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Simplifying the ratification process of international treaties in the Indonesian legal system: Fast-track legislation as an efficient option

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Abstract

The study provides conceptual ideas about the role of the House of Representatives in approving the ratification of international treaties and analyzes how the concept of applying fast-track legislation to the ratification of international treaties works. The research is conducted as normative juridical by using statutory, conceptual, and comparative approaches. The findings indicate that the House of Representatives is excluded from the negotiation process of international agreements delivered by the State's delegates, making it vulnerable to having agreements overturned by the House of Representatives when they do not approve them. The processes of forming inter-ministerial and/or inter-non-ministerial committees, holding meetings of these committees, harmonizing, finalizing, and solidifying concepts are unavailing in drafting laws to ratify international treaties, as the government has already finalized the substance of the international treaty during the negotiation. This study is expected to serve as reference material and part of the consideration for stakeholders to develop better regulations regarding the international ratification law-making process in the national legal system. This research is expected to be useful in terms of the practice of international treaty formation in Indonesia and to simplify the process.

Keywords: Fast-track legislation, International treaties, Legal system, Ratification.

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1. Introduction

Globalization contributes to fundamentally changing traditional international law towards a modern international system that creates the development of state interactions not only between governments but also between individuals. Indonesia is no exception, this could lead to legal conflicts between Indonesia and other countries, even at a certain level it will cause overlap between international law, including international treaties and national law [1]. References to international treaties

also give color to various Indonesian national regulations. This shows that Indonesian regulation can no longer avoid and has to give the right place for international treaties in its national law [2].

The practice of international treaty-making in Indonesian legal system regulated in Article 11 of The 1945 Constitution of the Republic of Indonesia (UUD NRI 1945). Provisions in Article 11 paragraph (1) UUD NRI 1945 regulates presidential authority in international treaty-making with other States. Whereas in Article 11 paragraph (2) UUD NRI 1945, the President together with the House of Representatives is given the authority in international-treaty making with the subjects of international law besides States. From the aforementioned explanation, there is no indication or explicit statement suggesting whether Indonesia's legal system adheres to either monism or dualism in both international treaty-making and ratification. The provisions on international treaties in Article 11 paragraph (1) and paragraph (2) of the UUD NRI 1945 only address the subjects of international law that can be partners in international-treaty making, state institutions who held the authority in international treaty-making, and substantive content of international treaty which requires the approval of House of Representatives [3]. Indonesian international law experts have different perspective regarding the national approach in implementing international treaties. Agusman stated that Indonesia uses monism approach [1]. Juwana in his writings said that Indonesia uses dualism approach [4]. In line with Juwana, Dewanto also thinks that Indonesia adheres to dualism [5]. While Butt argued that Indonesia is basically monism but uses dualism approach as practical consideration [6].

The enactment of Law Number 24 Year 2000 on International Treaties (hereinafter referred to as Law No. 24 of 2000) opened a new page to the status of international treaties in Indonesia's national legal system [7]. As a sovereign country, the Indonesian state has the capability to carry out international cooperation. The external sovereignty possessed by the Indonesian state in the perspective of the separation of state powers will be exercised by the executive branch through international cooperation [8-10]. However, in Indonesian national law there are types of international treaty formation which involve the approval of the legislative body. The President in making other international treaties have broad and fundamental consequences for people's lives that are related to the burden on state finances, and/or require changes or enactment of laws must be with the approval of the House of Representatives.

The term "legalization" used in international treaty law practice according to Law No. 24 of 2000 was taken and translated directly from the term "ratification" used in Vienna Convention, 1969 [11]. Ratification is a way to consent to be bound to an agreement and is usually preceded by signing [12]. Meanwhile, treaties that apply without going through the ratification requirements usually come into force at the time of signatory. It can be understood that ratification is a further legal action of a country to confirm the signatory act that preceded it Heriyanto, et al. [13]. The term ratification in international law has interacted with national constitutional procedures so that it can be seen from the perspective of internal and external procedures [14]. Internal procedures focus on ratification according to Indonesian constitutional law, both in executive and legislative authority and their legal products. Meanwhile, the external procedure is ratification according to the 1969 Vienna Convention on the Law of Treaties following the binding form of a particular international treaty [15].

