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BETWEEN EMERGENCIES AND MEANINGFUL PARTICIPATION: THE OSSIFICATION OF EMERGENCY FAST-TRACK LEGISLATION IN INDONESIA

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Abstract

Indonesia's emergency fast-track legislation presents a dilemma. Article 23 paragraph (2) of Law 15/2019 permits bills to bypass the National Legislative Program in urgent circumstances, but not establish a comprehensive accelerated procedure. Meanwhile, meaningful participation remains constitutionally mandatory. This tension risks procedural ossification, underscoring the need to redesign the mechanism so that legislative rapidity and democratic safeguards can operate coherently. This article assesses the legal framework governing emergency fast-track lawmaking, explore the role and scope of public participation within accelerated procedures, and identify an appropriate balance between participatory lawmaking and the need for rapid legislative responses during emergencies. Employing a normative legal methodology with conceptual, statutory, case, and comparative approaches, this paper presents three arguments. First, Article 23 paragraph (2) of Law 15/2019 constitutes an exception to legislative planning rather than a comprehensive fast-track procedure because drafting, deliberation, and approval remain governed by ordinary rules. Second, procedural ossification results not from meaningful participation alone, but from its undifferentiated application within an incomplete accelerated framework. Third, the mechanism is institutionally less attractive than a Perppu, which defers legislative deliberation and public participation until after its issuance. The study proposes mandatory legislative timelines, targeted and front-loaded participation that preserves the rights to be heard, to be considered, and to be explained, agile legislative procedures, and mandatory sunset clauses followed by ordinary legislative review. This study contributes by distinguishing planning exceptions from genuine fast-track procedures and by developing a constitutional model that reconciles emergency responsiveness with parliamentary control, meaningful participation, and democratic accountability.

Keywords: *Emergency Legislation; Fast Track Legislation; Meaningful Participation; Ossification; Procedure.*

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1. Introduction

The legislative process in Indonesia has faced intense scrutiny in recent years, exemplified by the controversial enactment of Law Number 11 of 2020 on Job Creation and the Amendment to Law Number 4 of 2009 on Mineral and Coal Mining. In both cases, political opportunism was observed to prevail over a democratic lawmaking process, initiating widespread demonstrations.[1] The laws were widely criticized as contrary to the mandate of meaningful participation and the

[1] Petra Mahy, "Indonesia's Omnibus Law on Job Creation: Legal Hierarchy and Responses to Judicial Review in the Labour Cluster of Amendments," *Asian Journal of Comparative Law* 17, no. 1 (2022): 51–75, https://doi.org/10.1017/asjcl.2022.7.

practice of good legislation.[2] The constitutional importance of meaningful participation is grounded in Article 1 paragraph (2) of the 1945 Constitution, stipulating that sovereignty is vested in the people and implemented according to the Constitution. Accordingly, meaningful public participation in the legislative process constitutes a manifestation of popular sovereignty. These controversies point to a more specific institutional problem. The issue within this context includes the fact that Indonesian law permits certain bills to depart from the ordinary legislative planning framework on grounds of urgency, but it does not clearly determine when such an exception constitutes a genuine fast-track legislative procedure or how democratic safeguards should operate within an accelerated process.

The legislative mandate is constitutionally vested in the Head of State and the House of Representatives (DPR) under the 1945 Constitution, with both entities deriving respective authority via democratic general elections.[3] However, Articles 5 paragraph (1), 20, and 21 of the 1945 Constitution set out only basic constitutional requirements for lawmaking, namely that (1) both the executive and the legislative are authorized to propose bills, (2) bills must be deliberated as well as approved jointly by both institutions, and (3) once jointly approved, a bill must be signed by the President and enacted to acquire the status of law.

