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**LEGAL POLITICAL ANALYSIS OF COURT DECISIONS CONSTITUTION NO.
91/PUU-XVIII/2020 ON THE MATERIAL REVIEW OF THE JOB CREATION LAW
FROM THE PERSPECTIVE OF LEGISLATION REFORM AND STRENGTHENING
THE PRINCIPLES OF THE LEGAL STATE IN INDONESIA**

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Article	Abstract
<p><i>Received: Des 02, 2025; Reviewed: Jan 07, 2026; Accepted: Feb 09, 2026; Published: Feb 26, 2026</i></p>	<p><i>Study This aim For analyze political law to Decision Court Constitution no. 91/PUU-XVIII/2020 in testing material Law no. 11 of 2020 concerning Creation Work , in particular related to the formation process and substance arrangement regulations through Omnibus Law method . The birth of Constitution Creation Work is policy political law government directed For push acceleration growth economy and investment through simplification regulation . However , the legislative process for this law cause polemic public Because assessed No fulfil principle formation regulation good legislation , especially principle openness and participation meaningful public . Decision Court Constitution state that the Job Creation Law Work status unconstitutional conditional and ordered repair in term time two years , so that implementation regulations limited and not may give birth to policy strategic and regulatory implementer new . Research This use method study law normative with approach legislation , approach case , approach conceptual , and approach historical . Data collected through studies documentation and studies library , then analyzed in a way qualitative prescriptive . Research results show that Constitutional Court Decision No. 91/PUU-XVIII/2020 is in effect as instrument control constitutional to practice legislation that is considered No obedient procedures and tend to elitist . Verdict This become fundamental correction for practice formation Constitution and momentum for strengthen principles of the rule of law , democracy , and legislative reform in Indonesia. Research This recommend the need formation regulations that govern in a way clear technique</i></p>

preparation of the Omnibus Law in system Indonesian legislation so as not to cause uncertainty future law.

Keywords: *Legal Politics Against Constitution Creation Work*

A. INTRODUCTION

Decision Court Constitution Number 91/PUU-XVIII/2020 is one of the the most important decision in dynamics political contemporary Indonesian law . Decision This born as response to formal test application Constitution Number 11 of 2020 concerning Creation Work (Omnibus Law), which since beginning its ratification cause rejection wide from various group society . Criticism main directed at the formation process which is considered No transparent , minimal participation public , and loaded interest political economy .

In the decision , the Court Constitution state that formation of the Job Creation Law Work in a way formal contradictory with the 1945 Constitution because No fulfil principle formation regulation legislation as arranged in Constitution Number 12 of 2011 concerning Formation Regulation Legislation . Court evaluate that the omnibus law method does not known in system legislation and its use cause chaos structure norm as well as change substances that are not consistent with script the beginning of the bill.

Although Thus , the Constitutional Court does not necessarily revoke the Job Creation Law Work in a way permanent , but stated that the law unconstitutional conditionally unconstitutional and permanent valid until done maximum repair of two year since decision read . So , if former Constitution No do revision in term time said , then the Job Creation Law Work become unconstitutional permanent .

This Constitutional Court decision give limitation that during the repair period ongoing , the government No allowed make policy strategic and publishing regulation impactful implementers wide to society . Policy This taken For guard certainty law at a time withhold impact damage system law consequence procedure the formation of flawed laws .

In a way theoretical , decision This emphasize that in perspective political law , legitimacy law No only determined by the material cargo laws , but also by procedures and principles accompanying democracy . In context formation of the Job Creation Law Work , absence participation meaningful public considered as form deviation the principle of the rule of law (rechtsstaat).

The Constitutional Court's decision also gave rise to consequence practical in the form of uncertainty laws in various sectors , especially employment , investment , environment life , and licensing business . Status “ unconstitutional conditional ” creates room gray in implementation policy , which then impact on uncertainty in the business world and protection rights worker .