The differences in internal and external perspectives regarding ratification often lead to confusion because practically, countries tend to equate the term ratification from the international dimension to the national dimension [16, 17]. As with Indonesian law practice since independence until the formation of Law No. 24 of 2000, there is no slip-off from this confusion problem [1]. According to Utrecht, Indonesia practiced a strict separation between approval from the House of Representative and ratification based on the constitutional mechanism [18]. The term "approval" is used and implemented consistently, so that the clause used to reflect "approval" is always emphasized in the law that authorizes it [1]. In its development, in Law No. 24 of 2000, it adopted the term ratification which then translated it with the term "legalization".

Regulation for Indonesia's participation in international treaties is carried out in two ways: through signatory and the ratification process in the form of a Law or Presidential Regulation. Laws and Presidential regulations have different scopes in the process of treaty ratification process. This correlates with the implication of international treaty-making for Indonesia. If an international treaty made by Indonesia has far-reaching and fundamental implications for the lives of its people and involves significant financial burdens for the state, then the ratification process for such a treaty must be conducted through the enactment of a law. Subsequently, for the making of international treaties that do not have far-reaching and fundamental implications for the lives of the people and are not related to significant financial burdens for the state, the ratification of such international treaties is carried out in the form of a Presidential Decree (now referred to as a Presidential Regulation).

In terms of hierarchy on national statutory laws and regulations, a Law holds a higher position than a Presidential Regulation, as stated in Article 7 paragraph (1) Law No. 12 of 2011 concerning the Formation of Legislation. The provision implies that a law has higher status than a presidential regulation hence international treaties that do not have fundamental implications for the state is sufficient to be ratified through Presidential Regulations. Based on data from the last five years, ratification of international treaties with Laws totaling 20 regulations and 62 ratifications of international treaties with Presidential Regulations.

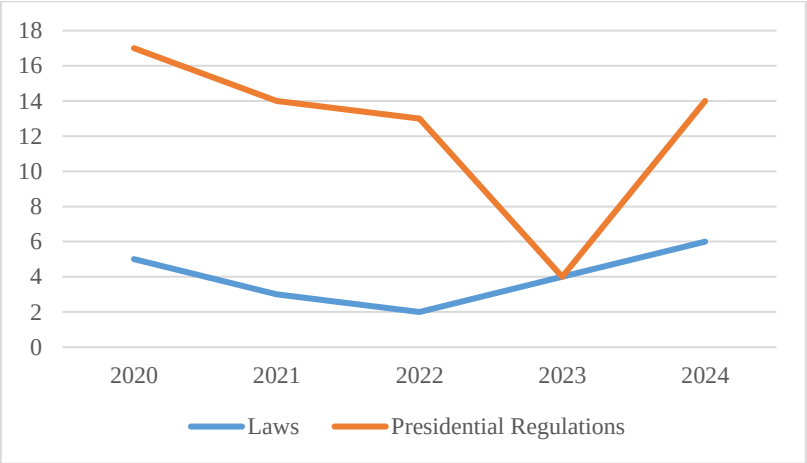

Figure 1.
International agreements ratified by laws and presidential regulations 2020-2024.
Source: Audit Board of Indonesia Regulations.

The graph shows that the number of regulatory products from the ratification of international agreements has decreased. Even though it has decreased, forming a statutory regulation requires considerable funds from the State budget. With regard to the international treaty ratification law, it should not cost as much as the formation of a law in general because the position of the House of Representatives in giving approval to international agreements is after the negotiation process of the agreements. Members of the House of Representatives were not involved during the pre-establishment of international agreements, known as the negotiations stage, until the signatory process of international agreements. In Indonesian national law, the function of the House of Representatives in giving approval is when ratifying international treaties. Based on the description above, it is crucial to analyze how the House of Representatives should approve the ratification of international agreements and how fast-track legislation should be applied to the ratification of international agreements. The results of this analysis are expected to contribute to legal thinking to accelerate the legislative process for ratifying international agreements to make them more effective and efficient.

