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The Effect of Omnibus Law Technique on the Quality of Criminal Legislative Drafting in Indonesia

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ABSTRACT

*This research critically analyzes the influence of the omnibus law technique on the quality of criminal law formulation in Indonesia, particularly following the enactment of Law No. 13 of 2022 regarding Amendments to Law No. 12 of 2011 on the Formation of Legislation. Although the omnibus law method formally recognizes the integration of multiple legal substances within a single statute to enhance legislative efficiency and regulatory synchronization, empirical evidence demonstrates that its application in the criminal law domain creates serious substantive and procedural challenges. The research employs a normative legal approach supplemented by conceptual analysis to examine the alignment between omnibus law practices and the principles of good legislation (good legislation principles) as stipulated in Article 5 of Law No. 13 of 2022. The findings reveal that while omnibus law offers administrative efficiency, its implementation in criminal legislation generates significant problems regarding norm clarity, public participation, and legal legitimacy. Specifically, the technique tends to obscure the principle of legality (*nullum crimen sine lege*), reduce deliberative quality in legislative processes due to executive dominance, and weaken public participation in legislative procedures. Furthermore, the rapid processing of omnibus bills with limited public consultation compromises the substantive legitimacy of resulting criminal law provisions. This research concludes that implementing omnibus law techniques in criminal legislation must be accompanied by reinforced mechanisms for meaningful public participation, enhanced transparency in legislative discussions, and rigorous norm quality testing prior to enactment. Without such safeguards, the legislative innovation intended to simplify legal frameworks risks creating new legal uncertainty within Indonesia's national criminal justice system. The research advocates for either restricting omnibus law application to non-criminal legislation or fundamentally restructuring its procedural framework to comply with constitutional standards of democratic lawmaking.*

1. Introduction

The formation of legislation constitutes a fundamental element in the administration of a rule of law state. The Indonesian Constitution affirms that the Indonesian state is a *Rechtsstaat*, not a *Machtstaat*, which signifies that power is exercised pursuant to law, rather than solely according to the will of those in authority.¹ The quality of a law is crucial in determining the legitimacy and effectiveness of law in ensuring justice, legal certainty, and public welfare for society.

In this context, the enactment of Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 on the Formation of Legislation (Legislation Formation Law) represents an important milestone in the dynamics of national legislation. One of the prominent substantive elements in this amendment is the formal recognition of the omnibus law technique as a method for the formation of laws in Indonesia.² This technique is normatively considered capable of addressing the problem of hyperregulation and overlapping regulations, and is expected to achieve legal efficiency and synchronization.³

Conceptually, an omnibus law is a legislative technique that consolidates various provisions from different laws into a single new regulation with the aim of simplifying the legal system.⁴ This model originates from Anglo-Saxon legal practice, particularly in the United States and Canada, which utilize this method to conduct rapid thematic codification.⁵ However, the adoption of such techniques into the Indonesian legal system raises serious debate because Indonesia's legal structure adheres to a civil law system that upholds the principle of formalism and the hierarchy of norms, as expounded by Hans Kelsen in his General Theory of Law and State.⁶

Controversy surrounding the omnibus law began to surface after the enactment of Law No. 11 of 2020 on Job Creation, which was the first piece of legislation to use this method. Many believe that its formation ignored the principle of meaningful participation, as the deliberation process was limited and there was minimal public participation.⁷ Constitutional Court Decision Number 91/PUU-XVIII/2020 even declared the Job Creation Law “conditionally unconstitutional” due to flaws in its drafting procedure.⁸

The application of the omnibus law technique in the field of criminal law raises its own complexities. Criminal law has strict characteristics regarding the principles of legality (*nullum crimen sine lege*), proportionality, and clarity of norms.⁹ The consolidation of various criminal norms into one large regulation has the potential to cause overlapping offenses, ambiguous sanctions, and a shift in substantive justice values.¹⁰ Furthermore, the omnibus technique has the

¹ Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, (Jakarta: Sinar Grafika, 2015), Page. 45.

