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# Fast Track Legislation And The Erosion of Meaningful Participation: A Legal Political Critique of The State Ministries Law And Its Implications For Constitutional Democracy

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**Abstract**

*This study examines the legal politics in the formation of Law Number 61 of 2024 concerning State Ministries, focusing on the fast-track legislation process and the principle of openness. The main issue is the imbalance between the normative objectives of the law and the political reality that influences the formation of laws, particularly the lack of public participation and transparency. The problem formulation explores the legal politics of the formation of the State Ministry Law and its juridical implications for democratic values in Indonesia. The method used is normative juridical with a regulatory and conceptual approach, through a descriptive and prescriptive analysis of literature on regulations, court decisions, and scientific works. The findings show that the purpose of enacting the law in question is to improve the effectiveness of governance through orderly and clear ministerial arrangements. However, the rapid legislative process during the transition of government has sacrificed democratic principles, reflecting political compromises that prioritize executive prerogatives and the political interests of the elite over public accountability, and this has become the face of political law. The implication is a shift in the democratic political configuration towards authoritarianism, which is not in line with the spirit of the constitution and, without meaningful participation, can degrade the value of democracy in Indonesia.*

***Keywords***: *Legal Policy; Fast Legislation; State Ministry; Meaningful Participation.*

**Abstrak**

Penelitian ini mengkaji politik hukum dalam pembentukan Undang-Undang Nomor 61 Tahun 2024 tentang Kementerian Negara dengan fokus pada proses legislasi cepat dan asas keterbukaan. Permasalahan utama adalah ketidakseimbangan antara tujuan normatif hukum dan realitas politik yang memengaruhi pembentukan undang-undang, terutama minimnya partisipasi publik dan transparansi. Rumusan masalah menelusuri bagaimana politik hukum pembentukanundang-undang kementerian negara serta bagaimana

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implikasi yuridisnya terhadap nilai dekmokrasi di indonesia. Metode yang digunakan adalah yuridis normatif dengan pendekatan perundang-undangan dan konseptual, melalui kajian literatur terhadap regulasi, putusan pengadilan, dan karya ilmiah, dianalisis secara deskriptif dan preskriptif. Temuan menunjukkan bahwa tujuan pembentukan UU a quo adalah untuk meningkatkan efektivitas penyelenggaraan pemerintahan melalui penataan kementerian yang tertib dan jelas. Nmaun, proses legislasi yang cepat pada masa transisi pemerintahan justru mengorbankan prinsip demokrasi, mencerminkan kompromi politik yang mengutamakan prerogatif eksekutif dan kepentingan politik elit dibanding akuntabilitas publik dan ini menjadi wajah politik hukum yang pertunjukan. Implikasi yang ditimbulkan adalah pergeseran konfigurasi politik demokratis kea rah otoritarian yang tidak sejalan dengan semangat konstitusi dan tanpa partisipasi bermakna dapat mendegradasi nilai demokrasi di Indonesia.

**Kata Kunci** : *Politik Hukum; Legislasi Cepat; Kementerian Negara; Partisipasi bermakna.*

## INTRODUCTION

According to Mahfud MD's view, legal politics is defined as legal *policy* that will be enforced by the state in order to realize state goals, either through the creation of new laws (*ius constituendum*) or the replacement of old laws (*ius constitutum*).[1] In another perspective, Bagir Manan defines legal politics as "*the policy behind the legal policy*" which can be permanent or temporary. Which is permanent related to the legal attitude that has consistently become the foundation in the process of forming and enforcing the law.[2] Legal politics has a strategic position in the legislation process because it determines the reason, direction, and content of a law. Thus, legal politics can also be interpreted as public policy that plays a role in determining which legal norms need to be maintained, revised or reformulated in order to achieve state goals where the state must be present in the form of policies that regulate the order of life of the nation and state.[3]

The birth of Law Number 61 of 2024 concerning State Ministries is based on the spirit of strengthening the democratic system within the framework of presidential government.[4] This goal is in line with the will of the constitution and lawmakers to give signs to the president in exercising government power, especially in the formation of ministries and the appointment of ministers as his assistants.[5]

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[1] Rhaysya Admmi Habibani, Aldri Frinaldi, and Roberia, "Application of the Principle of Legality in Public Administration Policy," *Repository of Multidisciplinary Journals* 2, no. 12 (2024): 296–303, https://doi.org/10.59435/gjmi.v2i12.751.