Article 22A of the 1945 Constitution further delegates authority to lawmakers with the aim of stipulating procedural details for the formation of laws, thereby granting broad authority to elaborate upon the minimalist text of Article 20. This constitutional requirement is implemented through Law Number 12 of 2011 on the Formation of Laws and Regulations (hereinafter referred to as Law 12/2011), as recently amended by Law Number 13 of 2022 (hereinafter Law 13/2022). These laws collectively constitute a sub-constitutional regime that governs lawmaking protocols and acts as the fundamental legal benchmark for formal challenges brought before the Constitutional Court.[4] Accordingly, whether Indonesia possesses a fast-track legislative procedure cannot be determined solely by the existence of an urgency clause. It must instead be assessed by examining whether the statutory regime establishes a procedurally distinct and genuinely accelerated legislative pathway.

The statutory framework governing legislative procedures provides that the enactment of laws (*undang-undang*) generally proceeds through five separate phases, namely planning, drafting, deliberation, approval, and enactment.[5] However, as part of the legislature's discretionary policy-making authority, the law also recognizes specific exceptions that allow the ordinary legislative procedure to be bypassed through a mechanism known as "fast-track legislation."[6] In Indonesia, the regulatory basis for accelerated legislative procedures is found within the provisions of Law 15/2019 (an amendment to Law 12/2011), specifically under Article 23, which distinguishes between two specialized procedures. The first is the "open cumulative list" system, which allows certain draft laws to bypass the conventional phases of the National Legislative Program. The second format, the primary subject of this study, is known as "emergency fast-track legislation." This particular path empowers the President or the People's Representative Council to propose bills outside the standard National Legislative Program

[2] Muhammad Natsir, Andi Hidayat Anugrah Ilahi, and Titien Pratiwi Adnas, "Political and Legal Developments in Mineral and Coal Mining Laws: A Critical Review," *Diponegoro Law Review* 9, no. 2 (2024): 186–203, https://doi.org/10.14710/dilrev.9.2.2024.186-203.

[3] Bagus Hermanto, "Deliberate Legislative Reforms to Improve the Legislation Quality in Developing Countries: Case of Indonesia," *The Theory and Practice of Legislation* 11, no. 1 (2023): 1–31, https://doi.org/10.1080/20508840.2022.2080392.

[4] Yati Nurhayati et al., "Investment in Indonesia After Constitutional Court's Decision in the Review of Job Creation Law," *Lentera Hukum* 9, no. 3 (2022): 435–458, https://lenterahukum.jurnal.unej.ac.id/index.php/ejlh/article/view/32368.

[5] Syaifullahil Maslul, "Presidential Emergency Legislation in Indonesia: A Comparative Study of Fast-Track Mechanisms in Ecuador and Colombia," *Asy-Syir'ah: Jurnal Ilmu Syari'ah Dan Hukum* 58, no. 1 (2024): 225–40, https://doi.org/10.14421/ajish.v58i1.1434.

[6] Ibnu Sina Chandranegara, "Pengadopsian Mekanisme Fast-Track Legislation Dalam Pengusulan Rancangan Undang-Undang Oleh Presiden," *Jurnal Penelitian Hukum De Jure* 21, no. 1 (2021): 123–40, https://doi.org/10.30641/dejure.2021.V21.123-140.

framework when faced with urgent or crisis conditions.[7] However, Article 23 paragraph (2) only authorizes an exception to legislative planning. It does not prescribe special deadlines, abbreviated deliberative stages, priority voting, or other procedural modifications governing drafting, deliberation, and approval. An exception to the National Legislative Program therefore becomes a genuine fast-track legislative procedure only when it is accompanied by special rules that accelerate the subsequent stages of lawmaking while retaining minimum constitutional safeguards.

Following Constitutional Court Decision 91/PUU-XVIII/2020 and its subsequent incorporation into Law 13/2022, meaningful public participation has become a compulsory element in every legislative process, including fast-track legislative procedures. This development creates a fundamental paradox, particularly for emergency fast-track legislation. Meaningful participation, by its very nature, necessitates time-consuming deliberative procedures.[8] This requirement stands in direct opposition to the foundational purpose of emergency fast-track legislation, namely to expedite the lawmaking process in response to impending crises.[9] The relevant theoretical problem is therefore not whether participation should be removed during emergencies, but whether its institutional form, scope, and timing can be calibrated without eliminating the distinctive rationale for adopting an accelerated procedure.