² Maria Farida Indrati, *Ilmu Perundang-Undangan: Jenis, Fungsi, dan Materi Muatan*, (Yogyakarta: Kanisius, 2018), Page. 17.

³ Bagir Manan, *Teori dan Politik Konstitusi*, (Jakarta: FH UII Press, 2014), Page. 99.

⁴ Black's Law Dictionary, 11th ed., (St. Paul: Thomson Reuters, 2019), Page. 1320.

⁵ Republik Indonesia, *Undang-Undang Nomor 13 Tahun 2022 tentang Pembentukan Peraturan Perundang-Undangan*, Lembaran Negara RI Tahun 2022 Nomor 154, Pasal 64A.

⁶ Peter Cane, *Administrative Law*, (Oxford: Oxford University Press, 2011), Page. 247.

⁷ Andi Hamzah, *Asas-Asas Hukum Pidana*, (Jakarta: Rineka Cipta, 2017), Page. 112.

⁸ Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana*, (Jakarta: Kencana, 2021), Page. 67.

⁹ Mahkamah Konstitusi Republik Indonesia, *Putusan Nomor 91/PUU-XVIII/2020 tentang Pengujian Undang-Undang Cipta Kerja*, Page. 256.

¹⁰ *Ibid.*, Page. 260.

potential to obscure the social control function of criminal law, which ideally should be formulated in a careful and participatory manner.¹¹

Theoretically, the formulation of criminal laws must be based on the principle of good legislation, namely clarity of purpose, openness, and public accountability.¹² These principles are contained in Article 5 of the PPP Law, which emphasizes the importance of transparency and public participation in every stage of the legislative process. However, the reality of omnibus legislation often shows the dominance of the government in the drafting and discussion of laws, while the role of the House of Representatives and the public tends to be marginal.¹³

In previous studies, most research on omnibus laws in Indonesia has focused on economics and investment. For example, Bivitri Susanti notes that the use of this technique in the Job Creation Law is more political than technocratic, as it is oriented toward economic deregulation without regard for public participation.¹⁴ However, very few studies have thoroughly examined the application of omnibus laws in the context of criminal law formation. In fact, in the field of criminal law, even minor changes to the formulation of norms can have a major impact on the constitutional rights of citizens.¹⁵

This study was conducted to fill a gap in the literature and provide a critical analysis of the impact of omnibus law techniques on the quality of criminal law formation, particularly after the changes stipulated in Law No. 13 of 2022. This study aims to explain whether the omnibus method actually improves the effectiveness of criminal law formation or weakens the principles of legality, public participation, and legal legitimacy. Thus, this study has theoretical and practical significance for strengthening the law formation system in Indonesia.

Based on the above description, this study will explore the following: (1) The regulation and application of the omnibus law technique in the regulatory formation system based on Law No. 13 of 2022 concerning the Formation of Regulations, (2) The effect of the application of the omnibus law technique on the quality of criminal law formation, particularly in terms of the clarity of norms, public participation, and legal legitimacy.

2. Research Methods

This study employs a normative juridical approach (pendekatan yuridis normatif) to analyze the impact of omnibus law techniques on the quality of criminal law formulation in Indonesia. The research utilizes primary legal materials consisting of legislation, particularly Law No. 13 of 2022 concerning Amendments to the Law on Legislation Formation (Law No. 12 of 2011), Law No. 11 of 2020 concerning Job Creation (Omnibus Law), and the Constitutional Court Decision No. 91PUU-XVIII/2020. Secondary legal materials are gathered from academic literature, legal journals, scholarly books on legislative theory and criminal law jurisprudence, and court decisions. The study combines doctrinal legal analysis with conceptual analysis to examine the extent to which omnibus law techniques conform to the principles of good legislation (good

¹¹ Satjipto Rahardjo, *Ilmu Hukum*, (Bandung: Citra Aditya Bakti, 2006), Page. 121.