[2] Nur Fathimah Azzahra Syafril and Fitriani Ahlan Sjarif, "Legal Politics of Regulating Public Participation in the Formation of Law in Indonesia from Time to Time," *Pakuan Law Review* 09, no. 01 (2023): 1–15, https://doi.org/https://doi.org/10.33751/palar.v9i2.

[3] Michele Aprilia Nugraha Putri and Agus Riwanto, "The Form of State Responsibility in Providing Legal Aid to the Poor," *Res Publica: Journal of Public Policy Law* 7, no. 3 (2023): 282, https://doi.org/10.20961/respublica.v7i3.54907.

[4] Delfina Gusman, "The Addition of Ministerial Institutions as the Efficiency and Effectiveness of Government According to State Institutional Theory," *UNES Journal of Swara Justisia* 8, no. 3 (2024): 655–65, https://doi.org/https://doi.org/10.31933/xb14st09.

[5] Putu Eva Ditayani Antari, "Implementation Of The Supervisory Function Of The House Of Representatives In An Effort To Strengthen The Presidential System In Indonesia," *Legal Reflections: Journal of Law* 4, no. 2 (2020), https://doi.org/10.24246/jrh.2020.v4.i2.p217-238.

Article 96 of Law Number 13 of 2022 emphasizes that public participation is a fundamental principle in the formation of laws and regulations that must be carried out meaningfully (*meaningful participation*) through providing access to information, opportunities to express opinions, and involvement in every stage of law formation. However, in the practice of the formation of the State Ministry Law, the participation is not carried out optimally and tends to be procedural, and even allegedly ignores the stages of the formation of laws and regulations as required by the applicable positive law.

This condition creates a *research gap* between the ideal norm that places public participation as an essential element in ensuring the democratic legitimacy of law formation and the empirical reality of the formation of State Ministry Laws that take place quickly and behind closed doors. The absence of adequate public involvement has implications for weak accountability, policy rationality, and consistency in law formation with the principles of a democratic state of law.[6]

The legislative process that is carried out too quickly and without fulfilling the meaningful elements of public participation makes the formation of laws vulnerable to conflict with the principle of people's sovereignty and ignores the values of the state of law as affirmed in Article 1 paragraph (3) of the 1945 Constitution[7]. The absence of such a participatory process ultimately raises serious implications for the democracy index in Indonesia, so it is important to conduct a study as a criticism and avoid the normalization of this kind of policy formation[8].

In addition, the Constitutional Court also showed how public participation should be implemented, namely applied based on formal legal regulations and carried out meaningfully (meaningful participation). The Constitutional Court is of the view that participation is called meaningful if the right to be heard, the right to be considered, and the right to get an explanation or answer to the opinion given (right to be explained) are fulfilled by the lawmakers.[9]

Based on the above context, this study aims to answer two main problems, namely: How is the legal politics of the formation of Law Number 61 of 2024 concerning State Ministries and what are the juridical implications of the formation of a quo law on democracy in Indonesia.

## RESEARCH METHODS

[6] The Ode Muhammad Elwan, "Reconstructs Legislation: The Effectiveness of Presidential Veto in Government System in Indonesia Based on the State of The Republic of Indonesia 1945 Constitution," *Halu Oleo Law Review* 2, no. 2 (2018), https://doi.org/10.33561/holrev.v2i2.4511.

[7] Aryanto Bayu, Harijanti SD, and Susanto Mei, "Initiating the Fast-Track Legislation in the Law-Making System in Indonesia."

[8] Martin Ardanaz, Susana Otálvaro-Ramírez, and Carlos Scartascini, "Does Information about Citizen Participation Initiatives Increase Political Trust?," *World Development* 162 (2023): 106132, https://doi.org/10.1016/j.worlddev.2022.106132.

[9] Angga Prastyo, "Limitation of Meaningful Participation Prerequisites for the Formation of Laws in," *Journal of Law and Judiciary* 11, no. 3 (2022): 405.

The research method used in this study is normative juridical with a statutory *approach* and a conceptual approach. This type of research emphasizes the analysis of primary, secondary, and tertiary legal materials obtained through library *research*.The [10] data used comes from various legal sources, in the form of laws and regulations, scientific literature, and documentation related to the political and legal politics of the establishment of Law Number 61 of 2024 concerning State Ministries. Data collection techniques are carried out systematically through document review and relevant literature review. To maintain the validity of the data, this study uses descriptive-analytical analysis techniques and prescriptive analysis methods that aim to formulate recommendations based on the findings of analysis on the substance of law and legislative practice.