With Thus , the Decision Number 91/PUU-XVIII/2020 can considered as precedent important in strengthening control judicial to the legislative process , as well as as reflection to direction political Indonesian law , in particular shift between interest economy and protection

constitutional society . Decision This at a time remind that democracy procedural is mandatory foundation guarded in formation Constitution .

Court Constitution in decision the state that the Job Creation Law Work is unconstitutional conditionally unconstitutional and provides order constitutional to former Constitution For do repair in time two year . Decision This show How institution justice constitution play role important in control political laws carried out by branches power executive and legislative . With thus , the decision This No only own aspect juridical , but also contains dimensions strong politics , because show fight interests and direction policy in law national .

Study of Decision Court Constitution Number 91/PUU-XVIII/2020 becomes important For understand How political law Work in the process of formation regulations and how role institution judiciary in guard principle of rule of law , mechanism checks and balances, and protection constitution . Decision This confirm that formation Constitution Creation Work has disabled formal , because No fulfil principles formation regulation legislation as arranged in Constitution Number 12 of 2011. Through decision This , the Constitutional Court emphasized his authority as a functioning guardian of the constitution escort constitutionality of governance legislation so as not to distorted by interests politics and power .

A growing phenomenon after decision the show that relation between law and politics Still loaded tug-of-war interests . The government and the DPR actually Then validate Constitution Number 13 of 2022 as revision of Law 12/2011 with objective legitimize the omnibus law method , which is considered by some academics as form neglect against constitutional order and correction judicial . Condition This show that former Constitution No fully comply amar the Constitutional Court's decision stating that the Job Creation Law Work as unconstitutional conditional and must repaired through procedure formation the correct law in time two year . Criticism the public is also increasingly strong Because government still operate all over substance of the Job Creation Law Work despite its legal status Not yet Certain .

Phenomenon the latest to strengthen urgency study This is ratification return Regulation Government Replacement Job Creation Law (Perppu) Work become Law in 2023 in the middle the Constitutional Court's decision which has not yet been fully obeyed . This matter bring up suspicion that the legislative process directed For serve the economic and investment agenda , without consider right workers , justice social and protection environment . Many experts evaluate that dynamics This become example real How law can used as instrument power (law as a tool of social engineering) , so that need study critical for supremacy law No defeated by interests political economy oligarchic . With Thus , the analysis to Constitutional Court Decision No. 91/PUU-XVIII/2020 is very important For understand relation law , politics and democracy in system contemporary Indonesian state administration .

In study this , the framework the theory used consists of from three levels , namely Grand Theory, Middle Range Theory, and Applied Theory as base analysis to Decision Court Constitution Number 91/PUU-XVIII/2020.

1. Grand Theory – Theory Legal Politics

Grand Theory used in study This is Theory Legal Politics , as put forward by Mahfud MD, who explained that political law is direction policy State laws made and implemented by the government For reach national goals . Politics law No only covers formation legislation , but also includes implementation and enforcement law , which in practice is greatly influenced by

the configuration politics , power and interests the economy is currently develop in something period government . With thus , the law No born in room empty but is product politics that reflects orientation and preferences government in arrange public .

Mahfud MD explains that political law in essence is results tug-of-war interest between actor power , good executive , legislative , and group interests that have influence towards the legislative process . Therefore that , every product law in essence load interest political certain and not can separated from dynamics the power that surrounds it . In context formation Constitution Creation Work , tug-of-war the seen clear through a legislative process that is assessed hasty , minimal participation public , and more interest - oriented investment compared to protection rights constitutional citizen .

Through perspective theory This is the handling of judicial review of the Job Creation Law Later work disconnected through Decision Court Constitution no. 91/PUU-XVIII/2020 can understood as a fighting arena politics and law , where the Court Constitution operate role as guard constitution For balance state power and protect right public . Decision which states that the Copyright Law Work as unconstitutional conditional , indicating that the Constitutional Court is trying uphold principle rule of law in the middle strong pressure of the economic-political agenda government . With Thus , the theory political law become foundation conceptually correct For analyze dynamics formation and correction against the Job Creation Law Work in frame relation between law , power and interests politics .