¹² Denny Indrayana, *Negara Hukum Indonesia Pasca Reformasi*, (Jakarta: Kompas, 2019), Page. 211.

¹³ Muladi dan Barda Nawawi Arief, *Teori dan Kebijakan Pidana*, (Bandung: Alumni, 1998), Page. 28.

¹⁴ Bivitri Susanti, "Omnibus Law dan Krisis Partisipasi Publik," *Jurnal Hukum & Pembangunan*, Vol. 51, No. 2 (2021), Page. 187.

¹⁵ Topo Santoso, "Implikasi Omnibus Law terhadap Sistem Hukum Pidana Indonesia," *Jurnal Legislasi Indonesia*, Vol. 19 No. 3 (2022), Page. 356.

legislation principles) as prescribed in Article 5 of Law No. 13 of 2022. Particular attention is given to examining three dimensions of legislative quality: norm clarity (*lex certa*), public participation (meaningful participation), and legal legitimacy (both procedural and substantive). The analysis relies on critical interpretation of legal texts, examination of statutory provisions, and evaluation of scholarly commentary regarding the application of omnibus law methodology in criminal legislation. This interdisciplinary approach integrates normative legal theory with democratic principles of legislative process to provide comprehensive assessment of legislative quality and constitutional compliance.

3. Result and Discussion

3.1. Regulation and Application of the Omnibus Law Technique in the Legislative System Based on Law No. 13 of 2022

A fundamental change in the legislative system in Indonesia following the enactment of Law No. 13 of 2022 lies in the explicit recognition of the omnibus law method in the legislative process. Article 64A of the law states that in the context of drafting laws or government regulations in lieu of laws, the omnibus law method may be used to regulate various matters that are related and have similar regulatory objectives.¹⁶

Normatively, this regulation is intended to provide a legal basis for cross-sector legislation. Prior to the 2022 revision of the PPP Law, the use of an omnibus law in the formation of Law No. 11 of 2020 on Job Creation did not have strong legal legitimacy. As a result, the Constitutional Court, through Decision No. 91/PUU-XVIII/2020, declared that the Job Creation Law was conditionally unconstitutional because it violated the principles of openness and public participation.¹⁷ Law No. 13 of 2022 formally aims to remedy this legal vacuum so that the omnibus method can be used legally and measurably.

However, substantively, the provisions in Article 64A of the PPP Law still raise several theoretical and practical issues. First, the law does not explain in detail the criteria or limitations regarding “similarity of regulatory objectives.” As a result, the scope for interpretation becomes too broad and opens up opportunities for the government to combine various norms that do not actually have any substantial connection.¹⁸

Second, the omnibus law method tends to shift away from Hans Kelsen's principle of *Stufenbau des Recht*, whereby legal norms must be hierarchical and systematic.¹⁹ In practice, drafting laws using the omnibus technique actually creates a “horizontal layer of law,” whereby norms from various laws are combined without regard to their hierarchical relationships and logical systems.²⁰ As a result, there is an overlap of norms and difficulties in interpreting the relationship between articles in a multi-sectoral law.

Third, the formation of laws using the omnibus law method has the potential to weaken the checks and balances function. Several studies show that draft laws using this model are

¹⁶ Republik Indonesia, *Undang-Undang Nomor 13 Tahun 2022 tentang Pembentukan Peraturan Perundang-Undangan*, Pasal 64A.

¹⁷ Mahkamah Konstitusi RI, *Putusan No. 91/PUU-XVIII/2020 tentang Pengujian UU Cipta Kerja*, Page. 256.

¹⁸ Maria Farida Indrati, *Ilmu Perundang-Undangan*, (Yogyakarta: Kanisius, 2018), Page. 103.

¹⁹ Hans Kelsen, *General Theory of Law and State*, (Cambridge: Harvard University Press, 1949), Page. 127.

²⁰ *Ibid.*, Page. 129.

dominated by the government, while the House of Representatives more often acts as a ratifier rather than a discussant.²¹ This situation indicates a shift in legal policy whereby the representative function of the House of Representatives has diminished and the legislative process has become increasingly technocratic, even closed to the public.

