



THE DECREASE OF LEGISLATIVE FUNCTIONS OF THE PEOPLE'S REPRESENTATIVE COUNCIL OF THE REPUBLIC OF INDONESIA IN THE REFORM ERA

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ABSTRACT

The indicator of the running of the legislative body's role is the production of pro-people legal products. However, in the reform era, the role of the People's Representative Council of the Republic of Indonesia has decreased as a legislative body. The decline in the role of the People's Representative Council of the Republic of Indonesia in the reform era was influenced by several factors. It is necessary to examine the factors caused by the weak role of the People's Representative Council of the Republic of Indonesia and also the implications of the Constitutional Court Decision on the Job Creation Act. This study aims to explain the causes of the decline in such a role and to explain the role of the People's Representative Council of the Republic of Indonesia in the formation of the law. This type of research is normative juridical. The results of the study indicate that there has been a weakening of the role of the People's Representative Council of the Republic of Indonesia in the reform era caused by several factors such as the weakening of the political parties' power, the large number of political parties in coalition with the government, as well as the large intervention of the economic elite in political parties and the government, which resulted in a controversy over the formation of Job Creation Act caused by the non-applicability of the principles of the formation of good legislation by legislators at the time of making the law.

Keywords: legislative body; job creation act; constitutionality

INTRODUCTION

The preamble to the 1945 State Constitution of the Republic of Indonesia (1945 Constitution) mandates that the State of the Republic of Indonesia is a state of people's sovereignty led by wisdom in consultative/representative affairs. To exercise people's sovereignty on the basis of a people led by wisdom in representative consultancy, it is necessary to realize a people's consultative institution, an institution¹, which is independent and free from executive influence. DPR itself is one of the most important organs in the constitutional system. Ahmad Basarah quoted from the book of Sri Soemantri in his book on State Institutions and State Auxiliary Bodies in the Constitutional

System According to the 1945 Constitution states that the BPK (Audit Board of the Republic of Indonesia), DPR (People's Representative Council of the Republic of Indonesia), DPD (Regional Representative Council of the Republic of Indonesia), MPR (People's Consultative Assembly of the Republic of Indonesia), President (including Vice President), MA (Supreme Court) and MK (Constitutional Court) are main state's organs.² That is independent state institutions, called major state institutions.

The DPR is one of the high state institutions tasked with representing the aspirations of the people. The duties and authorities of the DPR are regulated in article 19 of the 1945 Constitution

¹ Center for Drafting Laws, Expertise Body of the People's Representative Council (DPR) of Indonesia Republic of Indonesia, "Details of Draft Bill (Plan for Draft Bill) accessed January 28, 2022, <https://pusatpuu.dpr.go.id/simas-puu/detail-ruu/id/32>.

² Ahmad Basarah, "KAJIAN TEORITIS TERHADAP AUXILIARY STATE'S ORGAN DALAM STRUKTUR KETATANEGARAAN INDONESIA," (THEORETICAL STUDY ON AUXILIARY STATE'S ORGANS IN INDONESIA'S STATE BUILDING STRUCTURE), *Jurnal MMH* 43 (2014): 4.

and also in article 67 of Law Number 17 of 2014 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council (MD3 Law). The election of its members is carried out through general elections.

DPR is a legislature in Indonesia that has the authority to make laws, it is stated in Article 20 paragraph (1) of the 1945 Constitution that the DPR holds the power to form laws. According to the 1945 Constitution, the DPR has three functions, namely the legislative function, the budget function, and the supervisory function. These three functions are mandates that must be carried out by members of the DPR as representatives of the people as their oath in Article 78 of the MD3 Law. As a representative of the people, members of the DPR should base their actions on behalf of the people or fight for the aspirations of the people they represent, not acting on behalf of their party or for the benefit of other parties that are contrary to the interests of the people.

