

## Elaboration of The Meaning of Public Participation in The Formation of Laws and Regulations Post The Decree of The Constitutional Court Number 91/PUU/XVIII/2020

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### Abstract

*The concept of public participation appears in Law No. 10/2004 on the Formation of Legislation, which is then regulated in Article 96 of Law No. 12/2011 jo Law No. 15/2019 on the Formation of Legislation. However, until now no further regulations on public participation have been issued. As a result, there is no standard mechanism to be referred to by lawmakers, so the involvement of the public is only a formality. Decree of the Constitutional Court (MK) Number 91/PUU-XVIII/2020 provides a meaningful view of how to measure public participation to be recognized as eligible for lawmaking. The purpose of this research is to find out the ideal concept of meaningful participation in the formation of laws and regulations in Indonesia in accordance with the mandate of the Constitutional Court Decree Number 91/PUU/XVIII/2020. To ensure that every legislation issued gives a sense of justice and accommodates the people's interests. The method used in preparing this research is a juridical- normative approach, namely by examining various laws and technical conditions related to public participation and the formation of laws and regulations. The result of this research is to find benchmarks and clarity of the concept of ideal public participation that provides legal certainty for the community as desired by the decision of the Constitutional Court Number 91/PUU-XVIII to fulfill the requirements for drafting laws in order to create real public participation, to ensure that the legislators are not caught up in mere formal public participation. This research is limited to the elaboration of the meaning of public participation in accordance with the mandate of the Constitutional Court's decree to be applied in the process of forming laws and regulations. This research provides an insight into the meaning of ideal public participation and accommodates the people's interests.*

Keywords: *Public Participation, Democracy, Lawmaking.*

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## I. INTRODUCTION

Indonesia is a country that adheres to Pancasila democracy, the definition of Pancasila democracy according to C.S.T. Kansil is a democracy led by wisdom in deliberation and representation, which is the fourth principle of the Pancasila State foundation as stated in the 4th paragraph of the opening of the 1945 Constitution.<sup>1</sup> So that it becomes

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<sup>1</sup> C.S.T. Kansil, Introduction to Indonesian law and legal system, Jakarta: Balai Pustaka, 1984, p. 67.

an obligation in carrying out democracy, decision making must be preceded by listening to opinions and aspirations, especially from *stakeholders* and experts who are directly related to the decision.

In the theory of the rule of law, the State has political power and if there is no control from the people, it will result in violations of people's rights. One of the "infrastructures" owned by the state is legislation. Therefore, it is important to protect, guarantee fair legal certainty over the rights of the people in the formation of laws and regulations.

In the formation of laws and regulations, the Law is not made in a neutral state or situation, but in the dynamic conditions of the life of the wider community with all its complexities. This means that the community that will be addressed by laws and regulations faces various limitations in accepting the presence of a law and regulation. A law that is made unilaterally by the legislator is very likely to be rejected because it is not in accordance with the sense of justice in society. For this reason, the important role of the community in the process of forming laws and regulations is needed. Participatory democracy is expected to better ensure the realization of responsive legal products, because the community participates in making and owning the birth of a legislation.<sup>2</sup>

Therefore, in the process of law formation, it should be able to accommodate the aspirations of the existing community. Not the other way around, it is detrimental to the people affected by the application of a law and regulation.<sup>3</sup>

Public participation in the formation of laws and regulations is not an activity that removes power or reduces the authority of the legislators. Public participation in the formation of laws and regulations should be seen as part of the democratization process of the formation of laws and regulations, which is a form of step to strengthen legitimacy and make laws and regulations have strong social roots so that the public can accept these laws and regulations.

According to Alexander Abe as quoted by Sirajuddin and friends in his book entitled Legislative Drafting Institutionalization of Participatory Methods in the Formation of Legislation, states that:<sup>4</sup>

"Participation is not enough for just a few people sitting in representative institutions because institutions and people sitting in representative institutions often use politics in

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<sup>2</sup> Saifudin, Public Participation in the Formation of Legislation, Yogyakarta, FH UII Press, 2009, pp. 33.

<sup>3</sup> Otje Salman and Anthon F. Susanto, Legal Theory, Remembering, Collecting and Reopening, Bandung, Refika Aditama, 2007, pp. 104-105.

