MEANINGFUL PUBLIC PARTICIPATION IN OMNIBUS LAW-MAKING: IS IT POSSIBLE? CASE STUDY FROM INDONESIAN OMNIBUS LAW-MAKING

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ABSTRACT

Public participation is a fundamental aspect of democratic governance, ensuring transparency, accountability, and legitimacy in law-making processes. However, the feasibility of meaningful public participation in the creation of Omnibus Laws, characterized by their comprehensive and complex nature, is a subject of debate. This study explores the potential for public participation in the context of Omnibus Law-making, with a focus on the Indonesian experience. Using the Indonesian Omnibus Law-making process as a case study, this research investigates the extent to which public participation is possible and effective. The Omnibus Law-making process in Indonesia, known for its extensive scope and rapid pace, presents unique challenges to public engagement. By examining the experiences and perspectives of stakeholders involved in the Indonesian Omnibus Law-making process, this study identifies the barriers and opportunities for meaningful public participation. It evaluates the effectiveness of existing mechanisms and suggests potential improvements to enhance public engagement in Omnibus Law-making.

Keywords: Meaningful Participation, Omnibus Law, Indonesia.

I. INTRODUCTION

A. Background

Meaningful public participation epitomizes the fundamental tenets of a democratic society, encompassing vital aspects such as representation throughout the legislative journey, fostering public confidence in governance, instilling a sense of accountability among decision-makers, ensuring the caliber of enacted laws, facilitating adaptability to evolving societal needs, and empowering citizens to actively engage in the democratic process. Public participation is a manifestation of the formation of legislation. There lies a challenge to establish a responsive democracy within the process of legislation, in which the formulation of a law should not be done on the basis of formality, but adapted to the dynamics and complexity of the wider society.

This is indeed a challenge to democracy, which makes it crucial to prioritize the spirit of participatory democracy in the making of fair and inclusive laws and regulations.[1]

The arrangement for public participation in the formulation of laws has normatively been implemented by the House of Representatives (*Dewan Perwakilan Rakyat,* DPR; henceforth, the legislative) and the government (henceforth, the executive), as reflected in Law No. 12 of 2011.[2] However, the problem is that there are interested stakeholders who do not feel involved in the process, in which case both the executive and legislative must be pro-active in reaching out to the affected communities. Otherwise, public participation would only be a formality (manipulation). [3] Historically, public participation in the formation of laws has been regulated since the enactment of Law Number 10/2004 on the Formation of Legislation. Where it is briefly stated that the public has the right to provide input verbally or in writing in the agenda of preparing or discussing draft laws. in 2011 the 2004 Formation of Legislation Law was replaced by the 2011 Formation of Legislation Law which paid attention to the role of public participation being expanded and becoming more comprehensive. It is regulated in Article 96 of Law No. 12/2011 on the Formation of Legislation, stating that the public has the right to provide input both in writing and / or orally in the formation of laws and regulations. Oral and/or written input can be done through public hearings, working visits, socialization and/or seminars, workshops and/or discussions. This step is expected to anticipate anything that could potentially harm the community.[4]

These activities are hampered by existing conditions, such as the covid-19 pandemic (which limits direct community interaction), or the range of activities that are usually centered on certain areas. This arrangement does not regulate the follow-up of inputs or public involvement in the law-making process itself. Therefore, the presence of the public in lawmaking is merely ceremonial to fulfill the legality aspect of public representation to guarantee the sovereignty of the people.[5]

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1 Saifudin, *Public Participation in the Formation of Legislation*, (Yogyakarta: FH UII Press, 2009), pp. 33.

2 The public can provide oral and written input and the formation of laws and regulations at public hearings, working visits, socialization, seminars, workshops, and discussions with a scope limited to people with an interest in the substance of the draft laws and regulations. *Law on the Formation of Legislation*, Law Number 12 Year 2011, LN Year 2011 Number 82 TLN 5234, hereinafter referred to as UUPPP, Article 96.

3 Manipulation in Sherry Arnstein's ladder theory of participation still involves the community in principle, but it is only a formality where community participation seems only to fulfill obligations at the stage of forming laws and regulations. Sherry R. Arnstein, "a Ladder of Citizen Participation," JAIP Jurnal, Vol. 35, No. 4 (1969), page. 217.

4 Salahudin Tunjung Seta, 'Community Rights in the Formation of Laws and Regulations' [2020] 17 (2) Jurnal Legislasi Indonesia <https://e-jurnal.peraturan.go.id/index.php/jli/article/view/530/pdf> accessed 11 November 2023.

5 Ramanda, 'Design of Meaningful Participation in Law Formation after the Constitutional Court Decision Number 91/PUU-XVIII/2020' (n 7) 48.

The shift in the meaning and term of public participation to a more specific term, meaningful participation, emerged with the Constitutional Court Decision Number 91/PUU-XVIII/2020, stating the term meaningful participation:[6]

> *"...In addition to using formal legal rules in the form of laws and regulations, public participation needs to be carried out in a meaningful manner (meaningful participation) so as to create / realize real public participation and involvement. This more meaningful public participation fulfills at least three prerequisites, namely: first, the right to be heard; second, the right to be considered; and third, the right to receive an explanation or answer to the opinion given (right to be explained). Public participation is primarily intended for groups of people who are directly affected or have concerns about the draft law being discussed."*

Furthermore, the executive, together with the legislative, manifested the decision of the Constitutional Court Number 91/PUU-XVIII/2020 by establishing the Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 on Formation of Legislation Law (hereinafter referred to as Law Number 13 of 2022). In the context of public participation, the establishment of Law Number 13 of 2022 is a follow-up to the decision of the Constitutional Court Number 91/PUU-XVIII/2020 with improvements to the substance of strengthening meaningful public involvement and participation.[7] The enactment of Law Number 13 of 2022 on the Second Amendment brings a new spirit of transparency, since the orientation of meaningful participation is to explore the aspirations of the public more profoundly and comprehensively from various layers of society and stakeholders, so as to legitimize the consultation process.[8]

But, the enactment of Law Number 13 of 2022 provides another challenge namely the omnibus law. Article 64 paragraph (1b) Law No. 13 of 2022 regulates: "The omnibus method, as referred to in paragraph (1a), is a method of preparing regulations by: adding new content material; changing the content material that has relevance and/or legal requirements regulated in various regulations of the same type and hierarchy; and/or revoking regulations of the same type and hierarchy, by combining them into one legislation to achieve specific goals." Unfortunately, the challenge of public participation in the Omnibus Law is not considered by the

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6 Constitutional Court, Decision No. 91/PUU-XVIII/2020, Hakimi Irawan Bangkid Pamungkas, et al. 'Petitioners in the Formality Testing of Law Number 11 of 2020 on Job Creation against the 1945 Constitution of the Republic of Indonesia' (2020), pp. 393.