## RESULTS AND DISCUSSION

### 1. Legal Politics of the Establishment of Law Number 61 of 2024 concerning State Ministries

One element that greatly contributes to the creation of good legal products is public participation. Nonet and Selznick explain that the exclusivity of the community's role in the formation of legal products must be seen in a participatory formation process that invites various levels of society, whether directly related to the legal product or not, whether individuals or community groups.[11] This contextual participation must also be aspirational, meaning that public opinion or involvement is assessed and considered further, not only in the context of fulfilling legal obligations.

Participation or "involvement," "involvement," or "participation" is a condition in which all members of a community are involved in determining the actions or policies to be taken regarding their interests. Henk Addink believes that participation is the active involvement of group members in a process within the group.[12] Thus, participation is a requirement that must exist even in countries that adhere to the ideology of popular sovereignty. Public participation is a democratic process that involves people in thinking, deciding, planning, and playing an active role in the development and operation of services that affect their lives. "Community participation is important in the law-making process for local governments because they are the government institutions closest to their citizens and have the potential to improve the quality of community participation.[13]

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[10] Peter Mahmud Marzuki, *Legal Research* (jakarta: Kencana, 2019).

[11] Tanti Kirana Utami et al., "Society and Law Formation: A Critical Analysis of Community Participation in the Legislative Formation Process in Indonesia," *Al-Court: A Journal of Law, Politics and Government* 2, no. 1 (2025).

[12] Pran Mario Simanjuntak, Rizky Julranda, and Sultan Fadillah Effendi, "Quo Vadis: The Urgency of Applying the Principle of Public Participation in the Formation of Laws and Regulations in Indonesia," *The Law Review* 10, no. 9 (2022): 1–10.

[13] Mohammad Syaiful Aris and Radian Salman, "Public Participation in the Law Making Process in Change Era: A Comparative Study between Indonesia (East Java) and the United States (California)," Proceedings of the International Law Conference (SCITEPRESS - Science and Technology Publications, 2017), https://doi.org/10.5220/0010052501510155.

The public has ample opportunity to provide input in the formulation of legislation. In its development, Law Number 13 of 2022 concerning the Second Amendment to Law Law Number 12 of 2011 concerning the Formation of Legislation, revises Article 96, which affirms the right of the public to participate in every stage of the formation of legislation, either individually or in groups, whether directly affected or having an interest in the content of the law. This article also imposes an obligation on legislators to convey information openly to the public through various participatory methods. Although normatively this regulation is progressive, in practice its implementation still leaves room for uncertainty due to the absence of clear parameters regarding the form and quality of public participation. This condition is clearly reflected in the process of drafting the State Ministry Law, which was carried out quickly and with minimal public involvement, thus not fully reflecting the stages of drafting legislation as required by Article 96 of Law Number 13 of 2022. As a result, there is a discrepancy between the ideal public participation norms envisioned by lawmakers and the actual legislative practices, which ultimately undermines the democratic legitimacy and accountability of the process of drafting the State Ministry Law.

Previously, it has been seen that within the framework of the principle of openness, various efforts to involve the public in the process of forming laws and regulations often end in a form of pseudo-participation or *meaningless participation*. In fact, Article 96 of Law Number 12 of 2011 which has been amended has not shown the significance of optimal public participation, especially because there is no strict obligation for lawmakers to openly explain the consideration of public input received and rejected. This normative and implementive weakness is reflected in the process of forming the Law of the Ministry of State which tends to ignore the substance of public participation, so that public involvement does not function as a mechanism of democratic control, but is merely a procedural complement.

Understanding the legal politics of the formation of laws and regulations is also not limited to formal factors alone, but also intertwined with the substance of what is regulated in it. Reading the substance of the policy leads to the knowledge of the conformity between the goals to be achieved of a policy and the content that leads to the specified achievements.

The reading as described above, to get an overview of the relationship between legal and political elements. In the context of policy, these two elements have magnets that pull each other and influence each other. Political and legal relations are mutually determinant relationships whether the legal element is stronger or weaker than the political element in the process of giving birth to a policy. The relationship between the two is very unique where law without politics will only create a law without legs aka cannot work, on the other hand, politics without law will only create tyranny and arbitrariness that leads to injustice and damage.