<sup>4</sup> Sirajuddin, Legislative Drafting Participatory Methods in the Formation of Legislation, Malang, Setaraperss, 2016, p. 237. 237.

the name of the people's interests to fight for their own personal or group interests. Direct participation of the people will bring three important impacts, namely: first, avoiding opportunities for manipulation of people's involvement and making it clear what the people want; second, adding value to the legitimacy of planning formulations. The greater the number of those involved the better; and third, it increases people's political awareness and skills."

One form of control from the community is participation by the community, namely community involvement in the formation of laws. The existence of the widest possible space for the community to be able to participate in the formation of laws is a necessity in a democratic system that places the people as the holder of sovereignty in the state. This is in line with Article 28 of the 1945 Constitution of the Republic of Indonesia which states,

"The freedom of association and assembly, of expression of thought orally and in writing, etc., shall be established by law."

The concept of public participation appears in Law No. 10/2004 on the Formation of Legislation, which is then regulated in Article 96 of Law No. 12/2011 jo Law No. 15/2019 on the Formation of Legislation. However, until now there has been no further regulation on public participation. As a result, there is no standard mechanism that is referred to by lawmakers, so that public involvement is only a formality.

Referring to the Law on the Formation of Legislation and the Rules of Procedure of the House of Representatives, the mechanism of community involvement is only interpreted through working visits, public hearings, workshops, aspiration houses during recess, and the like. These mechanisms of participation do not substantively represent the interests of the community. According to Sherry Arnstein, in her book *A Ladder of Participation* (1969), there are several models of participation that should be watched out for:

- a. Manipulative participation, which only places community elements in cooperation that is merely coaching or public relations in nature.
- b. Participation that places citizens as parties who must be treated because of their lack of capacity and access to information. For example, citizens who report the impact of certain policies, instead of being resolved, their reports are referred to other institutions whose job is to manage complaints.
- c. Participation that places citizens as targets of information. Although the information initiative must be appreciated, the mechanism is still one-way and not dialogic. The information provided is still superficial and does not seek to solve the problems experienced by residents.

- d. Participation as a model of public consultation. In the decision-making process, the community has been involved, although there is no guarantee that their input will be considered in the policy.

On November 25, 2021, the Constitutional Court through its decision Number 91/PUU-XVIII of 2020 has stated that Law Number 11 of 2020 concerning Job Creation is declared Conditionally Unconstitutional.

The Constitutional Court in the decision considered that the process of forming the Job Creation Law was not based on the means and methods, as well as the systematics of the formation of laws, then there were changes in the writing of several substances after the joint approval of the DPR and the President which were contrary to the principles of the formation of laws and regulations, so that the Constitutional Court stated that the formation process of Law No. 11 of 2020 did not fulfill the provisions of the 1945 Constitution so that it had to be declared Formally Defective.

The conditional unconstitutional foundation was decided by the Constitutional Court on the grounds that the Constitutional Court must balance the requirements for the formation of laws that must be fulfilled as formal requirements so as to give birth to laws that have legal certainty, expediency and justice and consider the strategic objectives of the establishment of the Job Creation Law.

Through this decision, the Constitutional Court for the first time declared the formation of a law formally defective. In one of its legal considerations, the Constitutional Court argues that the drafting of the Job Creation Law is not in accordance with the provisions of the principles of the formation of laws and regulations, namely the principle of openness. Referring to the Explanation of Article 5 letter g of Law 12 of 2011 concerning the Formation of Laws and Regulations, what is meant by the principle of openness is that in the formation of laws and regulations, starting from planning, preparation, discussion, ratification or stipulation, and promulgation, it is transparent and open. Thus, all levels of society have the widest possible opportunity to provide input in the formation of laws and regulations.

Public participation is certainly intended so that ideas for the formation of laws do not always have to come from the government alone, but can also come from the aspirations of the community. In addition, every stage of the law-making process must always accommodate public participation to provide opinions, both directly and indirectly, even through information technology media. The public must be given a wide opportunity to express their opinions on all provisions of the law that will later regulate and bind the community.

The understanding of meaningful public participation is still debatable, and has led to various interpretations, so there is no legal certainty. Therefore, there is a need for clarity regarding the measure of meaningful public participation as desired by the Constitutional Court Decision Number 91/PUU-XVIII in order to fulfill the requirements of lawmaking.

## **II. METHODOLOGY**

This research uses a normative juridical or normative legal approach method. This research method is a library legal research method where the method or method used in legal research is carried out by examining existing library materials (Soekanto and Mamuji, 2009). The first stage of normative legal research is research aimed at obtaining objective law (legal norms), namely by conducting research on legal issues. The second stage of normative legal research is research aimed at obtaining subjective law (rights and obligations).