2. Literature Review

2.1. International Agreement

An agreement in Dutch is known as *overeenkomst*, while in English it is a contract. Van Dunne argues that an agreement is a relationship between two parties who make an agreement and can have legal consequences [19]. R. Subekti also expressed that the agreement is an event where an oath takes place between one party and another who promises to do something [20]. In Indonesian law, clauses regarding agreements have been regulated in the Code of Civil Law, stating that an agreement is a condition where a person binds himself to another party.

International agreements are agreements made within the international scope. According to Article 2, Paragraph 1 of the 1969 Vienna Convention, an international agreement is concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments, regardless of its particular designation. According to Mochtar Kusumaatmadja, international agreements are entered into by members of the community of nations that have specific goals and result in laws [21]. In Law No. 24 of 2000, it also explains the meaning of international agreements are agreements that form or use certain names that are regulated in international law in written and give rise to rights and obligations in public law. The subjects of the International Agreement are states, the international community, international organizations, the International Committee of the Red Cross, the Holy Vatican City, and belligerents [22].

2.2. Legislation

Legislation in general, is a term to describe the processes and techniques for making or drafting the entire state regulation [23]. Meanwhile, regulation can be interpreted as a rule that contains binding legal norms in general and is formed through specific procedures regulated in a particular regulation. Regulation has two functions, namely the internal function which includes the law creation, reformation, legal system pluralism integration, and legal certainty, and the external function which includes the change, stabilization, and convenience function. The procedure for forming laws and regulations in Indonesia is regulated through Law No. 12 of 2011 concerning Formation of Regulation, and its two amendments are Law No. 15 of 2019 and Law No. 13 of 2022.

Establishing a regulation must be an elaboration and practice of all five precepts of Pancasila as a whole and unanimously. The formation of regulations must also note the general principles of legislation, such as lower regulations may not conflict with higher regulations, specific regulations override general regulations, recent regulations override previous regulations, apply general and binding, and so on [24]. According to Law No. 12 of 2011, the process of forming regulation goes through several processes, starting with the planning step by incorporating the draft material into the National Legislation Program. Then, it is followed by the preparation, discussion, establishment, enactment, and the dissemination stage [25]. In the Indonesian legal system, laws are formed involving two parties simultaneously from the legislative and executive branches of authority, the House of Representatives and the President [26]. Likewise, ratifying an international

agreement into law requires joint approval between the House of Representatives and the President.

2.3. Fast Track Legislation

Fast-track legislation or rapid legislation is a special procedures adopted by Congress to encourage timely commissions and Congress on specially defined types of bills or resolutions [27]. The procedure of fast-track legislation is carried out to make a bill quickly and set aside the usual procedure for drafting laws. This causes the fast-track legislation procedure to meet the response to society's need for law, which is considered an immediate need, so that laws and solutions that are responsive and measurable are needed.

Molly Elizabeth Reynolds in her dissertation, explains that Fast-track legislation is a provision included in statutory law that exempts some future legislation from a filibuster on the floor of the Senate by limiting debate on that measure [28]. This definition emphasizes that the process of fast-track legislation is a process that excludes the process of forming a regulation generally to limit debate over the problems that are being faced when the procedure for fast-track legislation is proposed at the level of the senate or legislative institutions. Thus, the embodiment of fast-track legislation is a regulation that aims to meet the community's needs that must be immediately and urgently met [29].

3. Methodology

This article uses normative research by examining legal materials such as the 1945 Constitution of the Republic of Indonesia, Law of the Republic of Indonesia Number 24 of 2000, and legal principles related to international law-making and of fast-track legislation as well. By examining legal materials mentioned above, a conceptual and comparative approach are needed. Conceptual approach will discuss the role of the House of Representatives in treaties law-making and fast-track legislation legal basis. While the latter approach will subjected to fast-track legislation model best practices in other countries, in this case is UK, US, and UK were chosen based on its legal system adopts a dualism approach and gives parliament a role in ratifying treaties. In addition, the UK legal system also recognizes the fast-track model in the law-making process with certain requirements and limitations.