2. Middle Range Theory – Theory of the Rule of Law and Checks and Balances

Middle Range Theory is used in study This is Theory of the Legal State (Rechtsstaat and Rule of Law) and theory checks and balances, which confirms that mandatory state power limited by law and mechanisms supervision between state institutions for prevent occurrence abuse power . The concept of a state based on law put law as power supreme (supremacy of law), where all action government must based on law , implemented in accordance procedure constitutional , and directed at protecting right basic man as well as interest people . The principles of the modern rule of law are developing through AV Dicey's thinking , which emphasizes legality , equality before law and guarantees right constitutional as element main rule of law .

In framework Indonesian state administration , the principle of the rule of law executed through checks and balances mechanism between branch state power , namely executive , legislative , and judiciary . One of them instrument most important in guard balance power the is existence Court Constitution as judicial review institution that functions as the guardian of the constitution and the protector of constitutional rights. MK has authority For test Constitution against the 1945 Constitution in order to ensure that the legislative process still in harmony with principle democracy , constitutionality , and protection right citizen .

In context Constitutional Court Decision No. 91/PUU-XVIII/2020, Court Constitution operate function supervision judicial to the formation process Constitution Creation Work carried out by the DPR and the President . Decision the is form real implementation checks and balances mechanism , because the Constitutional Court stated that the Job Creation Law Work disabled formal and unconstitutional conditional consequence No fulfil principles formation regulation good legislation , such as openness , clarity formulation , and participation public . Through decision This , the Constitutional Court is trying prevent potential abuse power legislative and

executive which can harm interest public , as well as confirm that practice legislation No may dominated by interests economics and politics certain . With Thus , the Constitutional Court Decision No. 91/PUU-XVIII/2020 becomes example concrete How the principle of the rule of law and the mechanism of checks and balances function in system Indonesian state administration .

3. Applied Theory – Theory Formation Regulation Legislation

Applied Theory used in study This is Theory Formation Regulation Legislation as arranged in Constitution Number 12 of 2011 concerning Formation Regulation Legislation as has changed with Law No. 13 of 2022, which confirms that formation regulations must fulfil legal-formal principles and standards , both in a way procedural and substance . Standard the covers principle clarity objectives , institutions proper shaper , suitability types and hierarchies , openness as well as participation public , as well as can implemented in a way effective in practice social . Principles the intended so that the product the resulting law own legitimacy democratic , certainty law , as well as in harmony with need public .

In perspective theory this , the decision Court Constitution No. 91/PUU-XVIII/2020 becomes important Because Court confirm that the formation process Constitution Creation Work (Omnibus Law) has violate principle openness and participation the public which is fundamental elements in the modern legislative process . The Constitutional Court considers that discussion of the Job Creation Law Work done in a way in a hurry , no transparent , and not give room participation adequate public , so that contradictory with principle democracy deliberative which becomes part from formation good law . Therefore that , the Court declare the Job Creation Law Work as unconstitutional conditional and ordered repair in term time two year . The Constitutional Court's decision show implementation concrete theory formation regulation legislation as instrument For assess and correct deviant legislative processes from standard formal law .

With Thus , the theory formation regulation legislation become base operational For analyze character political law in Constitutional Court Decision No. 91/PUU-XVIII/2020, especially in context democracy , control power and protection rights constitutional citizen . Framework theory This strengthen understanding that correct judicial to legislation No only problem technical compilation law , but rather mechanism For ensure that implementation power political still is at in corridor laws and principles of a democratic state of law .