## **III. RESULT AND DISCUSSION**

### **A. The Meaning of Public Participation in the Constitutional Court Decision (MK) No. 91/PUU/XVIII/2020**

According to Article 1 Paragraph 3 Chapter 1 of Law Number 13 Year 2003 on Manpower, worker or labourer refers to any individual who performs work by receiving wages or compensation in other forms. However, there is a category referred to as an independent worker, which involves a person who performs work for his or her own benefit, such as a doctor who opens a private practice, a lawyer, a satay seller in his or her own cart, or a farmer who works his or her own rice field. The definition of labour includes individuals who work for others or for themselves for the purpose of producing goods or services to meet their daily needs, as long as they meet the age requirements set by law. People are considered labourers if they have reached working age, which in Indonesia is between 15 and 64 years old (Khair, 2021).

The Constitutional Court (MK) stated that the process of forming the Job Creation Law (Ciptaker) was problematic. The Constitutional Court considered that the legislators, namely the DPR, did not provide maximum space for public participation. "Meanwhile, with regard to the principle of openness, the trial revealed the fact that the legislators did not provide maximum space for public participation," reads the Constitutional Court's decision read out by the

constitutional judges in turn at the Constitutional Court session on November 25, 2021.<sup>5</sup>

Although meetings were held with various community groups, these meetings did not discuss the academic paper and material changes to the law that had been made by the DPR.<sup>6</sup> The Constitutional Court stated that this meant that the communities involved in the meetings did not know what amendments would be included in Law 11/2020. As stated in Decision No. 91/PUU/XVIII/2020, references to public participation can be found in between: First, in paragraph 3.17.8, the Constitutional Court mentions the importance of public participation in the formation of laws as a constitutional mandate that places the principle of popular sovereignty as the main pillar of the state, as stated in Article 1 paragraph (2) of the 1945 Constitution.<sup>7</sup>

This is a direct impact of the method of law formation used by lawmakers. Where, the Job Creation Law is a law formed using the Omnibus Law method to replace or revoke some legal materials in various laws that regulate many sectors. This method, at least, has an influence on 78 (seventy-eight) laws, covering 10 clusters.<sup>13</sup> The number of changes in regulations that are piled up in a law will certainly affect the focus of the lawmakers, thus ignoring the people who are directly affected by it.

In the sociological validity of a law, the principle of recognition is known, which relates to the knowledge of the regulated legal subject about the existence and binding force and the obligation to submit to the legal norms that will be made. Therefore, in the formation of a law, in addition to the lawmakers having to provide space for the public to be able to know from the beginning the possible impacts of the formation of the law, public participation is needed as a form of supervision in ensuring that the interests of the community are not ignored by the lawmakers.

For this reason, the Constitutional Court's decision then states that the establishment of the Job Creation Law violates the provisions of the 1945 Constitution and does not have conditional binding legal force (conditionally unconstitutional). The legislator is required to make improvements within a

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<sup>5</sup> MK: Framers of Ciptaker Law Did Not Provide Maximum Space for Public Participation", <https://news.detik.com/berita/d-5827692/mk-pembentuk-uu-ciptaker-tak-beri-ruang-partisipasi-publik-secara-maksimal>.

<sup>6</sup> Constitutional Court Decision No. 91/PUU/XVIII/2020 p. 120.

<sup>7</sup> *Ibid.* p. 392.



maximum period of 2 (two) years after the decision is read out. If not corrected, then the consequences of the law become permanently unconstitutional.

This decision became a monumental decision (landmark decision), where for the first time the Constitutional Court granted a formal review of a law by declaring the establishment of a law formally defective. In its legal reasoning, the Constitutional Court argued that the formation of the Job Creation Law violated 3 (three) provisions, namely:<sup>8</sup>

- a. Formation of laws that are not based on definite, standardized, and standardized methods in accordance with the provisions of the PPP Law.
- b. Changes in the substance of the law after the stage of joint approval between the DPR and the President;
- c. Does not fulfill the principle of openness in the formation of laws and regulations.

