



The Urgency of Socio-Legal Studies on the Political Configuration of the Job Creation Act's Formation

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Abstract

The formation of laws and regulations in Indonesia must be understood comprehensively as a legal process as well as a political process. The legal process must be based on Law no. 12 of 2011 while the political process is obliged to look at the aspect of community deliberation to minimize the potential for conflict in the community. This study aims to analyze the UU CK and to suggest the urgency of socio-legal research in the formation of laws and regulations in Indonesia. This research is a socio-legal legal research that tries to look at the law internally and externally with the help of non-legal science, namely social science. This study uses primary legal materials in the form of UU CK and secondary legal materials in the form of journals, books, and related websites. This research uses a conceptual approach and a statutory approach. The results of the study confirm that Ralf Dahrendorf's Conflict Theory in the Establishment of the UU CK emphasizes that the drafting and ratification of the UU CK is not optimal in involving quasi-groups or groups with high and low bargaining positions. In addition, the urgency of socio-legal analysis in the formation of laws and regulations in Indonesia is needed because when based on a socio-legal analysis a law does not have sociological validity, the law has the potential to cause conflict in society and even has the potential to be canceled by the Court. Constitution through formal review.

Keywords: *Socio-Legal Analysis; Formation of Legislation; Conflict Theory.*

Abstrak

Pembentukan peraturan perundang-undangan di Indonesia harus dipahami secara komprehensif sebagai proses hukum sekaligus proses politik. Proses hukum wajib mendasarkan pada UU No. 12 Tahun 2011. Sedangkan proses politik wajib melihat aspek deliberasi masyarakat untuk meminimalkan potensi konflik di masyarakat. Penelitian ini bertujuan untuk menganalisis UU CK serta menggagaskan urgensi penelitian socio-legal dalam pembentukan peraturan perundang-undangan di Indonesia. Penelitian ini merupakan penelitian hukum *socio-legal* yang mencoba melihat hukum secara internal maupun eksternal dengan bantuan ilmu non-hukum, yaitu ilmu sosial. Penelitian ini menggunakan bahan hukum primer berupa UU CK dan bahan hukum sekunder berupa jurnal,

buku, serta *website* yang terkait. Penelitian ini menggunakan pendekatan konseptual dan pendekatan peraturan perundang-undangan. Hasil penelitian menegaskan bahwa Teori Konflik Ralf Dahrendorf dalam Pembentukan UU CK mempertegas bahwa penyusunan dan pengesahan UU CK tidak maksimal dalam melibatkan kelompok semu maupun kelompok yang memiliki bargaining position tinggi maupun rendah. Selain itu, Urgensi analisis *socio-legal* dalam pembentukan peraturan perundang-undangan di Indonesia diperlukan karena ketika berdasarkan analisis *socio-legal* suatu Undang-Undang tidak memiliki keberlakuan sosiologis, maka Undang-Undang tersebut berpotensi akan menimbulkan konflik di masyarakat bahkan berpotensi juga dibatalkan oleh Mahkamah Konstitusi melalui uji formil.

Kata Kunci: Analisis Socio-Legal; Pembentukan Peraturan Perundang-Undangan; Teori Konflik

A. Introduction

The formation of legal products in the form of laws and regulations involves legal and political mechanisms. The legal process can be seen from the drafting process that has relevance to Law Number 12 of 2011 concerning the Formation of Legislation (hereinafter referred to as UU P4); Meanwhile, the political aspect is related to various problems and issues related to the substance in its formulation. It is not uncommon that the formation of statutory regulation is an "order" from a certain party.¹ Based on this, the study related to forming laws and regulations must be comprehensive and involve non-legal scientific fields. The need for non-legal scientific fields in reviewing statutory regulations, especially it must be understood that legislation as a legal and political product of the President and The House of Representatives (DPR) is not something that comes from a vacuum.

The substance of the legislation is the crystallization and reflection of the common hope of the community (*mirror of society*).² As a mirror, of course, the

¹ Nurus Zaman, *Rekonstruksi Kekuasaan Wakil Presiden Dalam Sistem Pemerintahan Di Indonesia*, 1st ed. (Bandung: Refika Aditama, 2018).

