoption of the omnibus method during the second amendment to the PPP Law. Although Article 96 provides for public participation through consultations such as hearings and discussions, the implementation of meaningful participation remains limited, as public input is often only formally acknowledged rather than genuinely integrated into the lawmaking process.

In principle, these regulations aim to strengthen public participation, as mandated by the Constitutional Court, regarding meaningful participation. However, Article 96 paragraph (8) specifically does not align with the mandate of the principle of meaningful participation. This is evident from the use of the phrase "can," which implies giving regulation makers the freedom to provide or not provide an explanation to the public regarding their input. One of the principles of meaningful participation is the right to receive an explanation if public input is not accommodated in the formulation of regulations.[43] This is certainly different because the existence of rights for the community should have implications for the government's obligation to fulfill them.[44]

In contrast to the previous omnibus method, there were no differences between each faction in the DPR in the formulation of articles regarding strengthening meaningful participation..[45] Thus, it is clear that, as lawmakers, both the House of Representatives (DPR) and the President do not want to be burdened with the burden of providing explanations if they do not accept the results of public participation in the formation of laws and other regulations.

Following amendments to the Job Creation Law, the president issued Government Regulation in Lieu of Law (Perppu) No. 2 of 2022 concerning Job Creation, which was subsequently ratified by the House of Representatives (DPR) as Law No. 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law No. 2 of 2022

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[41] CNN Indonesia, "Daftar Ketua Umum Parpol di Kabinet Jokowi", diakses pada 25 Mei 2023 Pukul 03:36 WIB. https://www.cnnindonesia.com/nasional/20220615151907-32-809354/daftar-ketua-umum-parpol-di-kabinet-jokowi.

[42] Triyono Lukmamtoro, "Tergelitik Kartel Partai Politik", diakses pada 25 Mei 2023 Pukul 03:00 WIB. https://123dok.com/document/q73j7wny-tergelitik-kartel-partai-politik-diponegoro-university-institutional-repository.html.

[43] Geofani Mithree Saragih, et.al, "Comparison of the Principle of Meaningful Participation in the Process of Law Formation in Indonesia, Switzerland, and Sweden" *Justisi* 11, No. 3, 2025, DOI:10.33506/js.v11i3.4346.

[44] Hesti Armiwulan, "Jaminan Hak Konstitusional Warga Negara dalam Undang-Undang Dasar Negara RI Tahun 1945", Disampaikan dalam acara Peningkatan Pemahaman Hak Konstitusional Warga Negara Bagi Guru Mata Pelajaran PPKn Tingkat SMA/SMK dan MA/MAK Mahkamah Konstitusi -Pusat Pendidikan Pancasila dan Konstitusi Rabu, 3 November 2021. https://pusdik.mkri.id/materi/materi_246_3.%20Jaminan%20HKWN_Dr.%20Hesti%20Armiwulan.pdf

[45] DPR RI, *Laporan Singkat Rapat Panja Badan Legislas dengan Pemerintah dalam Rangka Pembahasan DIM RUU Perubahan Kedua atas UU No. 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan,* (Jakarta: Sekertariat Badan Legislasi DPR RI, 2022).

concerning Job Creation into Law. The government stated that following up on the Constitutional Court's ruling through a business-as-usual process would require a long time and bureaucracy. This situation was caused by the impact of Covid-19 and the influence of the war between Russia and Ukraine. The government claimed that this situation would negatively impact MSMEs and vulnerable groups, due to global uncertainty and an unattractive investment climate.[46]

The choice to implement a Government Regulation in Lieu of Law (Perppu) as a reform instrument is a misstep. This is based on three factors: First, the Perppu on CK is inconsistent with the Constitutional Court's decision, which requires revisions to the CK Law in accordance with standard regulations regarding the omnibus method. Article 42A of the PPP Law stipulates that the application of the omnibus method in the preparation of a Draft Law must be stipulated in the Planning Instrument.

The formation of the Perppu does not begin with a planning document, as it is constitutionally designed to be able to be created quickly to address urgent circumstances.[47] The urgent need was further clarified in Constitutional Court Decision No. 138/PUU-VII/2009, which interprets urgent need into three categories: (i) the urgent need to resolve legal issues quickly based on the law; (ii) the required law does not yet exist, resulting in a legal vacuum, or a law exists but is inadequate; and (iii) the legal vacuum cannot be addressed by creating a law through regular procedures because it would take a considerable amount of time. Although, all the reasons behind the formation of this CK Perppu fulfill the elements of urgent need,[48] This does not necessarily make this policy choice the right one.