After the amendment of the 1945 Constitution, the position of the DPR RI is expected to become stronger to control the policies made by the government. The three functions carried out by the DPR are the ways for the DPR to strengthen its position and to conduct the aspirations of the people. However, the phenomenon that occurs in the public assesses that the quality of the legislative function of the DPR RI is poor and in quantity the number of statutory products produced is not in accordance with the targeted. In addition, the laws that have been enacted by the DPR with the President are considered to have not met the sense of justice of the community.³ A public policy is basically aimed at solving problems that exist in society. If policy makers have failed or misrepresented in defining a problem, the impact of a policy will naturally harm the people.⁴ For

³ Galang Asmara et. al., "Konsep Penguatan Fungsi Legislasi Dewan Perwakilan Rakyat Republik Indonesia Pasca Amandemen UUD NRI Tahun 1945," (The Concept of Strengthening the Legislative Function of the House of Representatives of the Republic of Indonesia after the Amendment to the 1945 Constitution of the Republic of Indonesia), *Jurnal Kompilasi Hukum* 4 (2019): 195.

⁴ Niken Wahyuning Retno Mumpuni, "SISTEM KINERJA LEMBAGA LEGISLATIF DALAM

example, the Job Creation Act and the mineral and coal act cause controversy and have the potential to harm society, therefore citizens who feel aggrieved apply for an assessment of constitutionality to the Constitutional Court (MK).

The legislative function is carried out as a manifestation of the DPR as the holder of the power to form laws. This function is said to be the most influential in the development of Indonesia. With this legislative function, the DPR can make pro-people laws with the aspirations of the people. However, this function turned out not to work as expected. The weakening of this function is due to the more dominant role of the executive. The more dominant role of the government could also be influenced by the size of the economic oligarchy that has an interest in the act.

One example of the declining role of the DPR RI can be seen in the process of forming Law Number 11 of 2020 concerning the Job Creation Act. The reason for the establishment of this act is because the Government has a political will for regulatory arrangements because Indonesia is still facing regulatory problems. The regulatory problem occurs because there are many regulations spread in various laws and regulations.⁵ An omnibus law was formed by amending, deleting, and adding several provisions spread across 72 laws.

However, in fact, this lawmaking does not result in better regulation. Instead of overcoming the problem of regulatory arrangements, the creation of this Job Creation Act caused many problems, so it was sued by many parties to the Constitutional Court. The making of this act is considered to have been 'problematic' from the time of making the draft act to its ratification. The Constitutional Court with its decision Number 91/PUU-XVIII/2020 invalidated the act by stating that this act was unconstitutional for 2 years.

Based on the explanation above, it is necessary to conduct an assessment on the decline in the role of the DPR RI in the formation of

PROSES POLICY-MAKING.," (LEGISLATIVE INSTITUTION PERFORMANCE SYSTEM IN POLICY-MAKING PROCESS), *jurnal literasi hukum* 3 (2019): 19.

⁵ Shanti Dwi Kartika, "Politik Hukum Undang-Undang Cipta Kerja," (Law Politics of Job Creation Act), *info singkat* XII (2020): 1.

legislation in the reform era. So, the focus of this study is: first, what are the factors that cause the decline in the role of the DPR RI? Second, is the legislative function carried out in making the Job Creation Act?

RESEARCH METHOD

The data in this research is sourced from literature data consisting of books, legal journals, laws, Constitutional Court decisions, and news published in several online newspapers. This research is normative juridical. By using a regulatory approach. Data analysis is carried out using legal interpretation techniques (legal interpretation), by analyzing the content (content analysis) of provisions in the laws.

DISCUSSION AND ANALYSIS

1. The factors of the weakening role of DPR RI

Symptoms of the weakening role of the DPR RI can be influenced by several factors, including the existence of bigger party interests, parties influenced by the ruling party (government), political parties, and the government-controlled by the economic elite (economic oligarchy)

a. The Enormity of the Party's Interest over the People's Interest

The position of political parties in Indonesia is very strategic because it is the only democratic institution that carries out the function of political recruitment. As mandated by the 1945 Constitution, political parties are participants in legislative elections to elect members of the DPR and DPRD. Political parties were established for the needs of the people for the importance of their participation and aspirations in the political system in a state. Although the members of the DPR and DPRD are directly elected by the people, the level of public trust in their representatives is still considered low.