² Bayu Dwi Anggono, "Peluang Adopsi Dan Tantangannya Dalam Sistem Perundang-Undangan Indonesia," *RechtsVinding* 9, no. 1 (2020): 17–37.



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substance and the process of formulating laws and regulations are directly or indirectly related to non-legal factors, especially politics and power related to interest groups. In this case, especially the law, legislation is not only interpreted as a formal document but is a document of power and authority where the birth of law can have an impact on society, either directly or indirectly.³ In this regard, one of the legal instruments, particularly the Law that has received attention and attention from the public, is related to the practice of drafting and ratifying the Act Number 11 of 2020 on Job Creation or *Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja* (hereinafter referred to as the UU CK), which is identified as the result of power engineering (a tool of political engineering). The UU CK is identified as the interests of investors and power; so it requires a 'stamp' called Law.⁴ In this aspect, the law only validates what is the will of power.

On the other hand, the law is also often identified as a regulator and enforcer of power. The state apparatus, as the executor of state power, must be obedient, obedient, and subject to the law.⁵ In practice, this also cannot provide substantive justice for society. In the view of law as a regulator of power, the law is only understood in a formal-procedural manner.⁶ The reality of the appearance of laws that only have a formal-procedural dimension, such as the criminalization of marginalized groups of neglected sexual harassment on the pretext of no evidence and "consensus," eviction of customary land-based on having received permission from the government. The facts and phenomena above raise a

³ Ditta Chandra Putri Ahmad Ulil Aedi, Sakti Lazuardi, "Arsitektur Penerapan Omnibus Law Melalui Transplantasi Hukum Nasional Pembentukan Undang-Undang," *Jurnal Ilmiah Kebijakan Hukum* 14, no. 1 (2020): 1–18.

⁴ FX. Adji Samekto, "Menelusuri Akar Pemikiran Hans Kelsen Tentang Stufenbeautheorie Dalam Pendekatan Normatif-Filosofis," *Jurnal Hukum Progresif* 7, no. 1 (2019): 1, <https://doi.org/10.14710/hp.7.1.1-19>.

⁵ Fradhana Putra Disantara et al., "The Enigma of Ethics: Code of Ethics Enforcement on Covid-19 Health Protocol," *DE LEGA LATA: Jurnal Ilmu Hukum* 7, no. 1 (January 2022): 1–21, <https://doi.org/10.30596/dll.v7i1.8203>.

⁶ Budiono Kusumohamidjojo, *Teori Hukum: Dilema Antara Hukum Dan Kekuasaan*, 1st ed. (Bandung: Yrama Widya, 2016).

question: Why do law and power seek legitimacy to favor each other? Shouldn't law and power go hand in hand and side by side so that law and power can serve the community as constituents? This question requires an analytical, speculative, and comprehensive answer.

One of the studies that discussed the impact of the UU CK was carried out by Anggreany Arief and Rizki Ramadani (2021) regarding *Omnibus Law Cipta Kerja dan Implikasinya Terhadap Konsep Dasar Perseroan Terbatas*, which emphasizes that the practice of drafting the UU CK, one of which has implications for the Limited Liability Company Law, is to expand the meaning of a limited liability company by presenting the Sole Proprietorship model which gives rise to several contradictions in the basic concept of a limited liability company.⁷ Furthermore, research on the formation of the UU CK has also been reviewed by Aprillia Jultje Saiya, Saartje Sarah Alfons, Heillen Martha Yosephine Tita (2021) regarding *Partisipasi Masyarakat Dalam Pembentukan Undang-Undang Cipta Kerja* the result is that the formation of the CK Law does not pay attention to the principles of openness and public participation in the process of its formation.⁸

In addition, related to non-legal aspects (in this case, the political aspect) that influence the formation of laws, Abdul Latif Mahfuz (2019) has studied *Faktor yang Mempengaruhi Politik Hukum dalam Suatu Pembentukan Undang-Undang* which emphasizes that law is no longer seen as an independent entity but must be able to interact with other entities, especially political entities. In this case, a judicial review mechanism is needed to anticipate the political heavy in the formation of the law.⁹ Based on the three previous studies, this research is an original research because it discusses the socio-legal aspects in the formation of the UU CK which have not been specifically discussed by the

⁷ Rizki Ramadani Anggreany Arief, "Omnibus Law Cipta Kerja Dan Implikasinya Terhadap Konsep Dasar Perseroan Terbatas," *Al Adalah* 6, no. 2 (2021): 110.