4. Results

4.1. The High Cost of Legislation

Acknowledging that the House of Representatives has allocated IDR 184.05 billion for legislation, IDR 131.55 billion for bills, IDR 13.31 billion for national legislation program documents, IDR 7.91 billion for legal considerations and litigation documents by the House of Representatives, and IDR 1.5 billion for regulations harmonization documents by the Legislative Body. Furthermore, for the discussion, amendment, and finalization process, the parliament allocated IDR 821.3 million; socialization reports of the regulation by members of the House of Representatives amounted to IDR 17,913,772; for monitoring reports, review, and dissemination of the regulations by the Legislative Institution totaled IDR 5,056,449,000, and the House of Representatives regulations amounted to IDR 5,956,674,000. Thus, IDR 184.05 billion will be used by the House of Representatives to discuss the 50 regulations included in the National Priority Legislation Program in 2020. The cost of such a considerable amount of legislation is disproportionate to the legislative products produced.

4.2. Non-participation of the House of Representatives in the Negotiation Process of International Agreements

The international treaty-making process in Indonesia, carried out by the government, starts with discussion, signing, and the exchange of ratification instruments. The involvement of the House of Representatives in this process occurs after the signing and before the exchange of ratification instruments by the government. During this phase, the approval of the House of Representatives is required in the form of national law, with the substance derived from the international treaty that the government has already negotiated and signed. After being enacted and becoming national law, the government proceeds with the exchange of instruments of ratification. This process is unique due to its inversion of the customary sequence, whereby an international treaty is initially domesticated into national law prior to the exchange of instruments of ratification, thereby making the international treaty binding under international law. The worst consequence of this process is that if the international treaty has already been transformed into national law through legislation but the government fails to exchange instruments of ratification, the international treaty will still be binding under Indonesian domestic law even without the exchange of instruments of ratification.

5. Discussion

5.1. The Role of the House of Representatives in the Agreement to Ratify International Treaties

Making international treaties is different from being automatically implemented in national law. Regarding national and international law, Indonesia adheres to a system of dualism that separates two disciplines of law system, which in the process of applying international law to become national law is known as the ratification process [30]. Ratification or legalization in this context, has two meanings in Indonesian positive law; first, in the internal matter, ratification is a legal act to bind to an international treaty by transforming a treaty into a ratification legal document [31]. On the other hand, in an external matter, the legalization or ratification of international treaties is carried out according to the provisions agreed by the parties. An international agreement that requires external ratification will come into force after fulfilling the procedure, such as by signing, ratifying, exchanging agreement documents/diplomatic notes, and other ways agreed in the agreement. If the agreement is to be ratified internally, it must undergo a ratification process with the following stages: planning, drafting, discussing, legalization, and enacting [32].

Proof of ratification in an international treaty is enacting a law with the approval of the House of Representatives and/or a presidential regulation. Article 11 of the Constitution of the Republic of Indonesia 1945 includes the term international treaty, made by the president with the approval of the House of Representatives. In this case, ratification of international treaties by presidential regulation, the House of Representatives has the right to supervise by providing an evaluation of a copy of the presidential regulation. The House of Representatives has the right to ask the president for accountability or information regarding international treaties made not to harm national interests. If the international agreement is deemed detrimental, it can be canceled upon request by the House of Representatives [33].

Prof. Jimly Asshiddiqie explained that the legislature has the authority to regulate and create rules, which is based on the principle of sovereignty. This principle grants the exclusive authority to representatives of the sovereign rights to determine regulations that bind and limit the freedom of every citizen [34]. The role of the House of Representatives is carried out as people's representation, including in the ratification of an international treaty. The qualification of an international agreement to become a positive law that applies nationally must involve people's control represented by the House of Representatives. Therefore, the approval of the House of Representatives in international treaty ratification to become a national regulation is very crucial.

The affirmation of the role of the House of Representatives as stated in Law No. 24 of 2000 elucidates that the term "approval" by the House of Representatives is their involvement in accepting or rejecting an international agreement that has been signed [30]. Furthermore, the Law mentioned above explains that the Minister consults with the House of Representatives in the formulation and ratification process. The Minister's consultation with the House of Representatives is considered an implementation of the latter's supervisory function to protect national interests and to keep the point that international treaties would not conflict with the foreign policy of the Republic of Indonesia. When the recommendations from the House of Representatives in the consultation process are not heeded by the delegation sent to agree, then this could become grounds for the House of Representatives later to disapprove the agreement's ratification.