Meaningful participation should not be interpreted as unlimited participation or as an obligation to include every person in every legislative activity. Its constitutional core consists of the right to be heard, have public views considered, and receive an explanation or response.[10] These guarantees cannot be eliminated simply because a bill is processed under an emergency procedure. However, the method through which they are fulfilled may be adjusted according to the nature, severity, and immediacy of the emergency. The observed distinction separates the substantive guarantee of participation, which must be preserved, from its procedural modalities, which may be modified proportionately.

Prior scholarship on fast-track legislation in Indonesia has provided valuable insights into its practice and comparative implementation, but has not fully addressed the theoretical paradox this study identifies. For instance, Ni'matul Huda et al. analyzed the implementation of fast-track legislation during the Joko Widodo administration using a socio-legal approach.[11] Other key studies, such as those of Rosita Miladmahesi et al. and Ibnu Sina Chandranegara, have adopted comparative perspectives to assess the general concept and feasibility of its implementation in Indonesia.[12] While these studies offer essential socio-legal and comparative critiques, this study addresses a different, more fundamental question, namely the theoretical complexity created by imposing a meaningful participation mandate on emergency fast-track legislation. This study moves beyond general feasibility to analyze how this specific emergency tool can be made workable in light of the mandate, particularly in comparison to other domestic alternatives, a gap existing literature did not specifically address.

This study argues that the current mechanism does not constitute a complete fast-track procedure because it accelerates only a bill's entry into the legislative agenda, while leaving

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7 Rosita Miladmahesi et al., "The Possibility of the Implementation of Fast-Track Legislation in Indonesia," *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)* 10, no. 1 (2023): 101–21, https://doi.org/10.22304/pjih.v10n1.a6.

8 Hanna Hämäläinen, "Inclusive Participation in Law-Making: Good Governance or a Constitutional Obligation?," *The Theory and Practice of Legislation* 13, no. 2 (2025): 213–35, https://doi.org/10.1080/20508840.2025.2513176.

9 Gonen Ilan, "Response: Recent Development Regarding Judicial Review of Legislative Process in Israel," *Statute Law Review* 42, no. 2 (2021): 176–182, https://doi.org/10.1093/slr/hmz029.

10 Helmi Chandra SY and Shelvin Putri Irawan, "Perluasan Makna Partisipasi Masyarakat Dalam Pembentukan Undang-Undang Pasca Putusan Mahkamah Konstitusi," *Jurnal Konstitusi* 19, no. 4 (2022): 766–93, https://doi.org/10.31078/jk1942.

11 Ni'matul Huda, Idul Rishan, and Dian Kus Pratiwi, "Fast-Track Legislation: The Transformation of Law-Making Under Joko Widodo's Administration," *Yustisia Jurnal Hukum* 13, no. 1 (2024): 117–33, https://doi.org/10.20961/yustisia.v13i1.71061.

12 Chandranegara, "Pengadopsian Mekanisme Fast-Track Legislation Dalam Pengusulan Rancangan Undang-Undang Oleh Presiden."

subsequent stages subject to ordinary procedural requirements. When these unchanged requirements interact with an undifferentiated meaningful participation mandate, the mechanism risks procedural ossification and becomes institutionally less attractive than a Government Regulation in Lieu of Law (*Perppu*). Therefore, de-ossification does not require the abandonment of public participation, but the reconstruction of its timing, scope, and institutional form within an accelerated framework. To achieve this, the analysis unfolds in three parts, first, it examines the current regulations governing emergency fast-track legislation in Indonesia. Second, it analyzes the precise impact of the public participation dimension on that procedure. Finally, it proposes a reconstructed model that balances meaningful public participation with the non-negotiable requirement for rapidity in addressing emergencies.