The low level of public trust in the DPR is not new news. Members of the DPR always call themselves trusted representatives of the people. But the result is not directly proportional to the result of their performance in parliament. Based on the Indonesian Survey Institute, the level of

public trust in the DPR for the 2014-2019 period was only 40 percent of the 1,010 respondents. Meanwhile, those who do not believe in the work of the DPR reached 45 percent.

This can be seen in the formulation of several laws and regulations that are called for the benefit of the people, in fact, it is only a place to facilitate the affairs of several parties. Such as the passage of the Omnibus Law act. As it is known that those who urged the ratification of this rule came not from elements of civil society (Non-Governmental Organizations (NGOs) and labor unions), but from the government and the DPR. The government thinks that this Omnibus Law can facilitate the investment process in Indonesia so that it can attract investors who can create jobs.

In fact, workers or NGOs directly related to this law state that the promulgation of the Omnibus Law could be detrimental to them. Moreover, the formulation of this law is also not transparent and is not given the opportunity for public action. So, this omnibus law is considered the law of the 'political elites'.

When compared the performance of the DPR in the present period, it is as disappointing as the period before the reform. More than half of the DPR members, 298 (50.26 percent), were filled with old faces and only 286 (49.74 percent) were filled with new faces. The composition of the DPR has not changed much either. Like the PDIP which still holds the highest votes in parliament, followed by the Golkar and Gerindra Parties below. Only two parties urged the discussion of the Omnibus Law to be postponed, namely the Demokrat and the PKS. But their refusal did not have much effect because there was a little vote in parliament compared to other parties that supported the government in trying to pass the Omnibus Law. In the plenary meeting for the ratification of the 2020 priority National Legislation Program (prolegnas), 248 members of the DPR were not present. In fact, on the same day, people ventured to take to the streets amid a pandemic to prevent problematic articles in

the Omnibus Law from passing DPR.⁶

With these conditions, members of the DPR become ‘tools’ for political parties to realize the interests of their class, not to fight for the interests of the people they represent. The 1945 Constitution has mandated that by giving power to the DPR to be able to prosper the people and the state. As a result, the level of public trust in political parties is down lower.

b. Political parties are influenced by the ruling government

Political parties as one of the means of political education that can carry out political change or development. The objects of change or political elements that are usually observed by political scientists are the political value system, power structure, strategies for handling general policy problems, and the community environment (socio-cultural, economic, and technological conditions) and physical (natural resources) that influence and are influenced by the political system⁷.

The power structure is the influence of infrastructure and superstructure in the policy process. The infrastructure in question is a political machine that exists in a society that does not have a direct influence on the making of state political decisions, while the political superstructure is a political machine that exists within the state that has a direct influence on the making of state political decisions.⁸

The institution of the DPR is included in the political structure, where the DPR is given the right and authority to carry out the functions of legislation, budget and

supervision. It is because of this that the DPR is trusted as a legislator who drafts the laws for the benefit of the people.

The effectiveness of a political subsystem can be measured by the extent of its ability to respond to the demands it receives and formulate them in the form of public policy. In the 1945 Constitution, the main task of the DPR is set as a free representative of the people and is not influenced by any party to be able to listen to the aspirations of the people so that it can produce responsive legal products.