The abovementioned situation opens up opportunities for rejection when international treaties signed by delegates/ministers cannot proceed to ratification. This uneasy matter could even lead Indonesia to become a Persistent Objection situation. The lack of role of the House of Representatives in the international treaties-making process was also one of the rationales for lawsuit Article 2 of Law No. 24 of 2000 to the Constitutional Court in 2018 [35]. Therefore, it is essential to expand the role of the House of Representatives in the international treaties-making process to minimize the chance of rejection during the ratification process, as well as to avoid detrimental to the state both politically and legally.

There are at least two countries that Indonesia can take as examples regarding legislators' active role in law-making and ratifying international treaties: the United Kingdom of Great Britain and Northern Ireland (UK) and Germany. The UK is a ‘dualist’ state, which means that treaties are seen as automatically creating rights and duties only for the Government under international law. When the Government ratifies a treaty – even with Parliamentary involvement – this does not amount to legislating. For a treaty provision to become part of domestic law, the relevant legislature must explicitly incorporate it into domestic law. In the international treaty-making process in the UK, the government should lay every treaty before Parliament alongside an explanatory memorandum, which usually contains the name of the minister with primary responsibility for a treaty, its financial implications, the means required to implement it, the outcome of any discussions that have taken place within and outside the government, and any UK reservations or declarations to the treaty. Strengthening the role of Parliament in terms of treaty ratification opens the door for the House of Commons to block ratification indefinitely. First, the government shall lay the treaty before Parliament within a period of 21 (twenty-one) sitting days. If both houses agree to the period, the government could ratify the treaty. However, if one of the houses votes against ratification, the government must justify its decision and face another 21 sitting days period. This process is indefinitely repetitive, giving the House of Commons the so-called ‘effective veto power’ over treaties. For the House of Commons to reject the ratification of a treaty could be done in several ways. First, the government can give Parliament time to discuss and decide on important treaties (Ponsonby Rule). Second, the opposition parties can also propose debates on treaties. They have 20 days for this each session. Third, the government can ask a Delegated Legislation Committee (DLC) to debate the treaty, and then the government or opposition can decide whether to vote on it in the House. The last option would be unlikely to be debated in Backbench Business Committee time, because Standing Order No 14(6) states they can't discuss matters related to the 2010 Act [36].

Meanwhile, the German Parliament takes its role in forming international treaties. There are similarities between Germany and the UK; first, they have no obligations in negotiating treaties in general. However, the German Parliament has a more active role, and members of parliamentary committees may have an indirect role in negotiating treaties by exchanging views with government representatives. In addition, although the German Parliament does not have the right to information and remains unregulated in the German Basic Law, the government regularly provides information to the parliament as early as possible about the negotiation process to avoid rejection at the ratification stage. Germany practiced a similar consultation system with Article 2 of Law No. 24 of 2000. The German Parliament can provide recommendations for delayed negotiations. Even though this is a non-binding recommendation, it has significant political influence because it can set the groundwork for decision-making in a plenary session. However, the German Parliament cannot reject the treaty being negotiated [37].

Compared to the UK and Germany, the oversight and legislative functions of the House of Representatives remain sub-optimally utilized in the process of making international treaties. Based on Law No. 24 of 2000, the House of Representatives' role in international treaty-making during the negotiation stage is merely as a consultative partner to the minister/government delegate. The results of consultations are not binding, opening up the possibility of House of Representatives rejection during the ratification process. House of Representatives’ role in international treaty-making. After going through the negotiation and signing stages, the House of Representatives has the role of giving approval in the form of a law. Policy-making starts from the government's initiative to obtain the House of Representatives' approval with material content derived from the

international treaty that has been negotiated and signed by the government. This process is unique because the international treaty that has been made becomes national law first before continuing with the process of exchanging ratification instruments which makes the status of the international treaty valid under international law. The worst consequence of this process is if the international treaty has been transformed into national law in the form of a law, but the government cancels the exchange of ratification instruments, then the international treaty remains valid for Indonesian national law even without going through the process of exchanging ratification instruments.