⁸ Aprillia Jultje Saiya, Saartje Sarah Alfons, and Heillen Martha Yosephine Tita, "Partisipasi Masyarakat Dalam Pembentukan Undang-Undang Cipta Kerja," *TATOHI: Jurnal Ilmu Hukum* 1, no. 6 (2021): 619.

⁹ Abdul Latif Mahfuz, "Faktor Yang Mempengaruhi Politik Hukum Dalam Suatu Pembentukan Undang-Undang," *Kepastian Hukum Dan Keadilan* 1, no. 1 (2019): 44.



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three previous studies. The research that the author did related to socio-legal aspects in the formation of the CK Law is urgent, considering that de facto law and power exist in the same way, identity, and characteristics, namely coercing and giving sanctions to people who do not obey.¹⁰ This study seeks to see the formation of laws and regulations, especially the formation of the UU CK, which contains the substance of criticism, aspirations, and community rejection. This, at the same time, also seeks to show the urgency of the non-legal scientific field in analyzing a legal issue. Based on the description of the background above, the formulation of the problem in this study, namely: (1) What is the perspective of Ralf Dahrendorf's Conflict Theory on the Establishment of the UU CK? and (2) What is the urgency of Socio-Legal Analysis in the Formation of Legislation in Indonesia?

B. Research Methods

This research is a socio-legal legal research. Socio-legal legal research is legal research that tries to look at the law internally and externally.¹¹ Internally, socio-legal legal research is a legal research that examines doctrinally which tries to analyze normatively.¹² Externally, socio-legal legal research tries to look at the non-legal aspects of a legal problem.¹³ In this study, the internal aspects use legal materials, which include: primary legal materials consisting of Constitutional Court Decision Number 91/PUU-XVIII/2020 and UU CK and UU P4. Secondary legal materials include books, journal articles, and websites that specifically discuss Ralf Dahrendorf's Conflict Theory, and non-legal materials include legal

¹⁰ Athari Farhani and Ibnu Sina Chandranegara, "Penguasaan Negara Terhadap Pemanfaatan Sumber Daya Alam Ruang Angkasa Menurut Undang-Undang Dasar Negara Republik Indonesia Tahun 1945," *Jurnal Konstitusi* 16, no. 2 (2019): 235, <https://doi.org/10.31078/jk1622>.

¹¹ Schwartz Germano André Doederlein and Renata Almeida da Costa, "The Development of the Sociology of Law in Brazil," *Oñati Journal of Emergent Socio-Legal Studies* 11, no. 1 (2021): 49–79.

¹² Sulistyowati Irianto, "Praktik Penelitian Hukum: Perspektif Sosiolegal," in *Metode Penelitian Hukum: Konstelasi & Refleksi* (Jakarta: Yayasan Pustaka Obor Indonesia, 2011), 1–38.

¹³ Sulistyowati Irianto.

dictionaries and the Big Indonesian Dictionary (KBBI). This study uses a conceptual approach and a statutory approach. The analysis in this study was carried out by conducting an inventory of the UU CK as primary legal material related to concepts and theories and non-legal facts related to the formation of the UU CK. This is to emphasize the importance of the non-legal dimension in socio-legal research, especially in the analysis of the UU CK.

C. Discussion

1. Job Creation Act in the Perspective of Ralf Dahrendorf's Conflict Theory

Ralf Dahrendorf is a conflict theorist and German sociologist born in 1929; he is famous for his ideas, namely the theory which asserts that "conflict occurs because of social relations in a system".¹⁴ In Ralf Dahrendorf's view, can conclude is that conflict is a consequence of the existence of various groups as connected into one system in a social circle. Relations between groups in a system are categorized based on the power possessed by each group. In the group, to minimize conflict, it is necessary to have a controller in a system with authority related to sanctions oriented that the party in power can obtain aspects that give birth to benefits for all parties as he has mastered. Ralf Dahrendorf's conflict theory emphasizes that there is a conflict between those in power and those who are not in power.¹⁵

In addition to talking about conflict and power, Ralf Dahrendorf's conflict theory also emphasizes that public society has the potential to give birth to a series of activities that target acts of conflict; At the same time, it also gives birth to various collaborations as two sides of society that cannot be separated. Ralf Dahrendorf, in his work *Class and Class Conflict in Industrial Society* (1959), emphasized that influence is the "spirit" of conflict. In this aspect, the dominant

¹⁴ Ralf Dahrendorf, "Toward a Theory of Social Conflict," *The Journal of Conflict Resolution* 2, no. 2 (1958): 170–83.