Referring to the Elucidation of Article 5 letter g of the PPP Law, what is meant by the principle of openness which is used as one of the considerations by the Constitutional Court above is that the formation of laws and regulations starting from planning, drafting, discussing, authorizing or stipulating, and promulgating are transparent and open. This means that in this decision, the Constitutional Court places public participation in providing the widest possible input as the main prerequisite for the process of forming a law.

Furthermore, the Constitutional Court stated that public participation in the formation of laws must be carried out in a meaningful manner (meaningful participation). The goal is to create genuine public participation. Here is the Constitutional Court's opinion regarding this matter.<sup>9</sup>

"Public participation needs to be carried out in a meaningful manner (meaningful participation) so as to create / realize real public participation and involvement. 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."

The meaningful public participation described by the Constitutional Court above is in line with the concept of meaningful participation put forward by Marina

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<sup>8</sup> *Ibid.* P. 412.

<sup>9</sup> *Ibid.* P. 393.

Apgar and Jodie Thorpe who said, "meaningful participation is dependent on people being willing and able to participate and express their voice".<sup>10</sup> In this sense, the willingness and ability of the community to be represented is the benchmark for the creation of meaningful participation.

The expansion of the meaning of participation in the Constitutional Court's decision is even more apparent when juxtaposed with the PPP Law as amended by Law 13 of 2022, which provides regulations on public participation in the formation of current laws. Article 96 of that law only mentions the phrase public participation without the phrase "meaningful". In addition, public participation in the PPP Law is intended for people who have an interest in the bill to provide oral and written input through Public Hearings (RDPU), working visits, socialization, seminars, workshops or discussions.

The provisions in the PPP Law above do not explicitly guarantee participation for "people who have concerns" as described in the Constitutional Court's decision. Guarantees are only given to individuals or groups that have an interest in the substance of the Bill. If guided by the explanation of Article 96 paragraph (3), it is stated that those included in "groups of people" include community groups/organizations, professional organizations, non-governmental organizations registered with the competent ministry, customary law communities, and persons with disabilities. This means that there is no certainty for people who have concerns to be involved in the formation of laws, because those who have interests are not necessarily consistently concerned while those who are concerned definitely have interests. In addition, the restriction on non-governmental organizations registered with the authorized ministry is a barrier for many community groups. In fact, guarantees from lawmakers to the concerned public are the main prerequisite for full and meaningful participation.

Furthermore, the Constitutional Court said that public participation is guaranteed as a constitutional right based on Article 27 paragraph (1) and Article 28C paragraph (2) of the 1945 Constitution, which provides opportunities for citizens to participate in the administration of government and the development of society, nation and state, so that if lawmaking closes or prevents the public from

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<sup>10</sup> Marina Apgar and Jodie Thorpe, "What Is Participation?" accessed January 13, 2023, <https://www.eldis.org/keyissues/what-participation>.



participating in discussing and debating its contents, it can be said that the lawmaking process has violated the principle of popular sovereignty.<sup>11</sup>

Second, the Court explained that doctrinally, public participation in lawmaking aims to, inter alia, (i) create a strong collective intelligence that will provide better analysis of potential impacts and broader consideration in the legislative process for an overall higher quality outcome, (ii) build a more inclusive and representative legislature in decision-making,

(iii) increase citizens' trust and confidence in the legislature, (iv) strengthen legitimacy and collective responsibility for decisions and actions, (v) increase citizens' understanding of the role of parliament and parliamentarians, (vi) provide opportunities for citizens to express their interests; and (vii) create a more accountable and transparent parliament; (vi) providing opportunities for citizens to express their interests; and (vii) creating a more accountable and transparent parliament.<sup>12</sup>

In addition to being based on formal law, public participation must be carried out in a meaningful way. Meaningful public participation fulfills three prerequisites, namely the right to be heard, the right to have their opinions considered, and the right to obtain explanations or answers to their opinions, thirdly, public participation is primarily aimed at groups of people who are directly affected and have concerns about the bill being discussed. If placed in the five stages of law formation, more meaningful public participation must be carried out, at least, at the stages of submitting a bill, joint discussion between the DPR and the President, as well as joint discussion between the DPR, the President, and the DPD as long as it is related to Article 22D paragraph (1) and paragraph (2) of the 1945 Constitution, as well as in joint approval between the DPR and the President.