Refer to Germany which prohibits the rejection of international treaties in the negotiation stage but can refuse international treaties when it is done. On the other hand, Indonesia can create a different design to avoid rejection during ratification. Therefore, it is necessary to establish a regulation to prohibit the House of Representatives from rejecting international treaties that government delegations have signed. Note that the House of Representatives' recommendations in the law-making process are binding. Thus, the final act of international agreement is a joint work and concession between the House of Representatives and the government. However, in some issues, such as changing the country's territory, the House of Representatives may still refuse to ratify the international treaty. Indonesia can also take after the UK practice, which gave authority to Parliament to prevent the government from ratifying international treaties under negotiation.

The expansion of the role of the House of Representatives in the international treaties-making process is also in line with the function and duties of the House of Representatives as a government's controller and people's aspirator. In addition, refer to Article 20A of the 1945 Constitution of the Republic of Indonesia, the House of Representatives also has a supervisory function that goes hand in hand with budgeting and legislation function [38]. The role expansion of the House of Representatives in the international treaties-making process is in line with creating a checks and balances system in administering the state [39]. Mutual controlling relations between the various branches of state administration can achieve a checks and balances system. By expanding that role, at the same time the House of Representatives along with the executive, can achieve a better check and balances relationship.

In fact, the government has a more significant role in ratifying international treaties than the House of Representatives. Even though it has been regulated under Law No. 24 of 2000, whether an international agreement should be ratified through the House of Representatives approval or is sufficient at the presidential level is in the hands of the government; [4] both processes give a more dominant role to the government than the House of Representatives. Therefore, to ensure the legalization process of international treaties runs effectively and efficiently, it needs a design for ratifying international treaties into national regulation in a relatively short time and process. However, this does not mean that the government and parliament can arbitrarily legalize international treaties in a hurry and quick way without addressing the underlying rules is counted as a perilous manner [40].

The National Legislation Program has an open cumulative list setting, a design to include additional drafts in the Program which can be filed at any time. Referring to Article 23 of Law No. 12 of 2011, the open cumulative list is a room created specifically to accommodate drafts previously excluded in the National Legislation Program. The list is intended for several "special" substantive regulations, including the ratification of international treaties. However, even though the ratification of international treaties can use the mentioned design, it still has to go through all the stages as the formation of new regulations. Whereas regarding its content substantively, international treaties are more prepared to legalize when compared to regular national drafts. It can be concluded that the ratification of international treaties should be done shortly, either by speeding up the process or by setting rules for its ratification period.

5.2. The Concept of Implementing Fast Track Legislation to Ratification of International Agreements

The Indonesian legal system has not yet adopted the concept of fast-track legislation, except for the formation of the stipulation of a Government Regulation in Lieu of Law (Perppu), which has provisions equal to those of a Law. Although Indonesia has not officially adopted the concept of fast-track legislation, there have been instances where laws have been enacted quickly by the President and the House of Representatives. For example, the amendment to Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 on Mineral and Coal Mining was completed within a period of three months, starting from its discussion in February 2020 and subsequently passed on May 12, 2020 [41]. The record for the fastest policy-making process occurred during the amendment of Law Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 on the Corruption Eradication Commission, which was completed within 12 days [42].

The concept of fast-track legislation is very commonly practiced in countries with a common law system such as the UK and the US. The use of fast-track legislation is subject to strict requirements and limitations. The UK is one of the countries that has such a mechanism to respond to natural disasters or emergencies. Standard reasons underpinning the use of fast-track legislation include: (a) to correct an error in legislation, (b) to respond to a court judgment that means the law ceases to work as intended, (c) to ensure that legislation is in force for a particular event, (d) to ensure that the UK continues to abide by its international commitments, (e) to implement changes contained in a budget, (f) to deal with an economic crisis, (g) to implement counter-terrorism measures, (h) to maintain the devolution settlements in Scotland, Wales, and Northern Ireland, and (i) to respond to public concerns [43].

In the US, the concept of fast-track legislation expedites the ratification of international treaties. This mechanism is governed by internal Senate rules, which stipulate that fast-track procedures can be applied to international agreements with significant implications for the nation. The accelerated legislative process is necessitated by concerns that the standard legislative process is time-consuming, often spanning several years. This delay is frequently attributed to a lack of political support from both the House of Representatives and the Senate. Consequently, under certain circumstances, laws or resolutions designed to address specific situations may never be brought to a vote [44].