2. Method

This study adopted and utilized doctrinal legal studies to evaluate the procedural framework of emergency fast-track legislation in Indonesia.[13] It was conducted in three distinct methodological phases, namely (1) establishing a theoretical and comparative baseline for fast-track legislation, (2) Evaluating Indonesia's positive law and its procedural paradoxes concerning emergency fast-track legislation and the meaningful participation mandate, and (3) formulating reform proposals for the current regulations.

In the first phase, this study utilized conceptual and comparative approaches to construct a theoretical foundation for fast-track and emergency legislation. The conceptual approach synthesized secondary legal materials, comprising books and journal articles, to define the core tenets and mechanisms of fast-track legislation.[14] Concurrently, a comparative approach was utilized to evaluate how established democratic systems balance speed with procedural safeguards. The United States, the United Kingdom, and New Zealand were purposively and specifically selected to benchmark different rationales for expediting legislation.[15]

In the second phase, the study utilized statutory, case, and conceptual approaches to diagnose the gaps within Indonesia's current legal framework between fast-track legislation and the meaningful participation mandate. The statutory approach examined primary legal materials, particularly the 1945 Constitution and Law 12/2011, as last amended by Law 13/2022, to distinguish between the "open cumulative list" and the "emergency" fast-track legislation mechanisms.[16] In addition, a case approach analyzed Constitutional Court Decision Number 91/PUU-XVIII/2020.[17] These legal materials were analyzed using grammatical, systematic, and teleological interpretive techniques to clarify the semantic meaning of the texts, trace the structural relationship between standard and emergency legislative procedures, and uncover the procedural paradoxes within the current positive law.[18] Furthermore, a conceptual approach was utilized to elaborate on the concept of "ossification" in rulemaking to conceptualize the resulting legislative gridlock.[19]

In the final phase, the study synthesized statutory, case, and comparative approaches to formulate reform proposals. A statutory approach analyzed the regulatory framework governing legislative business processes, namely DPR Regulation Number 1 of 2020, DPD Regulation Number 1 of 2018, and Presidential Regulation Number 87 of 2014, as lastly amended by

[13] Theresia Anita Christiani, "Normative and Empirical Research Methods: Their Usefulness and Relevance in the Study of Law as an Object," *Procedia - Social and Behavioral Sciences* 219 (2016): 201–7, https://doi.org/10.1016/j.sbspro.2016.05.006.

[14] Sanne Taekema, "Theoretical and Normative Frameworks for Legal Research: Putting Theory into Practice," *Law and Method*, 2018, 1–17, https://doi.org/10.5553/REM/.000031.

[15] Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2017), 135.

[16] Marzuki, 133–134.

[17] Marzuki, 134.

[18] Andrzej Grabowski, *Juristic Concept of the Validity of Statutory Law: A Critique of Contemporary Legal Nonpositivism* (Berlin, Heidelberg: Springer, 2013), https://doi.org/10.1007/978-3-642-27688-0; Randy E. Barnett, "Interpretation and Construction," *Harvard Journal of Law & Public Policy* 34 (2011): 65–72, https://scholarship.law.georgetown.edu/facpub/820/.

[19] Taekema, "Theoretical and Normative Frameworks for Legal Research: Putting Theory into Practice."

Presidential Regulation Number 76 of 2021.[20] Furthermore, a case approach analyzed Constitutional Court Decision Number 2/PUU-XVI/2018 on procedural due process concerning mass organization disbandment, Decision Number 70/PUU-XXII/2024 on gubernatorial age requirements, and Decision Number 165/PUU-XXII/2024 on the inclusion of meaningful participation in emergency fast-track legislation. Concurrently, a comparative approach was utilized to examine how other jurisdictions navigated the tension between emergency fast-track legislation and meaningful participation mandates. Specific comparative examples were selected purposively as functional benchmarks, namely (1) the expedited legislative timeframes in Ecuador and Colombia, (2) the legislative logistical adaptations in Finland during COVID-19; (3) the integration of information and communication technologies (ICTs), particularly artificial intelligence (AI), into the legislative process in Estonia; and (4) the mandatory sunset clauses in the United Kingdom's Coronavirus Act 2020.[21]