¹⁵ Jacek Tittenbrun, "Ralf Dahrendorf's Theory of Social Differentiation and Elite Theory," *International Journal of Management and Social Sciences* 6, no. 3 (2013): 117–40.



influence uses structural-functional logic, which is indeed relevant to sociology's development, especially that mainstream sociologists adopt. In this aspect, analyses carried out by mainstream sociologists have similarities with structural functionalists, as this is also included in the equations related to the problems studied. This emphasizes that structural functionalism, as well as conflict theory, are elements of a paradigm that is on the same line.¹⁶ In Ralf Dahrendorf's understanding, the elements of a social system can adapt to each other sustainably; However, the elements of the social system also have the potential to cause conflicts in their application.

Ralf Dahrendorf's perspective states that society is like two coins in one currency, which has a conflict and a cooperative side. This also emphasizes that in understanding the side of the conflict and the side of cooperation, it is necessary to understand that everything can be seen through conflict theory optimally.¹⁷ This also emphasizes that everything that who can optimally analyze with conflict theory can be analyzed with structural functionalism. Ralf Dahrendorf views society as an "organism" that is closely and closely related to the existence of consensus and conflicts that are intertwined with each other.¹⁸ So, consensus and conflict have a close and interrelated relationship. Consensus occurs because it is triggered by conflict and vice versa, that conflict is triggered by violation of conflict. In other words, integration exists as a basis for resolving a conflict, while conflict can bring together consensus and integration.

Furthermore, Ralf Dahrendorf categorizes groups in three main respects: a quasi-group identified as several position holders with the same interest.¹⁹ This

¹⁶ Lewis A. Coser, "Class and Class Conflict in Industrial Society. Ralf Dahrendorf," *American Journal of Sociology* 65, no. 5 (March 1960): 520–21, <https://doi.org/10.1086/222761>.

¹⁷ Jason Neidleman, "Politics and Tragedy: The Case of Rousseau," *Political Research Quarterly* 73, no. 2 (June 2020): 464–75, <https://doi.org/10.1177/1065912919839144>.

¹⁸ Dietrich Rueschemeyer, "Sociology of Law in Germany," *Law & Society Review* 5, no. 2 (November 1970): 225, <https://doi.org/10.2307/3053035>.

¹⁹ Jiri Subrt, "Homo Sociologicus Revisited: How Relevant Could Questions Be That Were Formulated Half A Century Ago?," *Journal of Arts, Humanities and Social Sciences* 1, no. 1 (2015): 37–52.

confirms that quasi-group conflicts rarely occur. In some aspects and conditions, this pseudo group can become the second group, namely the interest group. Ralf Dahrendorf sees pseudo groups and interest groups as having the same behavior. This is as in the characteristics of interest groups recruiting from pseudo-groups. Some of their group members are in various positions. From a sociological perspective, interest groups are real agents of group conflict. Interest groups have goals, programs, forms, and individual, and organizational members. Interest groups consist of various types that give rise to conflict groups that are directly involved in the conflict.

According to Ralf Dahrendorf,²⁰ several concepts that can analyze social conflicts in society include pseudo groups, interest groups, hidden interests, real interests and conflict groups. Ralf Dahrendorf emphasized that technical conditions such as capable apparatus, stability of political conditions, and social conditions such as the existence of communication relationships have their impact on social relations. This is what happened in the success of recruitment by one group against another. The recruitment process that takes place randomly and is determined by opportunity impacts the facilitation of interest groups and conflict groups to minimize conflicts in the community. In the aspect of the formation of laws and regulations, especially related to the formation of the UU CK, community conflicts related to the formation and ratification of the UU CK occur due to three main factors. *First*, the factor of public disclosure of the substance and process of the UU CK. *Second*, the public deliberation factor over the substance; and the process of UU CK. *The third* is the factor of community participation in the preparation and ratification of UU CK. who should observe the aspect of public information disclosure in the preparation of the UU CK because it places the Academic Paper and the UU CK Draft as a secret document that who must keep secret

²⁰ Irving Louis Horowitz, "Law and Order. Ralf Dahrendorf," *American Journal of Sociology* 92, no. 5 (March 1987): 1264–66, <https://doi.org/10.1086/228657>.