Indonesia does not have specific enacted laws regarding the timeframe for the ratification of international treaties following the negotiation and signing stages conducted by the government. The regulations governing the formation of ratification laws in Indonesia adhere to the technical rules for the formation of legislation, as stipulated in Presidential Regulation No. 87 of 2014 concerning the Implementation of Law No. 12 of 2011 on the Formation of Legislation. This Presidential Regulation further regulates the formation of legislation, including the formation of ratification laws. This is because the formation of ratification laws is subject to the provisions of Article 20, paragraph (2) of the 1945 Constitution, which states that "Every law shall be deliberated upon by the House of Representatives and the President to obtain mutual agreement." This provision is interconnected with the process of forming laws based on the content of international treaties.

The normative provisions a quo in the policy-making process can be implemented in a fast-track manner through an open cumulative list. An open cumulative list can be considered a fast-track mechanism due to the acceleration in the legislative process, specifically during the planning stage out of the five stages of the policy-making process in Indonesia, as stated in Article 1, paragraph 1 of Law No. 12 of 2011, which defines "policy-making" as encompassing the stages of planning, drafting, discussion, enactment or ratification, and promulgation. Presidential Regulation No. 87 of 2014, as the implementing regulation of Law Number 12 of 2011, further clarifies that the open cumulative list is regarded as a fast-track process, but only during the planning stage. The concept of an open cumulative list is considered a fast-track process because, during the planning stage, draft laws are not included in the national legislation program, thus expediting the planning process. However, this does not apply to the drafting and discussion stages.

Contextualizing the acceleration of policy-making for the purpose of international treaty ratification could be conducted with the fast-track legislation concept by trimming the drafting and discussion phase. This phase does not require acceleration due to the existing open cumulative list mechanism, which allows for the rapid planning of draft ratification laws. According to the provision in Presidential Regulation No. 87 of 2014, Chapter III concerning the Procedures for Drafting Draft Legislation, Part One on the Procedures for Preparing Draft Laws, it consists of at least three stages: the formation of an inter-ministerial and/or inter-agency committee; the meeting of the inter-ministerial and/or inter-agency committee; and the harmonization, consolidation, and strengthening of concepts. The first phase, the formation of an inter-ministerial committee, is irrelevant to the process of drafting ratification laws because the relevant ministry (namely the Ministry of Foreign Affairs) has already discussed and assessed the urgency of an international treaty [45]. Creating another inter-ministerial committee after the treaty has been signed would be time-consuming. Second phase is the inter-ministerial meeting which is still relevant because team that formed the international treaty should already exist before the draft law is created, making it the same team that would be involved in the meeting, which aligns with the provisions of Presidential Regulation No. 87/2014. Lastly the third phase which is harmonization, consolidation, and strengthening of concepts, requires ensuring that the substance of the law aligns with the existing legislation. This phase is relevant to the policy-making for the purpose of treaty ratification because international treaties must be consistent with the 1945 Constitution. However, it can also be argued that this stage is unnecessary. If Indonesia decides to reject an international treaty because it doesn't align with Pancasila or the Constitution, there's no need for harmonization. If Indonesia agrees to join a treaty, the harmonization process can be moved to an earlier stage. Therefore, the process of policy-making for the purpose of treaty ratification can be accelerated by streamlining the drafting stage.

The next phase is the discussion in the matter of draft laws, which also consists ratification policy, where the fast-track, mechanism could not be use as has been used in the planning phase. This is because there's no special process like the open cumulative list for this stage. Stated in Presidential Regulation No. 87 of 2014, it is acknowledged that discussion of draft laws derived from either the President or the House of Representatives. The draft ratification law is contextualized within the open cumulative list regime. Before a treaty becomes a national law, the executive branch handles it first, and then it's sent to the House of Representatives for final approval. Therefore, according to Presidential Regulation No. 87 of 2014, the discussion phase of draft laws for ratifying treaties is the same as how the discussion for any other draft law derived from the President. This provision explained in Article 87 until Article 90 Presidential Regulation No. 87 of 2014 which consists the procedural provisions in terms of the discussion for draft laws derived from the President. In the discussion phase of draft laws, the concept of fast-track legislation for international treaty ratification laws should be deemed irrelevant due to several reasons. First, draft ratification laws for international treaties usually consist of only two articles, making lengthy discussions about their structure unnecessary. Article 1 states the ratification of the international treaty, and Article 2 specifies the date of enactment of the ratification law. Second, the repeated discussion in legislative bodies in the context of international treaty are no longer needed because it has already been conducted executively by Minister of Foreign Affairs, which has already conducted negotiations and declared Indonesia as a signatory to a bilateral treaty or international convention. Hence the agenda conducted in House of Representatives is merely to approve the treaty without prolonged discussions. Third, the allocation of the House of Representatives' budget would increase if draft ratification laws, which have already been comprehensively discussed between two or more countries, are discussed again in plenary sessions. This would unnecessarily burden the state's finances. Therefore, there is a need for additional provisions in Presidential Regulation No. 87/2014 to establish a separate process for draft ratification laws that bypasses the usual procedures.