Fourth, from the perspective of public participation, the application of the omnibus law technique often contradicts the principle of good legislation as stipulated in Article 5 letter g of Law No. 13 of 2022, namely the principle of openness.²² In practice, omnibus bills are usually discussed in a short period of time and contain a large number of articles. For example, the Job Creation Bill, which is more than 1,200 pages long, was discussed in just a few months without adequate public consultation.²³

This shows a degradation in the quality of legislation, where procedural efficiency has sacrificed the depth of legal substance. As stated by Jimly Asshiddiqie, good lawmaking is not only measured by the speed and quantity of output, but also by the extent to which the process is able to produce norms that are clear, rational, and have social legitimacy.²⁴

The technical provisions of the omnibus law in Law No. 13 of 2022, although formally valid, still have the potential to substantially threaten the basic principles of hierarchical, participatory, and measurable law formation. This is of particular concern when this method is applied in the field of criminal law, which demands certainty, caution, and precision in the formulation of norms.

3.2. The Impact of the Omnibus Law Technique on the Quality of Criminal Law Formation: Aspects of Norm Clarity, Public Participation, and Legal Legitimacy

In the criminal justice system, the principle of legality is at the heart of the protection of citizens' rights. *Nullum crimen, nulla poena sine lege* not only means that no one can be punished without a legal basis, but also requires that legal norms be formulated clearly, precisely, and in an easily understandable manner.²⁵ The clarity of norms (*lex certa*) is a key indicator of the quality of criminal law.

The application of the omnibus law technique to criminal law has the potential to weaken the clarity of norms for two main reasons. First, the consolidation of various criminal provisions from a number of laws leads to inconsistencies in terminology and overlapping scopes of offenses.²⁶ For example, environmental offenses in the Job Creation Law are combined with administrative and economic provisions without a clear distinction between administrative violations and criminal offenses. As a result, law enforcement officials have difficulty determining which acts are criminal and which are merely administrative.²⁷

²¹ Denny Indrayana, *Negara Hukum Indonesia Pasca Reformasi*, (Jakarta: Kompas, 2019), Page. 214.

²² Republik Indonesia, *UU No. 13 Tahun 2022*, Pasal 5 huruf g.

²³ Bivitri Susanti, "Omnibus Law dan Krisis Partisipasi Publik," *Jurnal Hukum & Pembangunan*, Vol. 51 No. 2 (2021), Page. 187.

²⁴ Jimly Asshiddiqie, *Pengantar Ilmu Perundang-Undangan*, (Jakarta: Rajawali Pers, 2016), Page. 213.

²⁵ Andi Hamzah, *Asas-Asas Hukum Pidana*, (Jakarta: Rineka Cipta, 2017), Page. 112.

²⁶ Topo Santoso, "Implikasi Omnibus Law terhadap Sistem Hukum Pidana Indonesia," *Jurnal Legislasi Indonesia*, Vol. 19 No. 3 (2022), Page. 356.

²⁷ *Ibid.*, Page. 358.

Second, in the omnibus law method, criminal norms are often placed as a complementary part of economic, investment, or labor norms.²⁸ This obscures the principle of *ultimum remedium*, which states that criminal sanctions should be used as a last resort after other legal means have proven ineffective.²⁹ As a result, criminalization policies become disproportionate and potentially violate the constitutional rights of citizens.