If in general explanation the formation of this Law is to create an effective government system and reach all complex problems that arise in society, then it is necessary to dive into the substance of this Law to see the consistency between the objectives and the way regulated in it.

Based on the analysis that has been carried out, it was found that changes to Article 15 of the Law on State Ministries before the amendment that stipulates the maximum number of 34 ministries are considered to limit the President's flexibility in compiling the cabinet according to the needs of the government which was initially intended to encourage bureaucratic efficiency. This situation shows that there is a tension between the principle of bureaucratic efficiency and the adaptive needs of dynamic government.[14] In the context of national socio-economic development and the complexity of government affairs, limiting the number of ministries is often seen as hindering the effectiveness of achieving state goals.[15] In response to these dynamics, the government and the House of Representatives established Law Number 61 of 2024 concerning State Ministries which replaced several provisions in Law Number 39 of 2008.

Through the lens of legal politics, the change can be normatively understood as an effort to strengthen the effectiveness of government and legal certainty in carrying out executive functions. However, the reading of legal politics does not stop at the normative level, but also examines the reality of power and the political motives behind the formation of law. Mahfud MD defines legal politics as legal policy that is designed through a political process to achieve certain goals.[16] In this context, every law is the result of the design of a political institution that is full of compromises, power preferences, and strategic interests of the rulers. This means that the formation of Law Number 61 of 2024 cannot be separated from the political dynamics of power that surrounds it.

Constitutional Law Expert Prof. Rudy Lukman said that developed countries usually have a smaller number of ministries.[17] This is due to the merger of various government affairs into larger and more efficient ministries. When compared to large countries such as the United States which only has 13 ministries, or China with about 20 ministries, the number of ministries in Indonesia that tends to continue to increase shows the potential for a significant coordinating burden. The larger the cabinet structure, the more complex the challenges of inter-agency coordination, which can ultimately hinder the effectiveness of government.[18] Instead of providing a solution, the addition of

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[14] Linda Widowati, Kristina Setyowati, and Didik Gunawan Suharto, "Dynamic Governance As Perspective in Indonesian Bureaucracy Reform: Qualitative Analysis of Indonesian Bureaucracy Reform Based on Dynamic Governance," *Journal of Bina Praja* 15, no. 2 SE-Articles (August 31, 2023): 403–15, https://doi.org/10.21787/jbp.15.2023.403-415.

[15] Lailani Sungkar et al., "The Urgency of Formal Testing in Indonesia: Testing Legitimacy and Validity," *Constitution Journal* 18, no. 4 (2022), https://doi.org/10.31078/jk1842.

[16] Muhammad Jeffry Rananda, "The Legal Politics of Government Regulation in Lieu of Law of the Republic of Indonesia Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors," *FIAT JUSTISIA: Journal of Legal Science* 9, no. 4 (2016): 534–42, https://doi.org/10.25041/fiatjustisia.v9no4.611.

[17] Krisyando Kelmaskosu and Umbu Rauta, "The President's Power in Forming the Cabinet According to the Presidential System," *USM Law Review* 8, no. 1 (2025): 143–57.

[18] Muhammad Ridha Ramadhan and Mirza Satria Buana, "Dynamics of Legal Politics in the Fat Cabinet of Ministries in Indonesia," *Collaborative Journal of Science* 8, no. 5 (2025): 2397–2405.

ministries actually creates new obstacles that hinder bureaucratic reform efforts.[19] In addition, the addition of ministries has implications for the waste of resources and has the potential to cause policy overlap as said by Felia, a Researcher in Politics at *The Indonesian Institute Center for Public Policy Research*.