7 PPP Law amended 2022, Explanatory Section.

8 Diane Ruwhiu and Lynette Carter, 'Negotiating "meaningful participation" for Indigenous peoples in the context of mining', *Journal Corporate Governance*, Vol. 16 No. 4, (2016), p. 651.

legislators, so there are no specific regulations regarding public participation in the formation of laws using the omnibus method.

Indonesia grapples with a notable challenge: legislation formulated under omnibus systems is often perceived as failing to adequately integrate the input of the public, undermining the essence of democratic governance. In this context, the efficacy and inclusivity of the law-making process come into question, raising concerns about the legitimacy and responsiveness of the enacted legislation to the diverse needs and aspirations of the populace. Addressing this discrepancy is imperative to uphold democratic values and foster greater citizen participation in shaping the legal framework that governs their lives. The characteristics of the Omnibus Law, such as a law with the material is long and thick, is not connected between one material and another, is difficult to read and understand by the legislators and the parties regulated, and the process tends to be fast and even frequently violates the usual law formation process. [9] These characteristics pose more significant challenges in guaranteeing public participation than ordinary law. The trend of forming laws using the omnibus method poses a severe challenge to forming democratic laws in Indonesia. Indonesian Constitutional Court has declared that the Law No. 11 of 2020 on Job Creation Law is formally flawed and conditionally unconstitutional. Omnibus laws often encompass a wide range of topics making it harder to understand the details. It can undermine the democratic principle of open and informed law-making. The complexity of omnibus laws can make it harder to attribute responsibility as it becomes less clear which individuals or groups are responsible for particular outcomes.

The principle of public participation is to provide the widest possible opportunity to the society so that people who want to provide input do not have to be selected in advance, such as testing laws in the Constitutional Court.[10] The definition of society, in this case, must be clear and concrete to avoid multiple interpretations. This is also a preventive effort to avoid formal testing of any law under the argument that there is a lack of public participation, which leads to a negative precedent that the Constitutional Court is only a "waste basket" for legislators.[11]

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[9] I. Bar-Siman-Tov (ed.), Comparative Multidisciplinary Perspectives on Omnibus Legislation, Legisprudence Library 8, 2021, https://doi.org/10.1007/978-3-030-72748-2_1 page 5

[10] Rofiq Hidayat, 'The Importance of Community Participation in Policy Formation,' *Hukumonline.com*, https://www.hukumonline.com/berita/a/pentingnya-partisipasi-masyarakat-lt61dbe4558bb38?page=all, accessed on October 9, 2025.

[11] The statement of the Constitutional Court as a waste basket was put forward by the legislator (DPR) who suggested that people who objected to laws and regulations could submit formal and material tests to the Constitutional Court. The statement was strongly criticized by constitutional law expert Zainal Arifin Mochtar, who said that the DPR set a precedent for the Constitutional Court as an institution that perfects laws and eliminates the position of the DPR as a legislator. Hendro D Situmorang, "Criticizing DPR, Legal Expert Calls MK a Waste Basket," *Beritasatu.com*, December 10, 2022, available at https://www.beritasatu.com/news/1007481/kritik-dpr-pakar-hukum-sebut-mk-jadi-keranjang-sampah, accessed on October 09, 2025.

Legislators are obliged to place the affected communities as a priority. However, this does not mean that other communities are prohibited from providing input, considering also that there are other layers of society that can provide input to legislators. Legislators certainly cannot accommodate all aspirations and/or inputs from the public. This being said, the ability and quality of legislators is needed to determine where priorities should be put in regard to vulnerable/affected communities and those that have a relationship with the content material of the law, without necessarily overriding the aspirations and/or input from other elements of the wider society. This must be clearly emphasized so that there are no people that feel left out. The executive and legislative (as also the Regional Representative Council, or *Dewan Perwakilan Daerah*, henceforth, DPD) should jointly determine the priorities of people/individuals, community groups, institutions, and stakeholders, according to a set of criteria based on interests, aspirations, advantages/disadvantages, and the correlation between one stakeholder and the other (by understanding the cooperation and conflicts that may arise). This clearly requires an improvement to the capacity and ability of legislators and members of DPD, as well as the capacity of human resources in the executive, so as to be able to map interested communities, especially vulnerable groups, in a draft law. This would enable the inclusion of the participation of interested communities. In addition, the legislators must build a proactive attitude by not just waiting for public input on the draft law.[12]

Integration of Government and Parliament Public Participation Systems would open up an opportunity for the public to offer input on draft laws, which are founded on the use of digital technology. The right to *be* explained is a fundamental right for meaningful participation, because while Law No. 12 of 2011 regulated the right to be heard and the right to be considered, the current policies, not even Law No. 13 of 2022, have not provided significant changes on the citizen's right to be explained.[13] The right to be explained is the essence of meaningful participation because it also represents the principle of unlimited openness by informing, with clear communication, the reasons for accepting or rejecting a public input on an academic manuscript and/or draft law. Explanations/answers informed to the public should not be understood as necessarily stating rejection or acceptance, but also providing substantial explanations that are easy to understand, simple, and appropriate to build a public understanding of the legal material for future discussions of academic manuscripts and draft laws. [14]

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12 *Ibid*.