As the form of improvement in policy-making system for international treaty ratification in Indonesia, time limits as those existing in the United Kingdom and Ecuador are necessary in Indonesia's legislative process, especially in the ratification process. It needs a clear regulation for state officials regarding the maximum time for ratifying treaties. This regulation is currently unregulated in Indonesia's national legal system. Such a regulation can bind several state officials, especially in the process of presidential approval and House of Representatives agreement in case of differing opinions within the House of Representatives. This can be seen in time limitation for the legislative process practiced in the UK is a mechanism that can be adopted as a concept of fast-track legislation in Indonesia. Therefore, particular regulations are needed

to accelerate the period for ratifying international treaties into national regulation. One of the options is to amend Law No. 12 of 2011, which set the rule for the ratification process of international treaties into national regulation takes no more than 21 working days using the same process as drafting other regular law. Besides that, there is also a need for the existence of indirect coercive procedures against state officials involved in the drafting and discussion of draft laws on the ratification of international treaties. In addition, the House of Representatives' role in negotiating and drafting international treaties must also be increased to reinforce the controlling function of the House of Representatives over the government. Its increasing role can be implemented by amending the provisions in Law No. 24 of 2000. Thus far, the government still dominates the talks of international treaties in Indonesia, and debates in Parliament still require lengthy discussions, which slackens the ratifying process of international treaties. Thus, the House of Representatives, following the commission in charge of international relations, also discusses international treaties with the Ministry of Foreign Affairs so that they are mutually influential and have binding power to the approval process of the House of Representatives and the President.

6. Conclusion

The fast-track legislation does not exist in Indonesian national law. Although several mechanisms have been created to speed up the drafting regulations process, such as an open cumulative list and the establishment of a Special Committee, this cannot be called fast-track legislation. In the UK, fast-track legislation can be utilized by fulfilling strict conditions, adhering to certain limitations, and paying attention to constitutional principles during its implementation. Regarding the ratification of international treaties, the UK strengthens the role of Parliament in treaty ratification by allowing the House of Commons to block ratification without limits. First, the government must present the treaty to Parliament for 21 sitting days. If both Houses agree, the treaty may be ratified. However, if one of the Houses votes against ratification, the government must justify the decision and face another 21 sitting days. This process is indefinitely repetitive, effectively giving the House of Commons veto power over treaties.

Meanwhile, the Indonesian legal system has no regulations to govern time limitations for the House of Representatives in giving approval for international treaty-making in the form of a law. Consequently, international treaties that have already been negotiated and signed by the government may not be discussed or approved by the House of Representatives in the form of a law. Therefore, there is a need to regulate time limits regarding international treaty ratification after they have been signed by the government in order to obtain House of Representatives approval in the form of law. Additionally, the House of Representatives' role in negotiating international treaties should be enhanced to establish a system of checks and balances between the House of Representatives and the President in the process of international treaty-making as well as the ratification process into national law. This concept also simplifies the process in the House of Representatives, as it is currently not involved in the initial stages of treaty-making and is only involved in the approval process of ratification laws. When the House of Representatives is involved from the start, the approval of ratification laws would be easier, faster, and less complex than the current process. Furthermore, by shortening the drafting and discussion process, the formation of ratification laws would be faster and less time-consuming until their enactment. It is necessary to amend the provisions in Presidential Regulation No. 87/2014 to differentiate the process of forming ratification laws from non-ratification laws, especially in the drafting and discussion process, so that it becomes faster.

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