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The above facts are as confirmed in the Constitutional Court by the Petitioners for the review of the UU CK. The petitioner for the judicial review of the UU CK certainly hopes that the discussion and ratification in a "secret" manner is a form of a constitutional violation of law-forming citizens' rights to participate. The lack of disclosure of information and the impression of being covered up in drafting the UU CK impact the low level of public participation. Besides being low, the public also tries to channel their aspirations through "other ways" in the form of "street actions," which sometimes also cause riots. This is, of course, a result of the closure of access to public participation related to preparing the UU CK. This violates and contradicts the principle of the formation of laws as stated in Article 5 of UU P4, which emphasizes that the principle of openness is one of the most important principles in forming laws and regulations.

Based on the authentic interpretation, the "principle of openness" is "the process of forming laws and regulations starting from planning, drafting, discussing, ratifying or determining, and transparent and open legislation".²¹ Thus, the public has the right and broad access to provide input, including assessing the formation of laws and regulations. Related information disclosure is related to the principle of effectiveness and efficiency, which emphasizes that this principle must be interpreted holistically with the principle of openness. This means that the principle of effectiveness and the principle of efficiency cannot hinder the realization of public participation.²² This negates the role of the community, which constitutionally has the right to know and evaluate the substance to be regulated in law. This is also in line with the right to involve the community in drafting laws, particularly through the Public Hearing Meeting

²¹ Bayu Dwi Anggono, *Pokok-Pokok Pemikiran Penataan Peraturan Perundang-Undangan Di Indonesia*, 1st ed. (Jakarta: Konstitusi Press, 2020).

²² Humas MKRI, "MK: Inkonstitusional Bersyarat, UU CK Harus Diperbaiki Dalam Jangka Waktu Dua Tahun" (www.mkri.id, 2021).

(RDPU). This lack of public participation has prepared the UU CK to seem so fast and haphazard and even tends not to involve all elements of society optimally.

The above phenomenon impacts the existence of a judicial review at the Constitutional Court when the UU CK has just gone through the legal process. The aspect of public deliberation in the formation and ratification of the UU CK has become problematic or less than optimal. Referring to the idea of public deliberation as conveyed by Jurgen Habermas, deliberative democracy is based on 3 (three) concepts of democracy: the republican model, the liberal model, and the proceduralist model.²³ The proceduralist model is a democratic model that Habermas uses as the basis for the realization of deliberative democracy. Habermas added that deliberation emphasizes the procedure and substance of a decision. In this case, going through the testing process or discourse becomes the touchstone of a valid consensus or decision. Discourse is the most important thing where all issues are discussed by various parties, both directly and indirectly, involved with an equal and equal position. Based on Dahrendorf's Critical Theory in deliberation, two groups should be involved, namely pseudo groups and interest groups. Interest groups in Dahrendorf's view are either manifest or latent. The main aspect of latent interest is potential behavior because of a certain position and role, but this is still not realized.

This is likened to that anyone can be a member of a powerless group, but with some considerations, the group may not realize it. Pseudo groups are groups of ordinary people or the general public directly or indirectly affected by the law. Interest groups are divided into interest groups with high bargaining positions and interest groups with low bargaining positions. Regarding the facts in the formation of the UU CK, M. Sidarta, the National Tripartite Cooperation Institution (LKS) in the trial at the Constitutional Court, revealed several things related to the formation of the UU CK. M. Sidarta emphasized that regarding

²³ Fahrul Muzaqqi, *Diskursus Demokrasi Deliberatif Di Indonesia*, 1st ed. (Surabaya: Airlangga University Press, 2019).