13 Article 96 Paragraph (8) of the Second Amendment PPP Law does not represent the public's right to an explanation, as can be seen from the phrase "may" which is not mandatory (facultative).

14 Margot E. Kaminski, 'The Right to Explanation, Explained', *Berkeley Technology Law Journal*, Vol. 34, No. 189 (2019), pp. 210-213.

Although it seems impossible, this article gave a hypothesis that meaningful public participation in the formation of omnibus laws is still possible if: political will of the government together with parliament to form better quality laws; use the proper omnibus method; and adhere to the formal process of forming laws.

B. Research Question

1. Why is it difficult to practice meaningful participation in the formation of laws using the omnibus method?
2. How can meaningful participation be realized in the formation of laws using the omnibus method? A Case Study of Indonesia.

C. Research Method

This research uses the doctrinal legal research method. Furthermore, Hutchinsonand Duncan explained that doctrinal legal research is studied in two stages: first, the researcher looks for legal regulations related to and being studied in the research; second, the researcher will conduct a study, analysis, and interpretation of these legal regulations. One of the main objectives of legal research is to renew and strengthen the principles contained in an applicable legal regulation. The doctrinal legal research method is used to test a legal argument, so the data used in this research is intended to test a legal argument in a doctrine. Thus, doctrinal legal research can be said to be a research method that examines regulations and the relationship between regulations and studies legal regulations that will be enacted in the future (*ius constituendum*). This approach focuses on analyzing legislation and legal norms applicable in Indonesia. The formulation of this research problem will be answered by using legal principles, written law, and other supporting theories about omnibus law and meaningful public participation.

II. DISCUSSION

A. Omnibus in Theory

a) Omnibus: technique or method? Understanding the meaning of legislative technique and methods

The introduction of the omnibus law technique represents a profound change in Indonesia's approach to statutory formation. According to Maria Farida Indrati[15], the omnibus law constitutes a new legislative instrument that consolidates multiple substantive areas and subjects into a single law. The

[15] Maria Farida Indrati, "Omnibus Law" UU Sapu Jagat?", https://www.kompas.id/artikel/omnibus-law-uu-sapu-jagat diakses pada 9 Oktober 2025.

rationale behind this method lies in simplifying Indonesia's complex regulatory landscape by harmonizing overlapping or conflicting provisions. Indrati emphasizes, however, that the omnibus law should not be conflated with the raamwet or moederwet (umbrella law), which holds a superior hierarchical position and delegates regulatory authority to its derivative laws. In contrast, the omnibus law serves as a horizontal integration mechanism, uniting several legal domains without creating hierarchical dependency. This distinction underscores a paradigmatic shift from the traditional sectoral approach to a more consolidated legislative framework.

In contrast, A. Ahsin Thohari interprets omnibus law primarily as a legislative drafting technique rather than a distinct legal category.[16] Under this perspective, omnibus law-making represents a procedural method that allows multiple amendments, repeals, or enactments of different statutes to be bundled within a single legislative proposal. This interpretation narrows the meaning of omnibus law to a technical or methodological level, focusing on legislative efficiency rather than substantive transformation. Thohari's definition is consistent with the procedural conceptualization of omnibus legislation found in comparative legal systems, such as those in the United States and Canada, where omnibus bills function as legislative vehicles to expedite complex legal reforms.[17] However, this procedural orientation has also raised concerns among legal scholars about the potential for diminished deliberation and democratic oversight in legislative processes.[18] Hence, while omnibus law-making may enhance efficiency, it simultaneously challenges the principles of transparency and participatory lawmaking that are fundamental to democratic governance.

From a comparative legal perspective, the Indonesian omnibus law technique diverges significantly from the conventional legislative approach historically employed in Indonesia. Traditional laws generally regulate a single subject matter, adhering to what A. Hamid S. Attamimi describes as *het materiële wetsbegrip*, or the notion that each statute should contain a specific substantive scope and follow a corresponding procedural path.[19] Similarly, Soehino and Bagir Manan emphasize that legislative content (materi muatan)

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16 Ahsin Thohari, "Menakar Omnibus Law", https://nasional.sindonews.com/berita/1453665/18/menakar-omnibus-law accesced by 10 October 2025.

17 Glen S. Krutz, "Omnibus Legislating in the US Congress", on *Comparative Multidiciplinary Perspectives on Omnibus Legislation*, Legisprudence Library, Vol. 8, 2021, p. 38.

18 Louis Massicotte, "Omnibus Bills in Theory and Practice", *Canadian Parliamentary Review*, Spring 2013, p.15.

19 A. Hamid S. Attamimi, "Peranan Keputusan Presiden RI dalam Penyelenggaraan Pemerintahan Negara. Disertasi, Jakarta: Universitas Indonesia, 1990, p. 198.

must be determined according to established constitutional and procedural criteria, such as whether it concerns fundamental rights, public interest, or statutory amendment.[20] Omnibus law, however, departs from this tradition by allowing a single legislative proposal to modify, repeal, or enact provisions across multiple statutes simultaneously. This multidimensional approach represents both a practical innovation and a legal challenge within Indonesia's civil law framework, as it requires reconciling the principles of legal certainty and procedural rigor with the demands of administrative simplification and policy integration.

b) Characteristics of omnibus legislation

The diversity of terminology used to describe omnibus legislation is accompanied by a corresponding variety of definitions and conceptual understandings in legal scholarship. Sinclair's classic definition, widely cited in comparative legislative studies characterizes omnibus laws as legislative instruments encompassing "multiple subjects, issues, and programs that need not be interrelated, and which are therefore typically lengthy and complex."[21] This definition captures the essence of omnibus legislation through two fundamental features: the aggregation of multiple, often unrelated provisions, and the extensive length and complexity of the bill. Such characteristics reflect the pragmatic purpose of omnibus legislation, namely to facilitate the passage of numerous reforms or amendments within a single legislative vehicle, often under the rationale of efficiency and coherence in policy implementation.[22] However, these very features have also generated ongoing debates regarding the implications of omnibus lawmaking for democratic accountability and deliberative legislative practices.