Fourth, the transparency of public participation, as stipulated in Article 96 of Law 12/2011 on the Formation of Legislation, explains that (i) the public has the right to provide input orally and / or in writing in the formation of laws and regulations, (ii) the public is an individual or group of people who have an interest in the substance of draft laws and regulations, (iii) to facilitate the public in providing oral and / or written input, each draft law and regulation must be easily accessible.<sup>13</sup>

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<sup>13</sup> *Ibid.*

Fifth, in its legal reasoning paragraph [3.20.2], the Constitutional Court stated that the Job Creation Law is conditionally unconstitutional, due to the absence of public participation in its creation. However, the Court gave the government the opportunity to improve it in the next two years. If there is no improvement within that period, then the Job Creation Law is permanently unconstitutional.<sup>14</sup> From the five findings regarding public participation in the Constitutional Court's decision, it can be understood that the implementation of various meetings with various community groups, meetings that have not discussed academic papers and materials for amendments to the Law that have been carried out by the DPR are not considered as meaningful public participation, which means that public participation carried out in the drafting of the Job Creation Law by the DPR is only considered a formality to fulfill the requirements for drafting laws.

#### **B. Ideal Concept of Meaningful Participation Based on the Mandate of the Constitutional Court**

To determine the quality of lawmaking, it is important to have a quality process, formal technical implementation alone does not guarantee that this will happen. A quality process is not only one-way but also opens up opportunities for meaningful interaction between lawmakers and the community. Meaningfulness will only be created when every proposal from the community is heard, considered and explained. Therefore, every reason for accepting, modifying or rejecting a proposal must be clearly and openly recorded in the meeting documents used as the basis for drafting a law.<sup>15</sup>

In order for the legislators not to be trapped in mere formal public participation, the Constitutional Court has clearly provided signs for the application of meaningful public participation. Where, it must fulfill at least (3) three prerequisites, namely:

##### **1. Giving people the right to be heard;**

Every right of the community is an obligation of the state.<sup>16</sup> This means that the fulfillment of public participation as a right of the community in the formation of laws must also be interpreted as an obligation on the other side by

<sup>14</sup> *Ibid.* P. 413-414.

<sup>15</sup> Estu Dyah Arifianti, Agil Oktaryal, Antoni Putra et al, *Legislation during the Pandemic: Notes on the Legislative Performance of the House of Representatives 2020*, 1st ed. (South Jakarta: Yayasan Studi Hukum dan Kebijakan Indonesia (YSHK), 2020), 23.

<sup>16</sup> Salahudin Tunjung Seta, "Community Rights in the Formation of Legislation," *Journal of Indonesian Legislation* 17, no. 2 (2020): 154.

the lawmakers. The provision of participation as a right has actually been regulated in the PPP Law, but it is often interpreted that there is no obligation for lawmakers to listen to public opinion in the process of lawmaking. The provisions of Article 96 paragraphs (1), (5) and (6) stipulate:

"paragraph (1): The public has the right to provide input orally and / or in writing at every stage of the Formation of Legislation." paragraph (5): In exercising the right as referred to in paragraph (1), the legislator shall inform the public about the formation of laws and regulations. paragraph (6): To fulfill the right as referred to in paragraph (1), the legislator may conduct public consultation activities through:

- a. public hearing;
- b. working visit;
- c. seminars, workshops, discussions; and/or
- d. other public consultation activities."

## 2. Giving people the right to be considered;

Public opinion is very important in the formation of laws. The community will become the object of the application of the law when the bill is passed into law, so the opinion of the community, especially the affected community, should be considered at every stage of the formation of the law. Deviations from this provision have led to law making process problems.<sup>17</sup>

Law making process problems can be seen from the formation of the Job Creation Law which was ruled formally flawed by the Constitutional Court. Where, ignoring public opinion results in the formation of laws that are not based on methods in accordance with the provisions of the PPP Law. In addition, the most fatal impact is of course the change in the writing of several substances in the Job Creation Law after the stage of joint approval between the DPR and the President.

Public opinion in the formation of laws is a form of respect for popular sovereignty. Based on this, in the theory of law formation, it is stated that public participation is at the heart of the legislative administration process.<sup>18</sup>

Lawmakers must open a wide space for participation without being represented by certain institutions or groups, but involving all affected communities. The implementation can then be tested, by looking at what the content of the

<sup>17</sup> Ahmad Redi, Law of Legislation Formation, ed. Tarmizi, 1st ed, (Jakarta: Sinar Grafika, 2018), 197.

<sup>18</sup> Constitutional Court, "Constitutional Court Decision Number 91...", 83.

meeting is, not just the formality of whether or not there is a meeting.