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suggestions, opinions and proposals for the plan and preparation of the Job Creation Act, there is no room for consultation and listening to public opinion.²⁴ Even as a National Tripartite Cooperation Institution (LKS), it does not directly know the use of the Omnibus Law method in preparing the UU CK. Furthermore, Sidarta emphasized that the impact of the non-involvement of labor unions in the planning, preparation and discussion of the draft Bill on Job Creation made the All-Indonesian Workers Union (SPSI) make efforts to reject it one of which was through demonstrations.

In addition, the facts were also disclosed by Said Iqbal who is the President of the Confederation of Indonesian Trade Unions (KSPI), who emphasized that in the process of planning, drafting, discussing, ratifying, stipulating and enacting the UU CK (Omnibus Law) the labor unions never involved in the process of making UU CK.²⁵ Being invited to discuss the substance was also not given an appropriate space for participation. Referring to Dahrendorf's Critical Theory view, deliberation in the CK Law is limited to only those with a high bargaining position, which means lawmakers seem to be "selective" in asking for input from interest groups. When referring to Dahrendorf's Critical Theory, it is necessary to involve interest groups with low bargaining positions and the general public or pseudo-groups. Regarding the factor of community participation in the preparation and ratification of the UU CK, it can be concluded simply by referring to aspects of public disclosure and aspects of deliberation. The lack of maximum public openness and deliberation aspects in the preparation and ratification of the CK Law also emphasizes that the community participation factor is not optimal in the preparation and ratification of the UU CK.

Thus, if referring to Dahrendorf's Critical Theory, who can conclude that the UU CK has the potential to cause conflict and turmoil in society due to the non-fulfillment of the public openness factor, the deliberation factor, and the

²⁴ Humas MKRI, "Said Iqbal: RUU CK Disiapkan Jauh Hari Tanpa Melibatkan Partisipasi Publik" (www.mkri.id, 2021).

²⁵.Humas MKRI, 2021

community participation factor; who finally proved this at the trial at the Constitutional Court in Decision Number 91/PUU-XVIII/2020, which emphasized that formally, the preparation and ratification of the UU CK is a formal defect so that the Constitutional Court gives a conditional unconstitutional decision. Based on the description above, the perspective of Ralf Dahrendorf's Conflict Theory in the Establishment of the UU CK emphasizes that the drafting and ratification of the UU CK are not optimal in involving pseudo groups or groups that have high and low bargaining positions, making the UU CK considered conditional unconstitutional by the Constitutional Court in Decision Number 91/PUU. - XVIII/2020.

2. The Urgency of Socio-Legal Perspective in the Formation of Legislation in Indonesia

Like other social subsystems, the law must be an "object" holistically explored and analyzed from internal law, external law and a combination of internal and external aspects of the law. In this case, socio-legal studies seek to examine law externally, combined with various other non-legal fields of science.²⁶ The word "socio" in socio-legal research explains that there is a link between the contexts where carrying out the existence of the law actually must be coherent with the values aspired by law. In this case, socio-legal researchers use non-legal science research methods (especially social science) as an auxiliary method in analyzing the law. In this case, the main analysis remains on the legal science family, but because there are non-legal dimensions that are explored, the social aspect becomes an "alternative" aspect in understanding law. This confirms that socio-legal legal research focuses on the law as its main study.

²⁶ Emad Mohammad Al Amaren et al., "An Introduction to the Legal Research Method: To Clear the Blurred Image on How Students Understand the Method of the Legal Science Research," *International Journal of Multidisciplinary Sciences and Advanced Technology* 1, no. 9 (2020): 50–55.



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The urgency of using socio-legal research in developing countries such as Indonesia requires both approaches, both legal and non-legal, especially social sciences. The approach and analysis of legal science are needed to determine the legal substance of the legislation and legal cases. However, the doctrinal legal approach has shortcomings, namely the lack of attention to the field of working law in society (law in context and society), the workings of law in the context of society, as well as the effectiveness of the law.²⁷ Therefore, an interdisciplinary approach is needed to study the law holistically and comprehensively as a unit with social reality. This aims to make the law a contextual phenomenon related to various aspects in which the law is located.²⁸ In Soetandyo Wignjosebroto's view, the term "sociological" refers to realism in legal science that developed in the United States. One of the famous sayings is "The life of the law has not been logic; it is (socio-psychological) experience".²⁹ Legal products must be understood as something that is not "pure" from non-legal influences. Therefore, every legal product must also be seen from a non-legal aspect. This is to ensure the existence of the law.