The scholarly discourse around omnibus legislation frequently centers on the definitional question of whether aggregation or length constitutes the essential criterion. Gluck observes that in the United States, there is no single universally accepted definition of omnibus legislation, although a general understanding exists that it refers to "a bill combining multiple provisions or unifying diverse subjects within a single legislative proposal."[23] Gluck's

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20 Bagir Manan, *Dasar-Dasar Perundang-Undangan Indonesia,* Jakarta: Ind Hill Co, 1992, p. 37.

21 Barbara Sinclair, Unorthodox lawmaking: new legislative processes in the U.S. Congress, 5th ed, (CQ Press: 2017), p. 64.

22 Zainal Arifin Mochtar and Idul Rishan, " Autocratic Legalism: the Making of Indonesian Omnibus Law", *Yustisia Jurnal Hukum*, Vol. 11, No. 1 (2022), p. 35.

23 Abbe R. Gluck, "Unorthodox Lawmaking and Legislative Complexity in American Statutory Interpretation", on *Comparative Multidiciplinary Perspectives on Omnibus Legislation*, Legisprudence Library, Vol. 8, 2021, p. 202.

emphasis on aggregation as the sole definitional criterion aligns with the functionalist view of omnibus laws as tools for consolidating legislative agendas. Conversely, emphasize the dimension of length and scope—highlighting how the magnitude of an omnibus bill, both in textual volume and policy coverage, often correlates with its complexity and political significance. These differing emphases illustrate how omnibus legislation exists along a definitional spectrum, shaped by institutional context, legislative tradition, and political strategy.[24]

From a comparative perspective, the definitional variance across jurisdictions underscores the fluidity of the omnibus legislative concept. In Westminster-style parliaments, omnibus bills are often justified as instruments of administrative necessity, allowing governments to streamline multiple statutory amendments simultaneously. In contrast, in presidential systems such as the United States, they frequently serve as vehicles for legislative bargaining and coalition building. Thus, while Sinclair's and Gluck's definitions highlight the structural dimensions of omnibus laws, aggregation and length, these must also be understood within broader governance dynamics, including political will, procedural transparency, and citizen participation. Recognizing this definitional plurality is essential for evaluating the democratic legitimacy of omnibus legislation, particularly in contexts like Indonesia, where the omnibus approach remains both innovative and controversial in contemporary legislative reform.[25]

c) Defining omnibus law in Indonesian context

Comparison between Conventional Legislative Formation and the Omnibus Law Technique in Indonesia

Aspect	Conventional Legislative Formation	Omnibus Law Technique
Definition and Purpose	A single law is drafted to regulate one specific subject matter or policy area, following	A single omnibus bill combines multiple subjects, amends, or repeals provisions

[24] Min Usihen, Tunggul Anshari, R. Benny Riyanto, and Aan Eko Widiarto, "The Omnibus Method In Indonesia's Legislation Formation System" International Journal Of Humanities Education And Social Sciences (IJHESS), Vol. 4, No. 4, (February 2024), p. 1472.

[25] Ima Mayasari, "Kebijakan Reformasi Regulasi Melalui Implementasi Omnibus Law di Indonesia", Jurnal Rechtvindings, Vol. 9, No. 1, April 2020, p.. 7.

	established legislative procedures.	across various existing laws to simplify and harmonize regulations.
Substantive Scope	Limited to one legal subject or specific issue, ensuring focus and consistency in material content.	Encompasses multiple, and sometimes unrelated, legal subjects or policy areas within one legislative instrument.
Legal Basis and Theoretical Foundation	Rooted in the het materiele wetsbegrip (material concept of law) as formulated by A. Hamid S. Attamimi, which mandates that each law must contain a distinct and specific subject matter.	Based on the principle of legislative integration (integrated law-making technique).
Hierarchy and Delegation	Each law stands independently or may delegate further regulation to subordinate legislation (e.g., government regulations).	Does not establish hierarchical relations among statutes but unifies or revises them simultaneously through one legislative process.
Process of Amendment or Repeal	One proposal for amendment or repeal applies to one existing law only.	A single legislative proposal can amend, repeal, or enact provisions from several laws concurrently.
Examples of Implementation	Laws other than the omnibus law	Law No. 11 of 2020 on Job Creation Act Law No. 7 of 2021 on Harmonization of Tax Regulations Act

		Law No. 17 of 2023 on Health Act
Legislative Efficiency	Time-consuming due to segmented legislative drafting and discussion processes	Promotes regulatory simplification and efficiency through unified deliberation and decision-making

B. Meaningful Participation

a) The definition and the ideal ways to fulfills it

Public participation is widely recognized as a cornerstone of democratic governance, encompassing two essential components: stakeholders and public engagement.[26] It can be understood as a process through which individuals, groups, and organizations are involved in decision-making that affects them, either passively through consultation or actively through two-way interaction.[27] This concept reflects the distinction between "the public," defined as those not directly affected by or capable of influencing a decision but still engaged in relevant discussions, and "stakeholders," defined as those who are directly impacted by or can influence the outcome of a policy.

This distinction highlights the layered and inclusive nature of participatory processes, ensuring that both affected actors and broader publics are integrated into governance mechanisms. Such processes enhance the legitimacy of public decisions, as participation is not merely symbolic but contributes to the substantive quality of policy outcomes. As a participatory mechanism, it bridges the gap between policymakers and society, aligning public decisions with collective interests.[28]

Moreover, public participation can manifest through both direct and indirect channels. Direct participation involves individuals or groups engaging in policymaking without intermediaries, while indirect participation occurs through elected representatives or organized stakeholder groups. This dual structure provides flexibility within democratic systems, ensuring accessibility and

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26 Mark S. Reed, et al., "A Theory Of Participation: What Makes Stakeholder And Public Engagement In Environmental Management Work?" Journal of the Society, Vol. 26 No. 1 (April 2018), p. 9.