**Table 1.**
**Comparison Table of The Number of Ministries In Different Countries.**

| COUNTRY | INSTITUTIONS THAT ARE COUNTED | TOTAL (± 2024–2025) | QUICK NOTES | MAIN SOURCE |
|---|---|---|---|---|
| **INDONESIA** | State ministries (including coordinating ministries) | 48 | It is regulated in Presidential Regulation 139 of 2024 concerning the Arrangement of Duties and Functions of Cabinet State Ministries 2024–2029. | Cabinet secretary of the republic of indonesia; wikipedia "list of ministries in indonesia" |
| **MALAYSIA** | Ministries under the Federal Government (Madani Government) | 31 | After Anwar's cabinet restructuring, some sources say "the Madani government now has 31 ministries"; The government project news also refers to 31 ministries. | Bfm/sinar daily on cabinet reshuffle; malaysian reserve, news of project implementation of 31 ministries |
| **SINGAPORE** | Ministries (kementerian) | 16 | The Singapore government has consistently stated that there are 16 ministries in the Singapore Public Service/Government. | Careers@gov "the singapore public service"; oecd "*budgeting in singapore*" |
| **JAPAN** | 12 ministries (plus Cabinet Office) | 12 | Central government structure: Cabinet Office + 12 ministries that deal with key policy areas. | Japanese embassy (government structure profile); mec *country profile japan* |
| **GERMANY** | Federal ministries | 15 | The German federal government is generally described as consisting of 15 federal ministries plus the Chancellery's Office. | Situs bundesregierung (hari persatuan jerman); oecd *reviews of innovation policy*: germany 2022 |
| **UK (UK)** | Ministerial departments | 24 | The British government said there are 24 "ministerial departments" at the central level, in | Gov.uk "how government works"; wikipedia "*government of the united kingdom*" |

[19] Gusman, "The Addition of Ministerial Institutions as the Efficiency and Effectiveness of Government According to State Institutional Theory."

| | | | | |
|---|---|---|---|---|
| **UNITED STATES** | Federal Executive Departments (Padanan Kementerian) | 15 | addition to 20 non-ministerial departments. The 15 executive departments (state, treasury, defense, etc.) Are functionally equivalent to ministries in the parliamentary system. | Wikipedia "united states federal executive departments"; fdlp resource guide (*executive branch*) |

The number of ministries in Indonesia currently stands at 48, which is a relatively large number compared to a number of other countries. Malaysia has about 31 ministries, Singapore 16, Japan 12, Germany 15, the United Kingdom 24, and the United States 15. These differences suggest that Indonesia's governance structure tends to be broader and more complex, which may reflect the government's efforts to accommodate diverse development sectors and the country's large and pluralistic character [20].

Countries such as Japan, the United States, and Singapore have fewer ministries, but show a tendency towards the efficiency of government structures through the incorporation of more centralized functions and coordination. Thus, compared to other countries, Indonesia still faces challenges in simplifying bureaucracy and increasing the effectiveness of ministry governance so that it is not only large in structure, but also optimal in performance.[21]

This large ministerial quota opens up space for the ruler to place his political partners who have supported him during the campaign in cabinet seats, as well as as an instrument of political consolidation. This phenomenon is often used as a strategy of political accommodation for supporting parties, thereby creating a *transactional pattern of power sharing* as a form of reciprocity for political support in elections.[22]

Judging from the principles of the formation of laws and regulations as stated in Article 5 of Law Number 12 of 2011, especially the principle of openness, the revision of the State Ministry Law is clearly formally ineligible. The closed legislative process and minimal public participation show that the formation of Law No. 61 of 2024 is not guided by the principles of substantive democracy, but rather reflects elitist and exclusive legal political practices.[23]

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[20] Ernawati Huroiroh et al., "Socio-Justice: Journal of Law and Social Change THE CONCEPT OF A FEDERATED STATE IN THE FRAMEWORK OF THE UNITARY STATE OF THE REPUBLIC OF INDONESIA," *Socio-Justice : Journal of Law and Social Change* 2, no. 1 (2022): 18–41.

[21] Ramadhan and Buana, "Dynamics of Legal Politics in the Fat Cabinet of Ministries in Indonesia."

[22] Chelsea Johnson, "Political Power Sharing in Post-Conflict Democracies: Investigating Effects on Vertical and Horizontal Accountability," *Democratization* 30, no. 6 (August 18, 2023): 1135–59, https://doi.org/10.1080/13510347.2023.2214085.

[23] Jurnal Hukum and I U S Quia, "Meaningful Participation as People's Sovereignty Form in Democratic Rule of Law State," *Ius Quia Iustum Legal Journal* 31, no. 2 (2024): 337–57, https://doi.org/https://doi.org/10.20885/iustum.vol31.iss2.art5.