This provision given by the Constitutional Court is certainly expected to stop the symptoms of "autocratic legalism", namely when all the will of the state is formed into legal rules as if implementing democratic principles, but the substance only becomes the unilateral will of the state without giving respect to the principles of democracy itself.<sup>19</sup> To avoid this happening, public opinion needs to be heard and considered by lawmakers.

### **3. Giving the public the right to have their opinions explained or answered (right to be explained)**

One of the obstacles to the fulfillment of public participation lies in the unavailability of means for the public to obtain explanations or answers to their opinions. To overcome this, there should be an information system for the law-making process run by an agency or institution that is given full duties and responsibilities.<sup>20</sup> The information system is useful as a medium for people who want to find information about the formation of laws, as well as a reference to see the extent to which public opinions are accommodated or not by lawmakers along with the reasons.

Currently, the provisions of the PPP Law only regulate to the extent that the bill must be informed to the public in the form of easy access. Explanations or answers to opinions given by the public during the drafting of the law have not been determined as an obligation of the legislator. In fact, the presence of the public in the drafting of laws is a manifestation of popular sovereignty, as mandated by Article 1 paragraph (2) and paragraph (3) of the 1945 Constitution, which states that sovereignty is in the hands of the people and is exercised according to the Constitution and the State of Indonesia is a state of law.

The application of the (3) three prerequisites determined by the Constitutional Court above must be carried out by the legislators starting from the stage of submitting the bill, discussing it until the approval of the bill into law. The Constitutional Court assesses the fulfillment of meaningful public participation at these stages accumulatively. This means that a law has a formal defect in its formation if it does not fulfill at least one of these stages.

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<sup>19</sup> *Ibid.* P. 93

<sup>20</sup> M. Aliamsyah, "Utilization of Information Systems for Legislative Drafting," *Journal of Indonesian Legislation* 6, no. 4 (2009): 713

The Constitutional Court's opinion in this decision feels very important to be able to produce laws that have an impact in terms of the effectiveness of enforcement in society.<sup>21</sup> Through meaningful community involvement, the law can gain stronger legitimacy, not just the legitimacy of certain groups. Every interest, especially those of affected communities, needs to be heard and considered. The process of forming a law should not only be carried out to fulfill the formal process so that the interests of the community cannot be heard.

For this reason, meaningful public participation in the formation of laws must become binding law, meaning that these provisions must be adhered to by lawmakers in every law-making process.<sup>22</sup> The Constitutional Court's Decision Number 91/PUU-XIX/2021 can serve as a reference for lawmakers so that subsequent laws can fulfill public participation and be in line with the Constitution.

## V. CONCLUSION

In Decision Number 91/PUU-XVIII of 2020, the Constitutional Court (MK) considers that the process of forming the Job Creation Law is not based on the means and methods, as well as the systematics of law formation, and there is no meaningful involvement of public participation in the formation process, this is contrary to the principles of the formation of laws and regulations, so that the Constitutional Court (MK) states that the process of forming Law No. 11 of 2020 does not fulfill the provisions of the 1945 Constitution so that it must be declared Formally Defective. So that the legislators are not trapped in mere formal public participation, the Constitutional Court has clearly provided signs for the application of meaningful public participation. Where, at least it must fulfill (3) three prerequisites, namely; Providing the public with the right to be heard, Providing the public with the right to be considered, Providing the public with the right to get an explanation or answer to the opinion given (right to be explained), public participation is mainly aimed at groups of people who are directly affected and have concerns about the bill being discussed.

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<sup>21</sup> Rahendro Jati, "Public Participation in the Process of Responsive Law Formation," *Journal of Rechts Vinding: Media for National Law Development* 1, no. 3 (2012): 329.

<sup>22</sup> Bagus Surya Prabowo, "Consistency of Legal Norm Making with the Doctrine of Judicial Activism in Judicial Review Decisions," *Constitutional Journal* 19, no. 2 (2022): 360

If placed in the five stages of law formation, more meaningful public participation must be carried out, at least, at the stages of submitting a bill, joint discussion between the DPR and the President, as well as joint discussion between the DPR, the President, and the DPD as long as it is related to Article 22D paragraph (1) and paragraph (2) of the 1945 Constitution, as well as in joint approval between the DPR and the President, for this reason it is necessary to reconstruct Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation, especially in the provisions on public participation contained in article 96.

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