27 John Dewey, *The Public and Its Problems*, ed. 1, cet. 1, (Paris: Swallow Press, 1954), p. 32.

28 R. Edward Freeman, Strategic Management: a Stakeholder Approach, (Universitas Udiana: Pitman, 1984), p. 18.

inclusivity in governance processes. Through such participation, stakeholders interact with government institutions, political leaders, non-governmental organizations, and private actors in shaping and implementing public policies.[29] These interactions foster deliberative dialogue, enabling the co-creation of solutions that are responsive to societal needs. Moreover, they strengthen institutional responsiveness, accountability, and trust between governing bodies and the public, creating a participatory ecosystem that values collective reasoning and inclusivity. Beyond its procedural aspect, public participation represents a normative foundation of democracy, emphasizing the role of citizens as active contributors to governance. Involving citizens in policy formation, implementation, and evaluation enhances transparency and democratic legitimacy while ensuring that diverse perspectives are integrated into decision-making. Effective participation not only mitigates policy bias but also builds social trust and cohesion. It transforms governance into a reciprocal relationship where citizens and state institutions engage in continuous dialogue, reinforcing accountability and collective ownership of policy outcomes. Thus, public participation functions not merely as an administrative tool but as an essential mechanism for achieving responsive, inclusive, and sustainable democratic governance.

In essence, within a democratic system, public participation serves as a means to: [30]

1. prevent the abuse of power by leaders;
2. channel the aspirations of the people (citizens) to the government;
3. involve citizens in public decision-making; and
4. uphold the sovereignty of the people.

Participation is both a right and an obligation of citizens to uphold good governance. The parameters of participatory legislation can be observed from the following aspects: [31]

1. the formulation of laws and regulations is carried out with the aim of promoting good governance;
2. participation, accountability, transparency, and oversight to prevent misuse of government development budgets are fundamental principles in the legislative drafting process;

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29 Christopher Ansell dan Jacob Torfing, Handbook on Theories of Governance, (Cheltenham: Edward Elgar Pub, 2016), p. 158.

30 Nancy Robert, "Public Deliberation In An Age Of Direct Citizen Participation," American Review of Public Administration, Vol. 34 No. 4 (2004), p. 338.

31 Laurensius Arliman S., "Partisipasi Masyarakat dalam Pembentukan Perundang-undangan untuk Mewujudkan Negara Kesejahteraan Indonesia," Jurnal Politik Pemerintahan, Vol. 10, No. 1 (2017), p. 66.

3. participation in the formulation of government regulations is both a right and an obligation of society;
4. empowerment of stakeholders to enable balanced participation;
5. every aspiration must be considered without exception;
6. decision-making must go through an honest, transparent, and fair process;
7. there must be broad access to various forms of public information as a public right; and
8. there must be an evaluation mechanism for the outcomes and implementation of decisions.

Sirajuddin classifies the eight levels of participation mentioned above into three main levels: [32]

1. The first level is classified as non-participation, which includes manipulation and therapy;
2. The second level is called degree of tokenism, which includes placation, consultation, and information. At this level, the public is listened to and allowed to express opinions, but they lack the capacity and there is no guarantee that their views will be genuinely considered by policymakers; and
3. The third level is the degree of citizen power, which includes partnership, delegation of power, and citizen control. At this level, citizens have influence in the policy-making process.

The highest level is citizen control where participation reaches the point at which the public has the authority to decide, implement, and oversee the management of resources. The next level is delegated power, in which the authority of society is greater than that of the state apparatus in formulating policies. The third level, partnership, reflects a balance of power between society and authorities in planning and making joint decisions. These three levels recognize the people's right to participate in lawmaking. [33]

Meaningful participation must meet at least three prerequisites: the right to be heard, the right to have one's opinion considered, and the right to be explained or to receive a response to the opinions that have been expressed.[34]

b) Indonesian practices in regular law making and omnibus law making
   i. Job creation act

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32 Moh. Fadli, et al., *Pembentukan Peraturan Desa Partsipatif* (Malang: UB Press, 2011), hlm. 142.
33 Sirajudin, et al., *Legislative Drafting; Pelembagaan Metode Partisipasi masyarakat Dalam Penelenggaraan Otonomi Daerah,* (Malang: Corruption Watch dan YAPPIKA, 2006), p. 189.
34 *Ibid.,* p. 182.

In practice, one of the most significant and contentious issues in Indonesia's recent legislative history revolves around the enactment of the Job Creation Law (Undang-Undang Cipta Kerja). The legislative process of this law was prolonged and marked by several procedural irregularities, including limited public participation, lack of transparency, and inconsistencies in the number of pages within the draft bill.[35] These irregularities not only questioned the integrity of the legislative process but also raised broader concerns regarding the appropriateness and legitimacy of employing the omnibus method within the Indonesian legal framework. The introduction of the omnibus approach, which consolidates various laws into a single legislative instrument, represented a major shift in Indonesia's legislative technique, yet it also exposed the fragility of procedural safeguards intended to ensure democratic and participatory lawmaking.

The Constitutional Court, through Decision No. 91/PUU-XVIII/2020, declared the Job Creation Law to be conditionally unconstitutional on formal grounds due to procedural defects in its formation. Despite this, the Court maintained the law's temporary validity for two years to allow the government and the House of Representatives (DPR) to make the necessary revisions and corrections. This judicial stance reflected an attempt to balance constitutional principles with pragmatic governance needs, recognizing the potential socio-economic implications of an immediate annulment. However, it also underscored a critical tension between the pursuit of legal certainty and the adherence to constitutional due process, as the conditional nature of the ruling effectively placed the law in a state of legal ambiguity during the revision period.