Finally, the reform proposals were derived by systematically mapping the identified domestic legal gaps against these comparative models. By synthesizing theoretical frameworks with comparative best practices, the study bridged the gap between diagnosing current legal defects and constructing a viable reform proposal for emergency fast-track legislation in Indonesia.[22]

3. Results and Discussion

3.1. Indonesia's Emergency Fast-Track Legislation Process

3.1.1. Fast-Track Legislation: A Theoretical Review

Fast-track legislation is known by various terms, but its core function remains consistent. In the United States context, Christopher M. Davis refers to "fast-track legislative procedures" as special rules applicable to one or both chambers of Congress that accelerate the consideration of a particular measure or a narrowly specified category of measures.[23] Similarly, the United Kingdom uses "fast-track legislation" interchangeably with "rapid," "instant," "expedited," or "emergency legislation."[24] The shared purpose of these mechanisms is not simply speed, but finding a "middle ground." Fast-track legislation is designed to resolve urgent, pressing issues by expediting the legislative process, but it carries out this expedition, in principle, without eliminating the core tenets of good lawmaking practice.[25] It is a structured response that balances the need for a swift legislative reaction to an emergency with democratic and procedural principles. Thus, fast-track legislation is best defined as an expedited legislative procedure that allows for the swift enactment of laws in response to urgent matters, while preserving essential lawmaking principles.[26]

This is consistent with Richard Kelly's view that fast-track legislation offers a middle ground for addressing urgent and compelling circumstances by enabling laws to be enacted through an expedited process without compromising the principles of good lawmaking.[27] Although various

[20] Marzuki, *Penelitian Hukum*, 3–5.
[21] Marzuki, 135–136.
[22] Terry Hutchinson and Nigel Duncan, "Defining and Describing What We Do: Doctrinal Legal Research," *Deakin Law Review* 17, no. 1 (2012): 83–119, https://doi.org/10.21153/dlr2012vol17no1art70; P. Ishwara Bhat, *Idea and Methods of Legal Research* (Oxford University Press, 2020), https://doi.org/10.1093/oso/9780199493098.001.0001.
[23] Christopher M. Davis, "Expedited or 'Fast-Track' Legislative Procedures," 2015, https://www.congress.gov/crs-product/RS20234.
[24] Chandranegara, "Pengadopsian Mekanisme Fast-Track Legislation Dalam Pengusulan Rancangan Undang-Undang Oleh Presiden."
[25] Denethia Sausan and Taufiqurrohman Syahuri, "Politik Hukum Revisi Undang-Undang Mahkamah Konstitusi Didasarkan Pada Judicial Reform Index," *Jurnal Education and Development* 9, no. 1 (2021): 45–52, https://journal.ipts.ac.id/index.php/ED/article/view/2287.
[26] Wand Mei Herry Susilowati, "Application of Fast-Track Legislation Method in Presidential System of Government in Indonesia," *Cepalo* 8, no. 1 (2024): 49–68, https://doi.org/10.25041/cepalo.v8no1.3346.
[27] Richard Kelly, "Fast-Track Legislation" (London: House of Commons Library, 2020), https://researchbriefings.files.parliament.uk/documents/SN05256/SN05256.pdf.

terms are used to describe this mechanism, each essentially refer to the same concept, namely the expedited enactment of legislation. This approach is based on the recognition that a state does not always operate under normal circumstances.[28]

Conceptually, fast-track legislation is best understood as a procedural category defined by a departure from the ordinary legislative timetable, rather than by the subject matter of a bill alone.[29] The degree of acceleration may vary, a legislature may shorten intervals between stages or adopt special rules to secure earlier consideration, without necessarily eliminating every stage of deliberation.[30] Urgency may provide a reason for seeking acceleration, but it does not by itself define the procedure or establish how much scrutiny has been reduced. Fast-track legislation should therefore be analysed as a matter of degree, with attention to the specific procedural changes made in each case.