From the perspective of public participation, the formation of criminal laws through the *omnibus law* method also raises issues of legitimacy. The rapid, complex, and closed legislative process severely limits the participation of civil society, academics, and legal professional organizations.³⁰ In fact, according to the Constitutional Court in Decision No. 91/PUU-XVIII/2020, meaningful public participation is part of the constitutional rights of citizens in a democratic state governed by the rule of law.³¹

The lack of public participation has a direct impact on legal legitimacy. Legal products that are created without public involvement tend to lack social legitimacy and run a high risk of being rejected during implementation.³² In criminal law, social legitimacy is very important because the validity of criminal law is not only based on the formal power of the state, but also on society's acceptance of the justice of these norms.³³

Furthermore, from the perspective of formal legitimacy, the omnibus law method also has the potential to cause procedural flaws. When laws drafted using this technique are drafted and passed at high speed without proper public consultation, the principle of due process of legislation, which is part of the rule of law, is violated.³⁴ Satjipto Rahardjo emphasized that the formation of good law is a “rational social process,” not merely a technical administrative activity.³⁵

The application of the omnibus law technique in criminal law presents a fundamental dilemma between legislative efficiency and normative quality. On the one hand, this technique promises simplification of regulations, synchronization of norms, and acceleration of law formation. However, on the other hand, the characteristics of criminal law, which require high precision in the formulation of norms, make it the field most vulnerable to distortion due to the use of the omnibus method.

Criminal law is the branch of law that is most sensitive to the vagueness of norms.³⁶ Ambiguity in a single word or phrase in criminal law can lead to broadening the meaning of an offense and potential abuse of power by law enforcement officials. The principle of *lex certa* in the principle of legality requires that criminal law be formulated precisely, clearly, and unambiguously.³⁷

However, in the practice of omnibus law, the drafting of norms tends to be general in nature. For example, in the Job Creation Law, criminal articles originating from various laws are

²⁸ Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana*, (Jakarta: Kencana, 2021), Page. 67.

²⁹ Muladi dan Barda Nawawi Arief, *Teori dan Kebijakan Pidana*, (Bandung: Alumni, 1998), Page. 35.

³⁰ Bivitri Susanti, *Loc. Cit.*, Page. 190.

³¹ Mahkamah Konstitusi RI, *Putusan No. 91/PUU-XVIII/2020*, Page. 259.

³² Satjipto Rahardjo, *Ilmu Hukum*, (Bandung: Citra Aditya Bakti, 2006), Page. 122.

³³ Topo Santoso, *Hukum Pidana dalam Perspektif HAM*, (Jakarta: Rajawali Press, 2019), Page. 89.

³⁴ Maria Farida Indrati, *Op. Cit.*, Page. 110.

³⁵ Satjipto Rahardjo, *Loc. Cit.*, Page. 124.

³⁶ Andi Hamzah, *Asas-Asas Hukum Pidana*, (Jakarta: Rineka Cipta, 2017), Page. 113.

³⁷ Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana*, (Jakarta: Kencana, 2021), Page. 69.

combined into a single structure without in-depth analysis of the interrelationships between the elements of the offense.³⁸ As a result, there is an overlap in the formulation of offenses between sectoral laws, for example between the criminal provisions in the Environmental, Labor, and Mining Laws.³⁹

This situation indicates a degradation in the coherence of the criminal justice system, which Hans Kelsen's theory refers to as the destruction of the *stufenbau des recht*, or the hierarchical and systematically connected order of norms.⁴⁰ In criminal law, every change to a norm must be tested for its relevance to other norms in order to maintain the legal system. The omnibus law technique, which combines various norms at once, often ignores this harmonization process.

Furthermore, from a legislative technique perspective, the omnibus law method contradicts the Principle of Clarity of Formulation as stipulated in Appendix II of Law No. 12 of 2011 (as amended by Law No. 13 of 2022). This principle requires that each norm be formulated in clear, straightforward legal language that does not give rise to multiple interpretations.⁴¹ The large number of articles compiled simultaneously and covering multiple topics in the omnibus law makes it difficult to conduct technical supervision of the quality of the drafting, thereby increasing the likelihood of normative errors.

The logical consequence of weak normative clarity is a decline in legal certainty. In criminal law, uncertainty poses a threat to human rights, as individuals may be charged under norms that are vague or have unclear boundaries.⁴² Although the omnibus law can improve legislative efficiency, substantively it has the potential to sacrifice fundamental principles that form the basis of criminal justice.