Rather than amending Law No. 11 of 2020 on Job Creation as instructed, the government subsequently issued Government Regulation in Lieu of Law (Perppu) No. 2 of 2022 on Job Creation, which was later enacted into Law No. 6 of 2023. This legal development signified a strategic maneuver by the executive branch to expedite the legislative correction process while maintaining the continuity of the law's substance. Concurrently, the second amendment to the Law on the Formation of Legislation (Undang-Undang tentang Pembentukan Peraturan Perundang-undangan) was introduced to formally institutionalize the omnibus legislative technique within Indonesia's legal system. Collectively, these measures illustrate the state's adaptive yet controversial approach to resolving procedural deficiencies, reflecting

[35] Ricca Anggraeni, "The Omnibus Method: Challenges in the Legislative Process", *Pancasila and Law Review,* Vol. 5, Issue 1, Januari: 2024, p. 34.

broader debates over constitutionalism, executive dominance, and the evolution of legislative methodology in Indonesia's democratic governance.

ii. Harmonization of Tax Regulations

Law No. 7 of 2021 on Harmonization of Tax Regulations provides an illustrative example of how the omnibus method was again employed in Indonesia to consolidate various provisions relating to taxation into a single comprehensive law. This statute integrated reforms on income tax, value-added tax (VAT), carbon tax, excise duties, and the tax amnesty program, reflecting the government's effort to streamline Indonesia's fragmented tax framework. In terms of public participation, the deliberation of this law was more structured compared to the Job Creation Law, as the government and the House of Representatives (DPR) engaged in limited consultations with business associations, professional tax organizations, and academics to gather input on the potential economic and social impacts. However, participation remained largely sectoral and selective, focusing on stakeholders directly linked to taxation, and did not extend to broader civil society. As a result, while the process showed improvements in targeted consultations and expert involvement, it still fell short of the meaningful participation standard mandated by Constitutional Court Decision No. 91/PUU-XVIII/2020, particularly in terms of inclusiveness, the right to explanation, and accessibility for the general public. This demonstrates that even though omnibus law-making in the tax sector can benefit from technical expertise, broader mechanisms are still required to ensure that participation is not limited to elite stakeholders but truly represents the aspirations of the wider society.

iii. Health act

The introduction of the Health Omnibus Law in Indonesia represents a pivotal development in the country's legal reform agenda, particularly within the public health sector. Conceptually, the omnibus approach in health legislation aims to consolidate and harmonize a fragmented regulatory landscape into a single, coherent legal framework. This legislative technique is expected to streamline the numerous overlapping and sometimes contradictory provisions found in various sectoral health laws. As observed by Indrati (2019), the omnibus law serves as a legal instrument for simplification rather than mere deregulation, thereby aligning with the state's constitutional mandate to promote social welfare. In the health context, such reform aspires to enhance policy coordination and institutional efficiency,

ensuring that health governance operates under a unified standard and supports the constitutional right to health as guaranteed in Article 28H of the 1945 Constitution. However, the formulation of the Health Omnibus Law has provoked significant debate and resistance among medical professionals, public health experts, and civil society. Critics argue that the legislative process has been dominated by executive interests, with insufficient stakeholder participation an issue that mirrors earlier controversies surrounding the Job Creation Law (*Undang-Undang Cipta Kerja*).

This skepticism resonates with global discussions on the democratic legitimacy of omnibus legislation. Within Indonesia's context, professional organizations such as the Indonesian Medical Association (IDI) have raised concerns that an omnibus law could centralize authority excessively and weaken professional autonomy in medical governance. Consequently, the policy debate is not merely technical but reflects deeper tensions between regulatory efficiency and participatory justice in lawmaking. Despite these controversies, the Health Omnibus Law also presents a strategic opportunity for Indonesia to strengthen its competitiveness and regulatory readiness within the framework of international economic cooperation, particularly under the World Trade Organization (WTO) and the General Agreement on Trade in Services (GATS). In an increasingly globalized health economy, Indonesia must align its domestic regulatory structure with international standards to attract foreign investment and ensure equitable health service provision. As argued by Thohari (2020), the omnibus technique, when implemented with procedural integrity and substantive inclusiveness, can serve as a vehicle for regulatory modernization. In this sense, the Health Omnibus Law, by unifying previously disparate regulations into a single comprehensive statute, can be seen as both a challenge and an opportunity: a challenge to democratic accountability but an opportunity to advance health policy integration, improve service delivery, and position Indonesia as a competitive actor in the global health sector.

In contrast to earlier omnibus laws, the enactment of Law No. 17 of 2023 on Health offers a credible example of the omnibus method being paired with relatively robust public participation. During its drafting, the DPR and the Ministry of Health carried out daring and offline consultations from 9 March to 2 April 2023, involving experts, professional organizations, civil society groups, and the public. Crucially, the government deployed an online portal (partisipasisehat.kemkes.go.id) through which citizens and organizations could submit their Daftar Inventarisasi Masalah (DIM) and provide input on controversial provisions (e.g. health reproduction, autonomy of health

professionals). Videos of consultations were also made publicly accessible via YouTube, and drafts and responses were (at least in part) shared on the Ministry's and DPR's websites. While not perfect, this mix of digital and in-person platforms, proactive outreach, and structured stakeholder forums suggests the Health Law process had clearer channels for inclusivity than many previous omnibus efforts.

C. How To Make It Possible:

a) Proper Omnibus Method

The notion of omnibus legislation encompasses legislative proposals or statutes that aggregate a variety of topics under a single legal instrument. In the literature, omnibus bills are understood as instruments that bundle together diverse, and sometimes unrelated, issues, often for procedural efficiency or political expediency. For instance, in comparative studies of omnibus bills in the United States and other jurisdictions, scholars emphasize that such laws may limit scrutiny, simplify legislative calendars, or allow controversial provisions to be embedded within must-pass legislation. In the Indonesian context, omnibus law as a method of legislative drafting is regulated through recent legal reforms (e.g. UU nomor 13 Tahun 2022), which define the omnibus method to include inserting new materials, changing related legal content across various regulations of the same hierarchical level, and revoking rules, all being consolidated into a single law. This formalization shows that omnibus legislation is not merely a colloquial or political term but has been institutionalized in legal doctrine with specific criteria. Within this broad definition, your distinction between two ideal types superficial omnibus legislation and deep omnibus legislation is analytically useful.