In fact, in this reform era, many DPR members come from political parties that are affiliated with the government, so these DPR members are not independent and are strongly influenced by the government. DPR members from the coalition party occupy 427 seats (PDIP, Golkar, Gerindra, Nasdem, PKB, PPP), while the opposition party has only 148 seats (Demokrat and PKS).⁹

With the majority of the seats of members of the DPR in charge, it will certainly affect policy making and make it easier to get approval in the DPR. Coalition parties will certainly have limitations to criticize government policies because of the coalition’s commitment as a supporter of the government, which has led to a large amount of DPR support for government policies even though many people disagree with these policies. The size of the government coalition will certainly reduce the role of parliament to realize checks and balances in the system of government.

c. Politic parties and the government are controlled by political elites

Nowadays it is as if the DPR no longer represents the people, but rather represents the interests of the oligarchy of political parties. The increasing phenomenon of an almost unstoppable oligarchy is evident in several political moves of top public officials

⁶ Felix Nathaniel, “Bobroknya Omnibus Law: Kepentingan Parpol Di Atas Tuntutan Rakyat,” (The Corruption of Omnibus Law: The Interests of Political Parties Above People’s Demands), *Tirto.Id*, last modified 2020, accessed February 21, 2022, <https://tirto.id/bobroknya-omnibus-law-kepentingan-parpol-di-atas-tuntutan-rakyat-fr8M>.

⁷ Ellya Rosana, “PARTAI POLITIK DAN PEMBANGUNAN POLITIK,” (POLITICAL PARTIES AND POLITICAL DEVELOPMENT), *jurnal TAPIS* 8 (2012): 147.

⁸ *ibid*

⁹ Andrea Lidwina, “DPR Dikuasai Partai Koalisi Jokowi,” (The House of Representatives is Controlled by Jokowi’s Coalition Party), *Databoks*, last modified 2019, accessed February 20, 2022, <https://databoks.katadata.co.id/datapublish/2019/10/25/parlemen-dikuasai-partai-koalisi-jokowi>.

and political elites in the executive and legislative spheres. Those who can be called political “*oligarchs*” often make decisions regarding the public interest and the crowd within their circles. A political oligarchy does not involve citizens represented by civil society, professional associations and unions, mass organizations and NGOs.¹⁰

In the legislative process in the DPR in making several laws and regulations such as changes to Law Number 3 of 2020 concerning Mineral and Coal and the submission of the Omnibus Law Number 11 of 2020 concerning Job Creation, changes and ratification of all laws are fully determined by the executive and legislative oligarchy. Civil society was not involved in the amendment and formation of such laws. Which led to the prosecution of the law by the Constitutional Court (MK).

The rise of oligarchy is one of the most prominent phenomena amid Indonesia’s political developments in recent years. The rise of oligarchs is often cited by many Indonesian political institutions and observers as one of the main indicators of the decline of Indonesian democracy. The oligarchy continues to increase with the strengthening of the coalition of factions in the DPR. Large pro-regime coalitions such as F-PDIP, F-PG, F-Nasdem, F-PKB, F-Gerindra, F-PPP, and F-PAN, can make any political move. The remaining two factions: the F-PKS and the F-Demokrat Party, are almost powerless to stem the pace of the political oligarchy.¹¹

The Political Elite is usually dominated by businessmen or very wealthy people who can afford to finance everything that the party wants. With the large intervention of political elites against political parties and the government, it can result in a narrow space for movement from political parties and the government itself. As a result, due to the weak power of the political parties that have been intervened, they urge their representatives

in parliament to make policies that facilitate the movement of the political elite itself. So, the phrase ‘the rich are getting richer and the poor are getting poorer’ really happened in this reform era because of the weak power of political parties so they turned a blind eye to the interests of the people.

The above phenomenon shows that political parties and the government have been influenced by the power of economic oligarchs who run their businesses in Indonesia.

2. The absence of Legislative function in making the Job Creation Act

The Omnibus Law or the Sapu Jagat Law became a hot topic of discussion in Indonesia after the DPR and representatives of the Jokowi administration approved that the Omnibus Law on the Job Creation Act be enacted into law. This omnibus law formation model is not well known in the formation of legislation in Indonesia so it does not provide legal certainty. President Joko Widodo said that many regulations hampered the economy and investment, for this reason, then the omnibus law of the Job Creation Act was then formed to create regulatory reforms to so many laws in Indonesia.