The principle of good legislation places public participation as a constitutive element in the formation of legislation.⁴³ Public participation is not only a right of citizens, but also serves as a mechanism for controlling legislative and executive power. As emphasized by the Constitutional Court in Decision No. 91/PUU-XVIII/2020, meaningful public participation includes the right to know, provide input, and influence the substance of a draft law (RUU).⁴⁴

Unfortunately, the formation of laws using the omnibus law technique often narrows the space for public participation. The drafting process is carried out quickly, is complex, and is centered on the executive, making it difficult for the public to access the draft bills under discussion.⁴⁵ Some studies have even found that the draft omnibus law often changes without official documentation, making it impossible for the public to trace changes in norms transparently.⁴⁶

³⁸ Bivitri Susanti, "Omnibus Law dan Krisis Partisipasi Publik," *Jurnal Hukum & Pembangunan*, Vol. 51 No. 2 (2021), Page. 188.

³⁹ Topo Santoso, "Implikasi Omnibus Law terhadap Sistem Hukum Pidana Indonesia," *Jurnal Legislasi Indonesia*, Vol. 19 No. 3 (2022), Page. 357.

⁴⁰ Hans Kelsen, *General Theory of Law and State*, (Cambridge: Harvard University Press, 1949), Page. 128.

⁴¹ Republik Indonesia, *UU No. 13 Tahun 2022 tentang Pembentukan Peraturan Perundang-Undangan*, Lampiran II.

⁴² Muladi dan Barda Nawawi Arief, *Teori dan Kebijakan Pidana*, (Bandung: Alumni, 1998), Page. 38.

⁴³ Maria Farida Indrati, *Ilmu Perundang-Undangan*, (Yogyakarta: Kanisius, 2018), Page. 107.

⁴⁴ Mahkamah Konstitusi RI, *Putusan No. 91/PUU-XVIII/2020*, Page. 259.

⁴⁵ Denny Indrayana, *Negara Hukum Indonesia Pasca Reformasi*, (Jakarta: Kompas, 2019), Page. 214.

⁴⁶ Jimly Asshiddiqie, *Pengantar Ilmu Perundang-Undangan*, (Jakarta: Rajawali Pers, 2016), Page. 213.

In the context of criminal law, public involvement is very important because criminal norms directly affect the lives of citizens. The decision to criminalize or decriminalize an act should be based on empirical studies, not purely political or administrative considerations.⁴⁷ Without the participation of academics, legal practitioners, and civil society organizations, criminal policies created through the omnibus method risk losing social legitimacy.⁴⁸

The lack of participation also has an impact on the decline in the quality of academic papers. In fact, academic papers are the main instrument that ensures that laws are formulated based on data, research, and rational arguments.⁴⁹ In the omnibus law method, the drafting of academic papers is often merely a formality to fulfill administrative requirements, rather than a conceptual basis for the formation of norms.⁵⁰

In terms of public participation and transparency, the application of the omnibus law in criminal law actually leads to a form of elitist and technocratic legislation, which contradicts the principle of democratic rule of law.⁵¹ As a result, criminal laws lose their moral and social legitimacy because they do not represent the will of the wider community.

Legal legitimacy has two dimensions: procedural legitimacy and substantive legitimacy.⁵² Procedural legitimacy relates to compliance with the mechanisms for forming laws as stipulated by the constitution and legislation. Meanwhile, substantive legitimacy concerns the values of justice, rationality, and social benefit of the norms that are formed.

In the context of the omnibus law, procedural legitimacy is often questioned because the drafting process frequently violates the formal procedures in the PPP Law.⁵³ For example, the planning stage (Prolegnas) was not carried out properly, or discussions were held behind closed doors without official minutes. This situation has made many omnibus laws vulnerable to being challenged in the Constitutional Court on the grounds of procedural flaws.⁵⁴

In terms of substantive legitimacy, the main problem lies in the low level of public involvement and weak academic review. Criminal laws that are produced without public participation tend not to reflect the values of justice that exist within society (living law).⁵⁵ According to Satjipto Rahardjo, legal legitimacy does not only come from formal power, but also from social acceptance of the values regulated in the law.⁵⁶

As a result, the legitimacy of criminal laws established through the omnibus law method is often artificially valid in form but weak in social terms.⁵⁷ This can be seen from the increasing resistance of the public to certain legal products, such as the Job Creation Law, which is considered to be more beneficial to large economic groups than protecting the public interest.⁵⁸

⁴⁷ Barda Nawawi Arief, *Loc. Cit.*, Page. 72.