The superficial type corresponds to omnibus laws that, though covering a breadth of topics, maintain a coherent functional unity: the various provisions are tied together by a single overarching purpose or institutional logic. An instructive example is national budget or appropriations bills (such as APBN in Indonesia), which may address many sectors and policy fields yet are unified by the purpose of allocating resources for a fiscal period. Conversely, deep omnibus legislation refers to the bundling of provisions that lack substantive legal coherence: the topics are legally unrelated and do not fall under a shared regulatory logic. This resembles the political science phenomenon of logrolling, in which legislators exchange support for different items in order to secure passage of legislation. In such cases, the legislative unity is political rather than legal: the parts may be very heterogeneous, tied together because of political compromise rather than shared function or rationale. The distinction has important normative and practical

implications. From a rule-of-law standpoint, superficial omnibus legislation may better satisfy principles such as legal clarity, coherence, and the requirement that legislative subjects be connected (or at least not arbitrarily disjoined). Deep omnibus legislation, in contrast, may undermine transparency, make judicial review more difficult, and erode public participation, since unrelated topics force stakeholders to engage with many issues at once and may hide problematic provisions amid more popular ones. Empirical literature suggests that logrolling and omnibus bills tend to concentrate benefits in certain districts or for certain interests, at times sacrificing protections (e.g. labor, environment) or procedural fairness. In sum, distinguishing between superficial and deep types of omnibus law is crucial for legal scholars and policy-makers who aim to assess the legitimacy, democratic accountability, and functional coherence of omnibus legislative instruments.

b) Political Will Of The Government Together With Parliament

Law is inherently political: the constitution, statutes, and regulations not suddenly appeared but through processes that reflect power relations, competing interests, and institutional constraints. Legal systems require both substantive content and procedural legitimacy: it is not enough that legislation advances certain political goals; the processes of lawmaking must be transparent, inclusive, and consistent with constitutional norms to maintain legitimacy. Scholars of legal theory and democratic governance have long emphasised that a well-functioning democracy requires not only outcomes that reflect the public good, but also fair procedures that allow for participation, deliberation, and accountability (e.g., Habermas's theory of communicative action; Rawls's notion of political liberalism). In the Indonesian context, these procedural requirements have been partially institutionalised – for example, through Law No. 13 of 2022 on the formation of legislation, which incorporates "meaningful participation" (partisipasi bermakna) across stages of planning, drafting, discussion, ratification, and promulgation. Despite the formal legal recognition of omnibus law methods and of public participation norms, much of the debate and opposition to omnibus law in Indonesia tends to focus on the substantive content of the regulation rather than the conceptual underpinnings of omnibus legislation per se. Opposition frequently critiques particular provisions (e.g. labor protections, environmental oversight, business interests) rather than examining whether the omnibus form as a legislative technique is compatible with democratic principles. This conflation between form and substance, while understandable in political discourse, risks obscuring important questions of procedural justice and legal theory: namely, whether omnibus law methods allow sufficient space for meaningful

participation, proper deliberation, and responsiveness to public inputs. The treatises and case studies on Law 11/2020 (Job Creation Law) illustrate this: the Constitutional Court struck down certain provisions not because the omnibus technique was per se illicit, but because the process failed to uphold requirements like meaningful public participation, including the right to be heard, considered, and receive responses. Meaningful public participation is not only normative: it is essential for the legitimacy, quality, and effectiveness of law. Literature shows that participation that is merely formal or symbolic—such as inviting comments or holding consultation forums without adequately considering inputs or explaining why they are rejected—falls short of the standard required by democratic legitimacy and constitutional jurisprudence. In Indonesia, studies of omnibus law, Peraturan Pemerintah Pengganti Undang-Undang (Perppu), and laws like the TNI law indicate that while legal requirements for participation exist (Law 13/2022, judicial decisions such as Constitutional Court Decision 91/PUU-XVIII/2020), their implementation has often been deficient: public access to drafts may be limited; contributions of civil society may be ignored; explanations for non-inclusion of comments are rarely given. Therefore, whether in omnibus law or more conventional legislation, the key variable is not just the law's form or how many sectors it covers, but the government's willingness and institutional capacity to honour the procedural obligations—especially ensuring that affected groups have voice, that their voices are meaningfully considered, and that decisions are explained.

Country	Impact of Participation	Safeguards/Responses
United States	Fast-tracked, sacrifices member participation; legislators often unaware of details	Critics emphasize transparency loss, but omnibus seen as pragmatic adaptation
Italy	Omnibus/maxi-amendments bypass article by article scrutiny; executive dominance, weak MP input.	Constitutional Court insist Art. 72 must protect parliamentary debate.
France	Monster bills overload parliament, enable lobbying, reduce MPs'	Scholarly and media criticism; highlights need for more

	influence; democratic quality questioned.	deliberation time.
Germany	Opaque Artikelgesetz bill challenge democratic decision-making; complexity limits scrutiny.	Clas for reason-giving requirements to improve transparency
Spain	Arrangements Law tied to budget, expedited; include unrelated reforms; criticized for lact of consideration	The Supreme Court stresses openness, participation, and majority rule in review.
Canada	Atypical procedures undermine MPs' role and citizens constitutional right to participation	Judicial debates on single-subject; criticism of urgency laws.
Belgium	Villified as authoritarian devices avoiding scrutiny; reforms allow speaker to split votes	Speaker's power to divide bills improves scrutiny somewhat.
Sweden	Council of State warns of insufficient time for advice; safeguards exist but democratic quality harmed.	Drafting guidelines and checks mitigate but don't eliminate risks
	Absence of omnibus due to strong drafting culture; consensus tradition preserves participation.	Strong drafting norms and legal culture prevent omnibus practices.