The establishment of the Law on State Ministries is essentially a manifestation of the mandate of Article 17 paragraph (4) of the 1945 Constitution of the Republic of Indonesia, which explicitly requires that the establishment, amendment, and dissolution of state ministries must be regulated through law. This provision was born from the constitutional spirit to organize the executive power structure in a more measurable and accountable manner. However, if the revision of the 2024 State Ministry Law is critically examined and compared with the *original intent* of the constitutional norm, it is clear that there is a significant paradigm shift. The drafters of the 1945 Constitution wanted a mechanism to limit the President's authority in forming ministries, as part of the principle of *checks and balances*.[24] Ironically, the revision agreed by the House of Representatives with the President actually opens up almost unlimited room for freedom, thus obscuring the function of the restrictions. The inconsistency between the revised content and the constitutional intent shows that this legal product, according to the Indonesian Legal Aid Foundation (YLBHI), represents more of a calculation of the interests of the political elite than an answer to the objective needs of the community.

Satjipto Rahardjo explained that in the relationship between the political subsystem and the legal subsystem, politics has a greater concentration of energy, so the law tends to be in a weak position.[25] This inequality is reflected in the process of law formation, where political power is the determinant of the law, not the other way around, as stated by Mhfud MD. Because of the stronger political energy and political intervention against the law, legal autonomy is often under political pressure. One consequence is that law, which is supposed to be an instrument of regulating and limiting power, in practice is often defeated by pragmatic and instrumental political logic.[26] Thus, politics holds a stronger position that determines the final form of legal products, so that law reflects more of the result of a compromise of political interests, rather than as a firm and strict rule to enforce the rules and justice of the state.

Overall, the process of forming Law Number 61 of 2024 concerning State Ministries shows a real inequality between normative goals and the political reality that occurs. The hasty legislative process, the lack of public participation and the substance of norms that are not coherent with the goals to be achieved indicate that legal development in Indonesia is not fully democratic but rather reflects an authoritarian form of government, this can be seen from the relationship between law and politics which shows an elitist and authoritarian political determination and tends to ignore the public interest.

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[24] Diyar Ginanjar Andiraharja, "Judicial Review by the Constitutional Court as a Function of Constitutional Adjudication in Indonesia," *Khazanah Hukum* 3, no. 2 (2021), https://doi.org/10.15575/kh.v3i2.9012.

[25] Lintje Anna Marpaung, "THE INFLUENCE OF LEGAL POLITICAL CONFIGURATION ON THE CHARACTER OF LEGAL PRODUCTS (A Study in the Legal Development of Local Government in Indonesia)," *Legal Institutions* 7, no. 1 (2022): 1–14.

[26] Erham Erham, Aman Ma'arij, and Gufran Gufran, "Discourse on Power Restriction in Indonesia in the Perspective of Constitution and Constitutionalism," *Legality: Journal of Law* 16, no. 1 (2024): 72, https://doi.org/10.33087/legalitas.v16i1.595.

## 2. Juridical Implications of the Formation of Laws of the Ministry of State on the Non-Fulfillment of Meaningful Participation

In the formation of a law, the existence of meaningful public participation is the main foundation that determines the quality and legitimacy of the regulation. As emphasized by Muhammad Nur Sholikin, without active public involvement and comprehensive studies, the policies that are born tend to lose their direction and benefits for the public.[27] This is crucial considering that the policies outlined in the form of laws and regulations are basically aimed at the wider community as the main object.[28]

Bivitri Susanti, a lecturer at the Indonesian Jentera College of Law (STH), underlined that there are at least three fundamental reasons why public participation must be integrated in the regulatory formation process.[29] *First*, participation is a manifestation of Pancasila democracy which is deliberative and substantive in nature, not just a procedural representative democracy. *Second*, public participation functions as a corrective mechanism to prevent the birth of problematic legislation, both because it does not target the root of the problem and because it is influenced by the short-term interests of legislators. *Third*, each policy produced has the potential to have a different impact on various groups of society, so public involvement is an important instrument to ensure regulatory justice.

Constitutional Court Decision Number 91/PUU-XVIII/2020 details three fundamental rights in meaningful participation, namely: the right *to be heard*, the *right to be considered*, and the right to obtain an explanation or answer to the opinion that has been submitted (*right to be explained*).[30] However, in practice, the legislative process in Indonesia still shows a serious deficit in accommodating meaningful public participation.[31] This is clearly reflected in the revision of Law Number 61 of 2024 concerning State Ministries which was carried out quickly and behind closed doors, without adequate public deliberation space. Through the above conditions, four main juridical implications can be identified that arise from the non-fulfillment of the principle of meaningful participation in the formation of laws, namely the following:

### 2.1. Delegitimization of legal products

The delegitimization of legal products occurs when the law loses the socio-political foundation that should be born from mutual agreement with the community.