However, a shared objective of accelerating lawmaking does not mean that fast-track legislation is triggered only by emergencies or follows a single procedural design. The urgency may also relate to the need to achieve a particular policy momentum, while acceleration may be achieved by shortening deliberation periods or reducing procedural stages.[31] The grounds for acceleration and the techniques used to achieve it should therefore be treated as separate analytical dimensions. Whether an expedited procedure preserves adequate scrutiny and public participation must be assessed from its institutional safeguards, rather than presumed from the definition of fast-track legislation itself.[32]

Classifying a procedure as fast-track is a descriptive assessment of how it departs from the ordinary legislative timetable. Whether its use is justified and democratically legitimate requires a separate evaluation of its grounds and safeguards.

3.1.2. Fast-Track Legislation: A Comparative Review

Having established that fast-track legislation is defined by procedural departures from the ordinary legislative timetable, this section examines how different legislative systems authorize and structure such departures. The comparison of the United States, the United Kingdom, and New Zealand focuses on the grounds for acceleration, the procedural mechanisms employed, and the safeguards used to balance speed with legislative scrutiny**. First,** in the United States, the relevant framework is primarily set out in the House Rules and Manual and several provisions of the Senate Manual, ensuring that its use remains under legislative control.[33] Its application is not necessarily based on an emergency, but may instead be justified by the need to make a legislative decision within a specific period or at a particular moment.[34] Consequently, the United States model is more dynamic and oriented toward achieving the objectives of a particular bill.

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[28] Mohammad Fadli, Marsudi Dedi Putra, and Miftahus Sholehudin, "Fast-Track Legislation Yang Benar Dan Demokratis," *Arena Hukum* 16, no. 3 (2023): 443–62, https://doi.org/10.21776/ub.arenahukum.2023.01603.1.

[29] Mei Susanto, Inna Junaenah, and Rahayu Prasetianingsih, "Pola Fast-Track Legislation Pada Pembentukan Peraturan Daerah Mengenai Pembubaran Bank Berbentuk BUMD Dalam Likuidasi Oleh Lembaga Penjamin Simpanan," *Jurnal Legislasi Indonesia* 22, no. 2 (2025): 263–80, https://doi.org/10.54629/jli.v22i2.1495.

[30] Nur Aji Pratama, "Ius Constituendum Legislasi: Politik Hukum Pengaturan Fast-Track Legislastion Untuk Mencegah Gejala Autocratic Legalism Di Indonesia," *Jurnal Legislasi Indonesia* 21, no. 4 (2024): 459–73, https://doi.org/10.54629/jli.v21i4.1261.

[31] Agnes Fitryantica and Regy Hermawan, "Fast-Track Legislation Mechanism as an Alternative to the Formation of Legislation in Indonesia," *Jurnal Ilmiah Kebijakan Hukum* 16, no. 3 (2022): 423–32, https://doi.org/10.30641/kebijakan.2022.V16.423-432.

[32] Kaharuddin Kaharuddin et al., "Fast Track Legislation without a Legal Track: A Comparative Critique of Accelerated Law-Making in Indonesia and Other Jurisdictions," *Diponegoro Law Review* 10, no. 2 (2025): 199–216, https://doi.org/10.14710/dilrev.10.2.2025.199-216.

[33] Bayu Aryanto, Susi Dwi Harijanti, and Mei Susanto, "Menggagas Model Fast-Track Legislation Dalam Sistem Pembentukan Undang-Undang Di Indonesia," *Jurnal Rechtsvinding* 10, no. 2 (2021): 187–205, https://doi.org/10.33331/rechtsvinding.v10i2.703.