The law is not only a supporting tool for national development but must be viewed as an effort that will better ensure the achievement of national goals.¹² So it needs clear and firm rules governing certain matters. The ratification of Law Number 11 of 2020 concerning the Job Creation Act, confuses many people. In addition to the unfamiliarity with the concept of omnibus law in Indonesian legislation, the irregularities in its creation have also made the formation of this law have received many rejections from various parties since the formation of the law. The absence of public participation in the formation of this law resulted in the submission of the annulment of this law to the Constitutional Court (MK).

Formally, Article 96 of Law Number 12 of 2011 concerning the Establishment of Laws and Regulations has provided guarantees for citizens to be involved in the process of drafting laws and regulations in the legislature. Then it is also stipulated in Article 170 paragraph

¹⁰ Azyumardi Azra, “Membendung Oligarki,” (Damaging the Oligarchy), *UIN Syarif Hidayatullah*, last modified 2021, accessed February 21, 2022, <https://www.uinjkt.ac.id/membendung-oligarki>.

¹¹ *Ibid*

¹² Abdul Latif and Hasbi Ali, *Politik Hukum* (Legal Politic), (Jakarta: Sinar Grafika, 2014).

(6) of Law Number 17 of 2014 concerning the MPR, DPR, DPD, and DPRD, and Article 138 paragraph 8 of DPR Regulation Number 1 of 2014 concerning DPR Rules. However, the container to accommodate and the flow to convey public participation is not clear, so the existence of public participation in forming laws is only used as a formal requirement without any clear benchmarks. The absence of a clear container and flow also causes claims of public participation to be only manipulative.¹³

The Constitutional Court (MK) then held a hearing on the results of testing the constitutionality of the Job Creation Act with number 91/PUU-XVIII/2020. In its ruling, the Constitutional Court held that the Job Creation Act was conditionally unconstitutional and that improvements should be made within two years of this decision being declared.

The Court stated that the process of forming the Job Creation Act did not meet the provisions under the 1945 Constitution, so it had to be declared defective. In considering the decision, the Constitutional Court considered that the method of incorporation or omnibus law in the Job Creation Act was not clear whether the method was the creation of a new Law or a revision. The Constitutional Court also assessed that the procedures for the formation of the Job Creation Act were not based on certain, standard, and standard methods and methods, and were in accordance with the systematics of law formation. There was a change in the writing of some substance after the joint approval of the DPR and the President contrary to the principles of the Formation of Legislation¹⁴. If within two years no improvement is made, the Act will automatically be declared permanently conditionally unconstitutional.

In addition, in an interview with an online news portal Kompas.com former Chief Justice of the Constitutional Court (MK) Jimly Asshiddiqie

¹³ Antoni Putra, "Penerapan Omnibus Law Dalam Upaya Reformasi Regulasi," (Application of the Omnibus Law in Regulatory Reform) *jurnal legislasi indonesia* 17 (2020): 6.

¹⁴ Antara Flori Sidebang, "Ringkasan Putusan: UU Cipta Kerja Inkonstitusional Bersyarat," (Summary of Decision: Conditionally Unconstitutional Job Creation Act), *Republica.Co.Id*, November 2021, <https://www.republika.co.id/berita/r365ur409/ringkasan-putusan-uu-cipta-kerja-inkonstitusional-bersyarat>.

proposed that the DPR and the government revise two laws following the Constitutional Court's ruling declaring the Job Creation Act conditionally unconstitutional. Jimly explained that DPR and the Government need to pay attention to the drafting of laws with a clear mechanism. In addition, he also proposed that the House of Representatives and the government can immediately respond and revise this Job Creation Act related to the annulment that has been carried out by the Constitutional Court (MK).