Second, it is not appropriate for its intended purpose. One of the reasons for implementing the omnibus method is to reduce the time required to amend or revoke several laws one by one. The formation of a Perppu (Government Regulation in Lieu of Law) essentially does not require the omnibus method if the President wishes to amend or revoke several laws simultaneously within a limited timeframe to address urgent circumstances. In fact, with its shorter design, the President can amend or revoke various laws using Perppu one by one.

Third, the Constitutional Court, in its decision, emphasized improvements to the CK Law, particularly in fulfilling the principle of openness, which must include maximum and more meaningful public participation.[49] However, as is well known, a Perppu essentially lacks participation in its creation. Essentially, issuing a Perppu is subjective to the President. Furthermore, the only limitation for a Perppu is approval from the House of Representatives (DPR). If approved, the Perppu becomes law. If not,

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[46] Anisa Sopia, "Disahkan jadi UU, Ini Alasan Jokowi Bikin Perppu Cipta Kerja", diakses pada Senin 15 Mei 2023 Pukul 10:00 WIB. ,https://www.cnbcindonesia.com/news/20230321124946-4-423537/disahkan-jadi-uu-ini-alasan-jokowi-bikin-perppu-cipta kerja#:~:text=%22Perpu%20Cipta%20Kerja%20merupakan%20salah,kebakaran'%2C%22%20ujar%20Airlangga.

[47] Article 22 paragraph (1) of the 1945 Republic of Indonesia Constitution.

[48] Ricky Handriana & Maharani Nurdin, "Analisis Yuridis dalam Pembentukan Peraturan Pemerintah Pengganti Undang-Undang Cipta Kerja", *Jurnal Justicia,* Vol. 06 No. 01 2023, 149-150.

[49] Putusan Mahkamah Konstitusi No. 91/PUU-XVIII/2020, *Pertimbangan Hukum,* 414.

the Perppu is revoked by the President.[50] This concept shows that the results of the ratification of the Perppu into law are basically the subjectivity of the President and the subjectivity of the DPR combined into one.[51] This is certainly very different from a law, which is formulated through five stages: proposal, drafting, discussion, ratification, and enactment.

Therefore, in addition to being inconsistent with the PPP Law, the creation of the CK Perppu essentially constitutes a disregard for the mandate of the Constitutional Court's ruling. Tom Ginsburg outlined the following forms of follow-up to a constitutional review decision: Comply, Ignore, Overrule, and Counterattack.[52] This thinking shows that there are various forms of response from lawmakers to judicial review decisions. This is an anomaly, because the final and binding nature of the decision should require rigid implementation of the Constitutional Court's decision by the decision address.[53]

The legislators, as the parties mandated to revise the CK Law, apparently, for reasons of investment and economic interests, actually ignored the decision by saving the CK Law using the Perppu mechanism. The Constitutional Court's decision is essentially the final point of difference in constitutional interpretation (hukmul hakim yarfa'ul khilaf). Therefore, the Constitutional Court's decision contains a measure of the constitutionality of a state action, especially in this case, the formation of a law.[54]

Conclusion

Based on the previous description and analysis, two conclusions can be drawn. First, a political convergence tended to be elitist, influencing the deliberations of the CK Law, which served as a pilot project for the omnibus method. Furthermore, the regulation of the omnibus method in the PPP Law resulted from an unbalanced parliamentary composition, with the majority agreeing with the government's stance on flexible omnibus regulation. Second, the Constitutional Court (MK) failed to navigate the constitutionality of the omnibus method in legislation. Instead, the Constitutional Court's decision legitimized the formally flawed CK Law through revisions. This decision provided legislators with the opportunity to override the constitutional mandate in revising the CK Law.

This research focuses on the initial phase of the omnibus method's adoption in Indonesian legislation. Further analysis is needed to examine the problematic nature of the omnibus method's regulation in Indonesia. Furthermore, it is crucial to assess the

[50] Article 22 paragraph (2) of the 1945 Constitution of the Republic of Indonesia

[51] Andy Omara, "Dilema Daya Lenting Konstitusi: Pemilu, Parpol, dan HAM", disampaikan dalam *Constitutional Law Year 2022,* organized by the Center for Constitutional Law Studies, Faculty of Law, UII in January 2023.

[52] Muhammad Reza Winata, *Pengujian Konstitusionalitas Undang-Undang: Rigiditas Tindak Lanjut dalam Pembentukan Undang-Undang,* (Depok: PT Raja Grafindo Persada, 2020), 164.

[53] *Ibid.,* 162-164.

[54] Fadjar Laksono Suroso, *Potret relasi Mahkamah Konstitusi-Legislator: Konfrontatif atau Kooperatif?,* (Yogyakarta: Genta Publishing, 2018), 228-229.

criteria and parameters under which a regulation can be legitimized using the omnibus method.

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