⁴⁸ *Ibid.*, Page. 74.

⁴⁹ Maria Farida Indrati, *Op. Cit.*, Page. 110.

⁵⁰ Bivitri Susanti, *Loc. Cit.*, Page. 190.

⁵¹ Satjipto Rahardjo, *Ilmu Hukum*, (Bandung: Citra Aditya Bakti, 2006), Page. 121.

⁵² Peter Cane, *Administrative Law*, (Oxford: Oxford University Press, 2011), Page. 248.

⁵³ Bagir Manan, *Teori dan Politik Konstitusi*, (Jakarta: FH UII Press, 2014), Page. 119.

⁵⁴ Mahkamah Konstitusi RI, *Putusan No. 91/PUU-XVIII/2020*, Page. 263.

⁵⁵ Satjipto Rahardjo, *Loc. Cit.*, Page. 125.

⁵⁶ *Ibid.*, Page. 127.

⁵⁷ Bivitri Susanti, *Op. Cit.*, Page. 193.

⁵⁸ Topo Santoso, *Loc. Cit.*, Page. 359.

In addition, the aspect of democratic accountability is also in the spotlight. In a constitutional system, the formulation of laws should be a manifestation of the people's sovereignty through their representatives in the House of Representatives.⁵⁹ However, in the practice of omnibus law, the legislative process is often controlled by the executive through inter-ministerial teams, while the DPR only plays a role in ratifying without in-depth debate.⁶⁰ This pattern gives rise to executive heavy legislation, which is the tendency for the government to dominate lawmaking, thereby weakening the principle of separation of powers.⁶¹

The omnibus law technique structurally shifts the orientation of law formation from deliberative lawmaking (based on discourse and participation) to executive-driven lawmaking (based on efficiency and power). This shift can have serious consequences for the quality of criminal law, because the resulting legal products are not the result of social reflection, but rather the result of bureaucratic compromise.⁶²

4. Conclusion

This research demonstrates that while the omnibus law technique offers procedural efficiency and cross-sectoral regulatory synchronization under the legal framework established by Law No. 13 of 2022, its application to criminal law formulation presents substantial challenges to fundamental principles of criminal lawmaking. Specifically, the omnibus method undermines the clarity of criminal norms (*lex certa*), compromises meaningful public participation in the legislative process, and weakens both procedural and substantive legal legitimacy. The accelerated legislative timeline characteristic of omnibus lawmaking, combined with reduced opportunities for public consultation and scholarly scrutiny, contravenes the principles of *good legislation* as enshrined in Indonesian constitutional law and invoked by the Constitutional Court. Furthermore, this technique conflicts with the hierarchical structure of legal norms (*Stufenbau des Recht*) that forms the foundation of civil law systems, thereby creating ambiguities in statutory interpretation and jeopardizing the doctrine of *nullum crimen sine lege*. Consequently, the application of omnibus law to criminal legislation should be accompanied by strengthened mechanisms for public participation, enhanced transparency in parliamentary deliberation, and rigorous norm quality assessment procedures prior to enactment. Without such safeguards, the legislative innovation intended to simplify regulatory frameworks risks generating new uncertainties within Indonesia's criminal justice system, ultimately undermining the rule of law and constitutional protections for individual rights.

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⁵⁹ Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, (Jakarta: Sinar Grafika, 2015), Page. 56.

⁶⁰ Denny Indrayana, *Op. Cit.*, Page. 220.

⁶¹ *Ibid.*, Page. 222.

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