[34] Fadli, Putra, and Sholehudin, "Fast-Track Legislation Yang Benar Dan Demokratis."

The legislative process may be expedited by imposing deadlines for committee consideration, discharging a bill from committee when the deadline has elapsed, granting it priority during plenary sessions, limiting debate, prohibiting amendments to certain bills, and accelerating consideration of companion bills passed by the other chamber.[35] The primary objective is not to ensure the enactment of a bill, but to require the legislature to promptly decide whether to approve or reject it.[36] Accordingly, the United States model may be characterized as a decision-oriented form of legislative acceleration. Its weaknesses include the risk of incorporating provisions unrelated to the principal bill (riders), political bargaining, and diminished transparency.[37]

Second, in the United Kingdom, fast-track legislation is primarily used to address urgent legal needs. Although it is frequently associated with emergencies, its use is not confined to such circumstances.[38] This mechanism may also be used to correct errors in existing legislation, respond to court judgments, fulfill international commitments, amend budgetary provisions, address economic crises, implement counter-terrorism policies, or ensure that legislation applies to a particular event.[39] Therefore, its use is justified by the existence of a legal need that cannot be deferred, whether under emergency or normal circumstances.

The sponsor of a bill in the United Kingdom must explain the reasons for using the fast-track procedure. The process must also preserve parliamentary scrutiny, legislative quality, the participation of affected groups, proportionality, transparency, and the protection of constitutional rights. The United Kingdom also employs sunset clauses to limit the duration of certain legislation enacted through the fast-track procedure.[40] The British model, therefore, treats urgency and procedural safeguards as the principal sources of legitimacy for legislative acceleration. However, this procedure may reduce the depth of legislative studies, public participation, and parliamentary scrutiny if these safeguards are satisfied only as formal requirements.

Third, in New Zealand uses the terms "motion of urgency" or "urgency motion." This mechanism is governed by the House Standing Orders and has been used since 1903.[41] The legislative process may be accelerated by extending parliamentary sitting hours or periods, postponing other items on the parliamentary agenda, and limiting debate at particular stages. Depending on Parliament's decision, the mechanism may apply to all stages of a bill or only to specific stages.[42] Since 1996, the New Zealand Government has been required to provide specific reasons for invoking an urgency motion. These reasons may include the need to provide certainty to financial markets, respond to unforeseen events, correct legal errors, meet external deadlines, address a legislative backlog, or consider budgetary matters.[43] The mechanism was reportedly used on 230 occasions between 1987 and 2010.[44] This frequency shows that the urgency motion has become an established feature of parliamentary practice. However, its excessive use may also transform an exceptional procedure into a routine legislative practice.

Based on this comparison, the United States emphasizes expedited decision-making, the United Kingdom focuses on urgency and procedural safeguards, and New Zealand prioritizes the management of parliamentary time and agendas. All three systems retain Parliament or the legislature as the principal authority controlling the legislative process. The primary difference is

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35 Chandranegara, “Pengadopsian Mekanisme Fast-Track Legislation Dalam Pengusulan Rancangan Undang-Undang Oleh Presiden.”
36 Miladmahesi et al., “The Possibility of the Implementation of Fast-Track Legislation in Indonesia.”
37 Fadli, Putra, and Sholehudin, “Fast-Track Legislation Yang Benar Dan Demokratis.”
38 Fadli, Putra, and Sholehudin.
39 Aryanto, Harijanti, and Susanto, “Menggagas Model Fast-Track Legislation Dalam Sistem Pembentukan Undang-Undang Di Indonesia.”
40 Fadli, Putra, and Sholehudin, “Fast-Track Legislation Yang Benar Dan Demokratis.”
41 Chandranegara, “Pengadopsian Mekanisme Fast-Track Legislation Dalam Pengusulan Rancangan Undang-Undang Oleh Presiden.”
42 Aryanto, Harijanti, and Susanto, “Menggagas Model Fast-Track Legislation Dalam Sistem Pembentukan Undang-Undang Di Indonesia.”
43 Chandranegara, “Pengadopsian Mekanisme Fast-Track Legislation Dalam Pengusulan Rancangan Undang-Undang Oleh Presiden.”
44 Aryanto, Harijanti, and Susanto, “Menggagas Model Fast-Track Legislation Dalam Sistem Pembentukan Undang-Undang Di Indonesia.”