The amendments to Article 5 paragraph (1) and Article 20 of the 1945 Constitution after the amendment brought important changes to the Indonesian constitutional system. In the context of the role and function of the DPR, these changes have an impact on increasing the role and responsibility of the DPR in the field of legislative formation in Indonesia.

In article 69 of Law Number 17 of 2014 concerning the People's Consultative Assembly (MPR), the House of Representatives (MPR), the Regional Representative Council (DPD), and the Regional People's Representative Council (DPRD) state that the DPR has three functions, namely:

- 1) The legislative function, is a function that is carried out as the embodiment of the DPR as the holder of the power to form laws.
- 2) Budget function, is a function carried out to discuss and give approval or not approve the draft law on the state budget submitted by the President.
- 3) Supervisory function, is a function carried out through supervision of the implementation of laws and the APBN.

These three functions are given to the DPR to carry out the representation of the people. This oversight by the legislature allows the assurance of the interests of the people in executive policy, from the process of making, and implementing, to accountability. With various constitutional rights attached to its supervisory function, the legislature can criticize policies that harm the people, such as the existence of elements of state financial losses, abuse of authority, the priority of budget allocations only for certain groups, neglect of the rights of marginalized groups, and so on.¹⁵

¹⁵ Wawan Ichwanuddin, "Absennya Politik

As happened in the new order era, the DPR is considered as a compliment in running the wheels of government inversely proportional to the large role of the Government which holds the main control throughout government. In the era of reform, the 1945 Constitution has given a balanced position between the three high institutions of the state which aims to make power not absolute and allow among the higher institutions of the country to cooperate with each other, so that the power given is not absolute to one of the institutions that cause the occurrence of authoritarian government as in the new order era.

The ratification of the Job Creation Act is one of the bad practices of not carrying out the legislative function by the DPR which causes the creation of legal uncertainty. The formation of this law has received many rejections from various parties which shows that there is a discrepancy between the content of the law and the needs of society. The aspirations of the people seem to be not heard by the DPR as a representative of the people. With this situation in the field of reform, it is difficult to rely on the DPR and the government to be able to create and carry out a good legislative process.

In president Jokowi's regime, it can be seen that the DPR seems to have lost its role as a supervisor of legislative functions. The 1945 Constitution has given legislative power to the DPR to discuss, determine, approve or not the law submitted by the president. However, if you look at the current era of reform, the DPR only turns a blind eye to all the synchronizes contained in the making of the Job Creation Act.

The process of making the law is not transparent, lacks of community participation, and violates the rules for making good laws and regulations regulated in Law Number 12 of 2011 concerning the Formation of Legislation are some examples that can illustrate the process of forming laws.

a. Non-Transparent of the making process

Article 5 letter of g of Law Number 12 of 2011 states that in the formation of the law, there must be a principle of

Pengawasan Dpr Era Reformasi,” (The Absence of Political Oversight of the House of Representatives during the Reformation Era) *jurnal penelitian politik* 9 (2012): 93.

openness in it. Open government is one of the conditions for the birth of a democratic system of government. The application of the principle of openness in the process of forming legislation has an important role and function for a responsive product of laws and regulations. As Nonet and Selznick say that a good law is a law that is responsive to what is needed by its people. Responsive law reinforces how openness and integrity can sustain each other.¹⁶ The principle of slavery is a condition that must be met when the government and the form an Act, this is to anticipate the rejection by people who disagree with the regulation been made.