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[27] Syafril and Sjarif, "Legal Politics of Regulating Public Participation in Law Formation in Indonesia from Time to Time."

[28] Angga Prastyo, "LIMITATION OF MEANINGFUL PARTICIPATION REQUIREMENTS IN THE INDONESIAN LAW-MAKING PROCESS," *Journal of Law and Justice* 11, no. 3 (2022), https://doi.org/10.25216/jhp.11.3.2022.405-436.

[29] Prastyo.

[30] Ali Imran Nasution and Rahmat Bijak Setiawan Sapii, "Actualization of the Concept of Meaningful Participation in the Formation of Laws and Regulations," *Surya Kencana Dua Journal: The Dynamics of Legal and Justice Issues* 9, no. 2 (2022), https://doi.org/10.32493/skd.v9i2.y2022.26207.

[31] Sri Hajiba et al., "Analysis of the Application of the Principle of Meaningful Participation in the Formation of Laws and Regulations for Comparative Studies of Indonesia and Sweden" 1, no. 2 (2025).

The product of legislation is seen by the public not as a tool of social engineering for justice, but as an instrument of strengthening power or selecting certain elites.[32] Under such conditions, the law loses its moral authority in the eyes of the people and turns into a "law without the people," that is, a normative construction that is not rooted in the public will. Legal delegitimization not only weakens public trust in legal products, but can also trigger the disintegration of public trust in the state as a whole. This legal delegitimization is the starting point for the disintegration of public trust that can ultimately lead to the delegitimization of the state itself.

### 2.2. Shift in political configuration from democracy towards authoritarianism

Community participation is a prerequisite and representation for the realization of a democratic government. In this context, the formation of Law No. 61 of 2024, which was carried out quickly and behind closed doors, reflects the practice of elitist and exclusive legal politics. For Philipus M. Hadjon, the formation of laws dominated by legislative and executive powers without adequate space for public deliberation shows an unaccountable centralistic tendency.[33] As a result, the political configuration that was originally democratic has the potential to shift towards a pattern of authoritarianism.

Legal products born from this kind of process no longer function as an instrument of justice, but as a political tool to extend the life of power. When the government monopolizes the law, the law is reduced to a protector of the interests of the elite, not as a guardian of the interests of the people.[34]

The pattern of shifting democratic political configuration towards authoritarianism puts Indonesia at risk of repeating the dark history of authoritarian political configurations that have occurred in the past.[35] Democracy that was fought for so hard after the reform can slip back into a repressive system, where the people are only spectators in legal dramas that they did not write. From a juridical perspective, this condition shows that the law has lost its deliberative character and has turned into an instrument of power that is far from the principle of a democratic state of law.[36]

### 2.3. Violation of the Principles of Good Legislation

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[32] Khudzaifah Dimyati et al., "Indonesia as a Legal Welfare State: A Prophetic-Transcendental Basis," *Heliyon* 7, no. 8 (2021): e07865, https://doi.org/10.1016/j.heliyon.2021.e07865.

[33] Rizki Rahayu Fitri and Adventi Verawati Sembiring, "The Lack of Substantive Role of the House of Representatives in the Rpjpn," *GRONDWET : Journal of Constitutional Law & State Administrative Law* 4, no. 2 (2025): 110–25.

[34] Erick Darmansyah Rasji, "LEGAL ANALYSIS OF THE EXPANSION OF MONOPOLY RIGHTS TO STATE-OWNED ENTERPRISES BY THE PRESIDENT: A STUDY BASED ON THE PERSPECTIVE OF LEGAL PHILOSOPHY," *Lex Generalis Law Journal* 5, no. 10 (2025): 1–18.

[35] Arina Rohmatul Hidayah et al., "Shifting from Religious Populism to Authoritarian Populism: Two Decades of Identity Politics Dynamics in Indonesia," *Social Sciences* 14, no. 1 (2025), https://doi.org/10.3390/socsci14010045.

[36] Megawati Megawati and Absori Absori, "The Deliberation Of Pancasila Democracy Perpective In The Indonesian Constitutional System," *Journal of Hunan University* 20, no. 3 (2021), https://doi.org/10.17051/ilkonline.2021.03.37.