c) Formal Process Of Forming Laws

The Indonesian experience shows that the omnibus method can only function properly if the formal process of forming laws—as regulated in Law No. 12 of 2011 on the Formation of Legislation, as amended by Law No. 13 of 2022—is strictly observed. Yet, in practice, the use of omnibus law in Indonesia actually

preceded the existence of a formal legal framework governing this method. For example, the Job Creation Law was enacted through the omnibus approach before omnibus law-making was explicitly recognized in Article 64 of Law No. 13 of 2022. This sequencing created a legal and procedural gap, enabling omnibus practices to move forward without the safeguards of participation and transparency envisioned by the amended law. As a result, the legitimacy of the process was weakened, and public trust in law-making declined. This means that the regulations themselves must be refined, with specific procedures tailored to omnibus laws. Given that omnibus laws are inherently longer, more complex, and affect multiple sectors simultaneously, public participation must be more meaningful, extended in duration, and of higher quality than in the case of conventional laws. Concretely, this requires: (1) mandatory extended consultation periods to allow sufficient time for stakeholders to review massive draft texts; (2) segmented public hearings by subject cluster, so that diverse communities and experts can meaningfully engage with the parts of the bill that affect them; (3) a requirement for legislators to provide written responses explaining acceptance or rejection of public input, ensuring the right to explanation is respected; (4) greater use of digital participation platforms to broaden access beyond Jakarta or other urban centers; and (5) independent oversight mechanisms—such as a monitoring body or strengthened role of the Constitutional Court—to ensure compliance with participation standards. Strengthening these procedures would prevent omnibus laws from becoming instruments of executive dominance, and instead transform them into a legitimate legislative technique that balances efficiency with democratic legitimacy, inclusivity, and accountability.

III. CONCLUSION

'The Indonesian experience with omnibus law-making demonstrates that the pursuit of efficiency and regulatory simplification often comes at the cost of transparency, accountability, and inclusiveness. While Law No. 13 of 2022 has attempted to strengthen public participation by institutionalizing the principles of meaningful participation—namely the rights to be heard, considered, and explained—its application remains fragile when confronted with the omnibus method. The characteristics of omnibus legislation, such as its length, heterogeneity, and expedited process, have limited both parliamentary scrutiny and public engagement, as reflected in the controversies surrounding the Job Creation Law. Nonetheless, meaningful participation in omnibus law-making is not entirely unattainable. The enactment of the Health Act (Law No. 17 of 2023) shows that the omnibus method can, in fact, be applied with a stronger participatory dimension. During its formation, broader consultations were held with health professionals, civil society organizations, and the

public, creating a more transparent and inclusive process compared to previous omnibus experiences. This demonstrates that the omnibus method, if used with discipline, proper design, and genuine political will, can still accommodate meaningful participation. Therefore, achieving meaningful participation under an omnibus system requires strong political will from both the executive and the legislature, adherence to the formal law-making process, and proactive mechanisms to include vulnerable and affected communities. Institutional innovation, such as integrating digital platforms for participation and enforcing the right to explanation, further enhances inclusiveness. Ultimately, the Indonesian case illustrates that meaningful participation is possible even under omnibus law-making—provided efficiency is balanced with democratic legitimacy and participatory values are placed at the center of the legislative process.

BIBLIOGRAPHY

Arnstein. Sherry R. "a Ladder of Citizen Participation." JAIP Jurnal. Vol. 35, No. 4 (1969). Hlm. 216-224.

Arliman, Laurensius. "Partisipasi Masyarakat dalam Pembentukan Perundang-undangan untuk Mewujudkan Negara Kesejahteraan Indonesia." Jurnal Politik Pemerintahan. Vol. 10 No. 1 (2017). Hlm. 59-72.

Constitutional Court. Decision No. 91/PUU-XVIII/2020. Hakimi Irawan Bangkid Pamungkas, et al. Petitioners in the Formality Testing of Law Number 11 of 2020 on Job Creation against the 1945 Constitution of the Republic of Indonesia. (2020).

Dewey, John. The Public and Its Problems. Ed. 1. Cet. 1. (Paris: Swallow Press, 1954).

Fajar, Bobi Yusuf Noor dan Zaid. "A Critical Review on The Job Creation Omnibus Law-Forming Process." *Syiah Kuala Law Journal*. Vol. 5 No. 2. (Agustus 2021). Hlm. 195-212.

Freeman, R. Edward. Strategic Management: a Stakeholder Approach. Universitas Udiana: Pitman, 1984.

Bar-Siman-Tov, I (ed.). "Comparative Multidisciplinary Perspectives on Omnibus Legislation". *Legisprudence Library*. Vol. 8 (2021). Hlm. 1-13

Kaminski, Margot E. "The Right to Explanation, Explained" *Berkeley Technology Law Journal*. Vol. 34, No. 189 (2019). Hlm. 190-218.

Ramanda, Dio Ekie. "Design of Meaningful Participation in Law Formation after the Constitutional Court Decision Number 91/PUU-XVIII/2020". Graduate Thesis Faculty of Law, Universitas Indonesia. 2022.

Reed, Mark S. Et al. "A theory of participation: what makes stakeholder and public engagement in environmental management work?" Journal of the Society. Vol. 26 No. 1 (April 2018). hlm. 7-17.

Rofiq Hidayat, 'The Importance of Community Participation in Policy Formation,' *Hukumonline.com*, https://www.hukumonline.com/berita/a/pentingnya-partisipasi-masyarakat-lt61dbe4558bb38?page=all accessed pada 24 Maret 2024.

Ruwhiu, Diane and Lynette Carter. "Negotiating 'meaningful participation' for Indigenous peoples in the context of mining." *Journal Corporate Governance*. Vol. 16 No. 4. (2016). Hlm. 641-654.

Saifudin. *Public Participation in the Formation of Legislation*. Yogyakarta: FH UII Press, 2009.

Situmorang, Hendro D. "Criticizing DPR, Legal Expert Calls MK a Waste Basket" available at https://www.beritasatu.com/news/1007481/kritik-dpr-pakar-hukum-sebut-mk-jadi-keranjang-sampah accessed pada 24 Maret 2024.

Seta, Salahudin Tunjung. 'Community Rights in the Formation of Laws and Regulations' Jurnal Legislasi Indonesia. Vol. 17 No. 2 (2020).

Wardana, Dodi Jaya, Sukardi, dan Radian Salman. "Public Participation in the Law-Making Process in Indonesia." *Jurnal Media Hukum*. Vol. 30, No. 1. (Juni 2023). Hlm. 66-78.

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