However, it is known that from the beginning of its formation, information on the formation of this Job Creation Act was very minimal information. Even from the very beginning of its formation, the draft law itself was not presented to the public. The absence of the draft Job Creation gives the impression that something is not appropriate in the formation of this law. Director and Network of the Indonesian Center for Law and Policy Studies Fajri Nursyamsi stated that the absence of an omnibus law draft of the Job Creation makes the space for public participation closed, and this also shows that the drafting of regulations only involves a handful of elites such as regional heads and businessmen's associations.¹⁷

b. Lack of people participation

Article 96 paragraph 1 of Law Number 12 of 2011 guarantees the participation of the community in every formation of law. There are 5 stages in the Formation of Legislation, namely the stages of planning, drafting, discussing, determining, and promulgating. Each of these stages must be based on the principle of openness, which is transparent

¹⁶ Philippe Nonet & Philip Selznick, *Hukum Responsif Pilihan Di Masa Transisi (Pengantar Satjipto Raharjo)* (Responsive Law of Choice in the Transition Period (Introduction to Satjipto Raharjo)) (Jakarta: HuMa, 2003).

¹⁷ Tim CNN Indonesia, “Susunan Omnibus Law, Pemerintah Dan DPR Dinilai Langgar Prinsip,” (The composition of the omnibus law, the government and the DPR are considered to have violated the principle) *CNN Indonesia*.

and open so that all levels of society have the opportunity to provide input in the Formation of Legislation. However, this law-making is considered to close the discussion space to the public.

In an interview with Kompas.com Director of Advocacy and Network of PSHK Fajri Nusryamsi said that the process of discussing the Job Creation Act from the beginning ignored the democratic space and was carried out in a hurry. He then explained the reasons why the formation of this law ignores the democratic space. First The Job Creation Act draft is still discussed during recess and outside working hours. Second, the draft law and the minutes of the meeting were never presented to the public. Third, there is no decision-making mechanism based on the majority vote (vote) in the plenary meeting for the ratification of the Job Creation Act Draft.

Whereas a good legal product is a responsive legal product that is made publicly participatory. Laws with a responsive character, are participatory. Responsive legal products usually provide fewer opportunities for governments to make their interpretations¹⁸ because the resulting regulations are usually quite detailed with important matters.

c. Violating the proper rule of making laws and regulations

Article 5 of Law Number 12 of 2011 states that the Formation of Legislation must be carried out based on the principle of forming laws and regulations including:

- a) Clarity of purpose
- b) Appropriate institutions or forming officials
- c) Conformity between type, hierarchy, and content matter
- d) Enforceable
- e) Usefulness
- f) Clarity of formulation
- g) openness

As is known, one of the reasons the Constitutional Court states that the Job Creation Act is conditionally unconstitutional is because the process of forming the Job Creation Act does not meet the provisions under the 1945 Constitution, so it must be declared formally defective. In addition, its formation also violates the principles in Law Number 12 of 2011. Job Creation Act does not hold the principle of openness to the public. Where academic manuscripts and drafts of the Job Creation Act cannot be easily accessed by the public. The purpose of applying this principle of openness is so that the public can be given access so that they can provide input both orally and in writing for the perfection of the law itself later.

In addition, the discrepancy in the citation of the article in referring to the article can show various interpretations in its implementation. It also shows that there is no application of the principle of clarity of formulation in the formation of this law.

Based on the reasons mentioned above, it is clear that the role of the DPR RI in this reform period is like returning to the new order regime where the role of the DPR RI seems to only be a 'complement' to state power and a 'stamp' for the government (executive heavy) because the role of makers and supervision is all played by the president. The House should be responsible for balancing power so as not to cause a concentration of power in the hands of the president and that way the DPR is able to fulfil the aspirations of the people it represents.

CONCLUSION

Based on the explanations above, it can be concluded that there has been a decrease in the role of the DPR RI in the reform era caused by the weak strength of political parties, the number of political parties that are in conflict with the government, and the large intervention of the economic elite in political parties and the government. Therefore, the role of the DPR of the Republic of Indonesia did not strengthen as mandated by the 1945 Constitution but weakened as was the case in the new order era. This can be seen from the poor legislative products produced by the legislature as happened in the Job Creation law. The many rejections from various parties and the overturning of this law by the Constitutional Court show that there was indeed an error both

¹⁸ Abdul Latif and Hasbi Ali, *Op.Cit*, page 30

formally and materially in the formation of this law. This is certainly related to the failure of the DPR which does not carry out the legislative function of making the Job Creation Act

Suggestions

To carry out the mandate of the 1945 Constitution which requires the position of the DPR to be strong, it is considered necessary to strengthen the function of the DPR through strengthening political parties and strengthening opposition parties. So that with the strong position of the DPR, it can produce laws and regulations that are responsive to the interests of the people.