Socio-legal research has urgency in analyzing legal products associated with the legal working environment, which is dominated by non-legal aspects for later analysis. In forming laws and regulations, for example, non-legal aspects need to be seen as an effort to see the dimensions of the workings of the law. In this case, a "controversial" statutory regulation may not fulfill its non-legal aspects. Therefore, the important socio-legal aspect is important in forming the legislation. The formation of laws and regulations must be seen as a legal and political process simultaneously. The formation of the UU CK, for example, with the "quick" discussion and drafting, has indicated that the UU CK is politically

²⁷ Rudini Hasyim Rado Muhamad Aljebra Aliksan Rauf, "Menakar Peluang Masa Jabatan Presiden 3 Periode Dalam Konfigurasi Politik Hukum," *Al Adalah* 7, no. 1 (2022): 32.

²⁸ Muhamad Azhar Kornelius Benuf, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Gema Keadilan* 7, no. 1 (2020): 20–34.

²⁹ Allen Mendenhall, "Oliver Wendell Holmes Jr. and the Darwinian Common Law Paradigm," *European Journal of Pragmatism and American Philosophy* 7, no. 2 (2015): 1–22.

biased and can potentially reduce the rule of law. Moreover, the method of the formation using the omnibus law/omnibus bill method has not yet been regulated in UU P4. Thus, the phenomenon of the formation of laws and regulations that are politically heavy can be seen in the formation of the UU CK. who can use the socio-legal perspective in forming the UU CK to see how the law as a principle and the rules of the game are actually "played" by the political elite for certain purposes. The potential for deviated laws can be seen and even estimated by referring to the socio-legal perspective. In the formation of the UU CK, it is clear and evident that the UU P4 has deviated on the basis and grounds that it provides more benefits. Of course, who cannot accept such legal logic in the formation of legislation.

The dominance of the political aspect in forming the UU CK will certainly be difficult to predict and analyze using a juridical-normative approach. This is because juridically-normatively, several aspects of the formation of the UU CK follow the laws and regulations. However, from a socio-legal perspective, legal practices that are difficult to observe with a juridical-normative approach can be predicted and understood more clearly. The socio-legal perspective in forming the UU CK can be seen as a "magnifying glass" for the legal process. In this case, the socio-legal perspective can see and anticipate several aspects that escape legal-normative legal analysis.

Thus, the socio-legal perspective should be used as a "preliminary test" in the drafting of legislation. If a statutory regulation passes the "preliminary test" by prioritizing a socio-legal perspective, certainly, a statutory regulation will not cause a commotion in the community. Referring to the description above, the urgency of socio-legal analysis in the formation of laws and regulations in Indonesia is needed because when based on a socio-legal analysis, a law does not have sociological validity, then the law has the potential to cause conflict in the community and even has the potential to cancel by the Constitutional Court through a formal trial. This, as stated in the UU CK, is considered conditionally



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unconstitutional by the Constitutional Court in Decision Number 91/PUU-XVIII/2020..

D. Conclusion

Based on the perspective of Ralf Dahrendorf's Conflict Theory in the Establishment of the CK Law, Who emphasized that the drafting and ratification of the CK Law were not optimal in involving pseudo groups or groups with high and low bargaining positions, making the CK Law considered conditional unconstitutional by the Constitutional Court in Decision Number 91/PUU-XVIII/2020. The urgency of socio-legal analysis in the formation of laws and regulations in Indonesia is needed because when based on socio-legal analysis, a law does not have sociological validity; then the law has the potential to cause conflict in society and even has the potential to be canceled by the Constitutional Court through a judicial review. This, as stated in the CK Law, is considered conditionally unconstitutional by the Constitutional Court in its Decision Number 91/PUU-XVIII/2020. Based on this description, this research which focuses on the urgency of socio-legal analysis in the formation of laws and regulations in Indonesia, especially the CK Law, needs to be analyzed further and specifically, especially from each socio-legal aspect such as political, economic, cultural, as well as the social reality of the community in which the socio-legal aspects specifically have not been analyzed in-depth by the authors..

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