B. MATERIALS AND METHODS

Study This use type study law normative , namely research that aims study principles laws , norms , doctrines , and theory law through studies to regulation legislation and decisions court . Study law normative chosen Because object study focus on the decision Court Constitution no. 91/PUU-XVIII/2020 and dynamics political law formation Constitution Creation Work through method Omnibus Law . In analyze problem , research This use a number of approach , namely : approach legislation (statute approach) with reviewing Law No. 11 of 2020 concerning Creation Work and Law no. 12 of 2011 jo. UU no. 15 of 2019 concerning Formation Regulation Legislation ; approach case approach with study consideration law Constitutional Court Decision No. 91/PUU-XVIII/2020 as base evaluation constitutionality of the legislative process ; approach conceptual approach to review theory political law , theory of

the rule of law , principles democracy , and meaningful participation in formation regulation legislation ; and approach historical approach to browse development Omnibus Law as a simplified model regulations in system Indonesian law .

Data sources used in study consists of on material primary law in the form of regulation related legislation and Constitutional Court decisions ; materials law secondary in the form of books , journals scientific , and results study related academics with political laws and legislative processes ; and material law tertiary like dictionary law and encyclopedia . Collection technique material law done through study library research with examine document official , literature scientific , and academic data . Entire material law analyzed use analysis qualitative prescriptive , namely method analysis that processes legal data in a way systematic For get argumentation laws that can answer formulation problems and produce recommendation normative towards the legislative process Omnibus Law .

C. RESULT AND DISCUSSION

1. Analysis Legal Policy on Decision Court Constitution no. 91/PUU-XVIII/2020 in Testing Material Constitution Creation Work

Decision Court Constitution No. 91/PUU-XVIII/2020 is milestone important in dynamics political law formation regulation legislation in Indonesia. Decision This state that Law no. 11 of 2020 concerning Creation Work unconstitutional conditional because of the formation process No fulfil principles legislation as arranged in Law No. 12 of 2011 in conjunction with Law No. 15 of 2019. Court evaluate that the Omnibus Law method used the government and the DPR do not followed procedure clear , open and participatory preparation , so that contradictory with the principle of the rule of law and the principle formation good regulations . Reason The main objective of the Constitutional Court is that the “omnibus law” method used namely combine change or revocation Lots Constitution to in one single law No recognized in framework law formation standard legislation ; systematics , procedures , and method the formation of laws does not done in accordance with regulated standards in regulation formation legislation .

The Constitutional Court assesses formation of the Job Creation Law Work No fulfil principles formation good legislation : principles openness and participation public No fulfilled in a way adequate public and society affected No given enough opportunity For access drafts, give input , and get explanation on change the substance that occurs .

Therefore Therefore , the Constitutional Court ordered the DPR and the Government do repair against the Job Creation Law Work in term maximum time of two year since decision read . During period that , the Job Creation Law Work still valid but implementation policy strategic and publishing regulation implementer new based on that law must suspended . If the repair No is done , then the law is considered unconstitutional in a way permanent and changes / revocation Constitution previously by the Job Creation Law Work canceled .

With thus , the decision This become point crucial in political Indonesian law does not just evaluate content or the substance of the law, but uphold that method formation laws (procedures , formats, participation , transparency) are element constitutional which is not Can

ignored . Decision This emphasize that legitimacy and quality of the legislative process The same importance with content regulations That Alone .

In a way political law , the birth of the Job Creation Law Work is form engineering regulation by the government For create climate investment , growth economy and efficiency law through simplification regulations . However , the policy political law This assessed sacrifice principle democracy deliberative because the formation process has minimal participation meaningful public participation . This become reason main Court Constitution order repair in term time two years and stop action more carry on against the law if former Constitution fail do repair .

From the perspective substance , the Constitutional Court's decision confirms that Omnibus Law method not yet own base normative clear procedures in system Indonesian legislation . The Constitutional Court considers that Omnibus Law technique is not problem , but technical its composition cause chaos structure norms , overlap overlap article , changes pages and manuscript format , as well as allows occurrence smuggling norm (regulatory capture). Therefore Court confirm the need for legislative reform and formulation repeat guidelines legislation national For accommodate Omnibus Law method so as not to cause problem constitutional in the future .