In constitutional law, the principle of regulatory formation serves to ensure that regulations are not only legally valid, but also meaningful and effective for the community. Violations of these principles reflect a deviation from the principle of a democratic rule of law.

First, the principle of openness requires a transparent and participatory legislative process. However, Law No. 61 of 2024 was passed only eleven days after discussion without room for public deliberation, violating the principle of meaningful participation as affirmed by the Constitutional Court Decision No. 91/PUU-XVIII/2020**.** Second**,** the principle of clarity of purpose is violated through the multi-interpretation phrase "the need for government administration," which opens up opportunities for deviation and makes regulation a tool of power, not a means of welfare. Third, the principle of clarity of formulation requires that every norm in the law be formulated in clear, systematic, and easy-to-understand language so as not to cause multiple interpretations and legal uncertainty in its implementation.[37] Ambiguity in the formulation of norms can have fatal consequences for the effectiveness of the implementation of regulations, as reflected in the Law on State Ministries, especially related to the prohibition of dual positions. Overall, violations of these principles not only create formal defects, but also erode the legitimacy of the law. Laws that lose openness, direction, and social benefits are only procedurally legitimate, but morally hollow.[38]

### 2.4. Potentially unconstitutional both formally and materially

As a result of the violation of the principles of the formation of laws and regulations in Law Number 61 of 2024, the law has the potential to be unconstitutional formally and materially. Formal unconstitutionality arises when the process of forming a law fails to meet the constitutional procedures that are expressly regulated as a condition for the legality of legal products. The hastily legislative process, lack of transparency, and zero public participation, such as what happened in Law No. 61 of 2024 which was passed in a short time without a space for public discussion, has injured the principle of openness which is the absolute foundation in the formation of laws. Jimly Asshiddiqie emphasized that obedience to legislative procedures is an absolute prerequisite for a legal product to acquire legal force and democratic legitimacy. Therefore, violations in this process open up opportunities for the Constitutional Court to test and potentially invalidate the law if serious violations are found in its formation mechanism. (Adolph, 2025)

The impact of these two forms of unconstitutionality is not only normative but also practical: the legal uncertainty that arises weakens the legitimacy and effectiveness of the rules, can even interfere with the smooth administration of government and

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[37] Agung Barok Pratama and Arum Sekar, "The Conflict of Legal Norms: Islamic Law and Positive Law in the Regulation of Alcoholic Beverages in Pekalongan City," *Al-Mazaahib: Journal of Comparative Law* 12, no. 2 SE-Articles (December 15, 2024): 165–83, https://doi.org/10.14421/al-mazaahib.v12i2.3671.

[38] Christopher A Thomas, "The Uses and Abuses of Legitimacy in International Law," *Oxford Journal of Legal Studies* 34, no. 4 (November 28, 2014): 729–58, http://www.jstor.org/stable/24562832.

undermine healthy and accountable state governance.[39] Therefore, it is important to ensure that any law-making process is not only procedurally legitimate, but also substantially aligned with constitutional values.[40] Only in this way can the legal stability and protection of the constitutional rights of the community be fully maintained.

## CONCLUSIONS AND SUGGESTIONS

The legal politics of the establishment of Law Number 61 of 2024 concerning State Ministries shows a real inequality between normative goals and the political reality that occurs. The hasty legislative process, the lack of public participation and the substance of norms that are not coherent with the goals to be achieved indicate that legal development in Indonesia is not fully democratic but rather reflects an authoritarian form of government, this can be seen from the relationship between law and politics which shows an elitist and authoritarian political determination and tends to ignore the public interest.

The establishment of the State Ministry Law which is carried out quickly and behind closed doors without adequate public participation has caused serious implications, ranging from the weakening of legal legitimacy, the shift in democratic practices towards a less accountable pattern, to the violation of the basic principles of the formation of regulations which have an impact on the risk of unconstitutionality and the threat of protecting the constitutional rights of citizens. For this reason, the government and lawmakers need to consistently uphold the principles of openness and public participation in every stage of legislation, including in the process of revising the Law of State Ministries by placing the quality of regulations above short-term political interests, as well as strengthening the involvement of academics and civil society through structured and meaningful participation mechanisms so that the legislation process runs more deliberatively. transparent, and in accordance with the principles of a democratic state of law.

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