For the government, it is hoped that it can provide access to the public to participate in the formation of laws to create pro-people regulations.

REFERENCES

- Abdul Latif dan Hasbi Ali. *Politik Hukum*. Jakarta: Sinar Grafika, 2014.
- Antoni Putra. "Penerapan Omnibus Law Dalam Upaya Reformasi Regulasi." *jurnal legislasi indonesia* 17 (2020): 6.
- Azyumardi Azra. "Membendung Oligarki." *UIN Syarif Hidayatullah*. Last modified 2021. Accessed February 21, 2022. <https://www.uinjkt.ac.id/membendung-oligarki>.
- Basarah, Ahmad. "KAJIAN TEORITIS TERHADAP AUXILIARY STATE'S ORGAN DALAM STRUKTUR KETATANEGARAAN INDONESIA." *MMH* 43 (2014): 4.
- et. al., Galang Asmara. "Konsep Penguatan Fungsi Legislasi Dewan Perwakilan Rakyat Republik Indonesia Pasca Amandemen UUD NRI Tahun 1945." *Jurnal Kompilasi Hukum* 4 (2019): 195.
- Felix Nathaniel. "Bobroknya Omnibus Law: Kepentingan Parpol Di Atas Tuntutan Rakyat." *Tirto.Id*. Last modified 2020. Accessed February 21, 2022. <https://tirto.id/bobroknya-omnibus-law-kepentingan-parpol-di-atas-tuntutan-rakyat-fr8M>.
- Flori Sidebang, Antara. "Ringkasan Putusan: UU Cipta Kerja Inkonstitusional Bersyarat." *Republika.Co.Id*, November 2021. <https://www.republika.co.id/berita/r365ur409/ringkasan-putusan-uu-cipta-kerja-inkonstitusional-bersyarat>.
- Indonesia, Tim CNN. "Susunan Omnibus Law, Pemerintah Dan DPR Dinilai Langgar Prinsip." *CNN Indonesia*.
- Lidwina, Andrea. "DPR dikuasai Partai Koalisi Jokowi." *Databoks*. Last modified 2019. Accessed February 20, 2022. <https://databoks.katadata.co.id/datapublish/2019/10/25/parlemen-dikuasai-partai-koalisi-jokowi>.
- Mumpuni, Niken Wahyuning Retno. "SISTEM KINERJA LEMBAGA LEGISLATIF DALAM PROSES POLICY-MAKING." *jurnal literasi hukum* 3 (2019): 19.
- Philippe Nonet & Philip Selznick. *Hukum Responsif Pilihan Di Masa Transisi (Pengantar Satjipto Raharjo)*. Jakarta: HuMa, 2003.
- Pusat Perancangan Undang-Undang Badan Keahlian DPR RI. "Detail Rancangan Undang-Undang (Rencana Penyusunan RUU)." Accessed January 28, 2022. <https://pusatpuu.dpr.go.id/simas-puu/detail-ruu/id/32>.
- Rosana, Ellya. "PARTAI POLITIK DAN PEMBANGUNAN POLITIK." *jurnal TAPIS* 8 (2012): 147.
- Shanti Dwi Kartika. "Politik Hukum Undang-Undang Cipta Kerja." *jurnal info singkat XII* (2020): 1.
- Wawan Ichwanuddin. "Absennya Politik Pengawasan Dpr Era Reformasi." *jurnal penelitian politik* 9 (2012): 93.