With Thus , the analysis political law show that Constitutional Court Decision No. 91/PUU-XVIII/2020 is in effect as correct to practice formation laws that are considered elitist and centralistic , as well as as a momentum for strengthen principles of the rule of law , democracy and participation public in the legislative process in Indonesia.

2. How implications decision the to system formation regulation legislation and principles democracy as well as participation public in Indonesia.

Decision No. 91/PUU-XVIII/2020 has implications significant to system formation regulation legislation in Indonesia. With state that Constitution Creation Job Creation Law Work) has disabled formal and has the status of " unconstitutional" conditional ," the Constitutional Court emphasized that every Constitution No only must pass from testing material , but also must formed through procedure correct , transparent and compliant legislation principle . Decision This become a kind of “ constitutional alarm ” against practice legislation fast and “omnibus law ” without notice aspect formal , namely systematics , hierarchy norms , clarity script , and stability regulation . With Thus , the manufacturing process Constitution to front expected become more orderly and obedient law , with notice legal- formal aspects tight , so as not to easy was canceled by the Constitutional Court later day .

From the side democracy and principles participation public , implications decision This even more fundamental : MK through decision the introduce and confirm the concept of “ participation meaningful society ” (meaningful participation) as standard constitutional in formation Constitution . According to the Constitutional Court, formation Constitution must ensure right public For to be heard (right to be heard), right For considered his opinion (right to be considered), and the right For get explanation / response on input submitted (right to be explained) before Constitution approved .

With presence standard this , practice closed , rushed , or otherwise unconventional legislation dominated by political and economic elites become difficult justified Because will prone to to cancellation formal . This is strengthen principle democracy legislative : that Constitution is expression sovereignty the people and therefore its formation must involving people in a way real , not just formality mere .

Next , the decision This in a way implicit promote governance reform legislation No only at the level technical preparation , but also on aspects culture law : namely make transparency , participation , and accountability as part intrinsic from the formation process law . This is means that every major bill to front especially touching ones aspect important like employment , environment , investment , agrarian will face pressure public and judicial For involving public affected in a way meaningful . If the mechanism participation ignored , risk invalidity formal through judicial review to become real .

However , the implications This No without challenges . The status of “ unconstitutional” conditional " given MKoleh-oleh cancellation full cause ambiguity for perpetrator law and stakeholders interests . Copyright Law Work in a way juridical still valid while , which can make regulations , permits , and policies based on that law still walking , even though procedure its formation considered defective . This is open possibility conflict law , uncertainty regulation , and uncertainty protection right public in period transition . Therefore that , implementation results the decision is very dependent on commitment former laws (executive and legislative) for repair procedures and really realize participation public as required .

In a way Overall , this Constitutional Court decision bring potential transformation system democracy legislature in Indonesia from legislation elitist and closed going to more legislation open , accountable , and participatory . This confirm that the law in Indonesia should be No just tool regulations , but also means legitimacy democracy and protection constitutional for all over citizen .

D. CONCLUSION

1. Court Constitution through Constitutional Court Decision No. 91/PUU-XVIII/2020 confirms that formation Constitution Creation Work has experience disabled formal Because No fulfil principle openness and participation meaningful public participation . Decision This put the legislative process in place as the same part importance with substance law , because manufacturing Constitution must follow constitutional , transparent and democratic procedures as form respect to principles of the rule of law and sovereignty people . Decision the become precedent important in testing formal laws and clarify function Court Constitution as control to practice deviant and potentially harmful legislation close room participation public .
2. Besides that , the implications decision This impact significant to system formation regulation legislation in Indonesia, because the Constitutional Court firm obligatory improving the legislative process to make it more participatory and accountable . Decision it also strengthens culture democracy through formal recognition of right citizens to involved in the process of

formation law . At the same time , the unconstitutional status conditions applied cause challenge in the form of uncertainty law in transition , so seriousness government and DPR to improve governance legislation become key effectiveness decision This .

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