in the aspects of the process subject to acceleration. The United States limits committee proceedings, amendments, and debate, the United Kingdom expedites the legislative process as a whole subject to specific requirements, and New Zealand reorganizes sitting hours, agenda priorities, and the scope of parliamentary debate.

The comparison indicates that legislative acceleration should be analysed along at least two distinct dimensions. The first concerns access to the legislative agenda, a bill may be given priority or introduced outside the ordinary planning sequence to prevent it from being delayed in the legislative queue.[45] The second concerns the compression of deliberative stages, committee consideration, debate, opportunities to propose amendments, or intervals between stages may be shortened or omitted. These dimensions may operate simultaneously, but they are not interchangeable. The inclusion of a bill on a priority agenda does not, in itself, demonstrate that its deliberation has also been accelerated.[46] Conversely, shortening deliberation more directly limits opportunities for scrutiny and revision.[47] This distinction is consistent with the variation in expedited procedures in the United States and the United Kingdom, as well as with the possibility under New Zealand's urgency procedure for a bill to be considered without select committee review.

Table 1.
Comparison of Fast-Track Legislation Models, Mechanisms, and Procedural Safeguards in the United States, the United Kingdom, and New Zealand

Aspects	United States	United Kingdom	New Zealand
Regulatory Basis	Primarily governed by the House Rules and Manual and the Senate Manual, with the process controlled by the legislature.	Derived from internal parliamentary rules and practices, with Parliament retaining control over the process.	Governed by the House Standing Orders, with its use determined by Parliament.
Reasons for Use	To achieve a legislative objective or secure a decision within a specified period, its use is not necessarily associated with an emergency.	To address urgent legal needs, such as responding to a crisis, correcting legislation, implementing court judgments, and fulfilling international commitments.	To respond to unforeseen events, provide economic certainty, correct legal errors, meet deadlines, and address the legislative agenda.
Expediting Techniques	Limiting the time allocated to committee proceedings and debate, prioritizing plenary consideration, prohibiting amendments, and accelerating consideration of companion bills.	Expediting the stages of legislative consideration while preserving parliamentary scrutiny.	Extending parliamentary sitting hours, postponing other agenda items, and limiting debate at all or selected stages of a bill.
Procedural Safeguards	Restrictions on subject matter, statutory deadlines, and amendments to certain bills.	Justification for using the procedure, parliamentary scrutiny, legislative quality, participation, proportionality, transparency, rights protection, and sunset clauses.	The Government must provide reasons for invoking urgency, while Parliament determines which legislative stages are to be expedited.

Source: processed by the Authors, 2026

[45] Davis, "Expedited or 'Fast-Track' Legislative Procedures," 1.
[46] Davis, 1.
[47] House of Lords, "Fast-Track Legislation: Constitutional Implications and Safeguards" (London: the Authority of the House of Lords, 2009), paras. 33–35 and 44–46, https://publications.parliament.uk/pa/ld200809/ldselect/ldconst/116/116.pdf.

Fast-track legislation should, therefore, be understood as a special mechanism or procedure for enacting legislation, rather than simply as the practice of passing legislation within a short period.[48] Under this mechanism, a bill continues to proceed through the prescribed legislative stages, but the entire process is completed within a substantially shorter period than under the ordinary legislative procedure.[49] Accordingly, the defining feature of fast-track legislation is not simply speed, but the deliberate compression of timeframes within a specified legislative procedure.[50]

The mechanism must also be distinguished from a legislative process that is simply rapid or hastily conducted. By contrast, fast-track legislation requires a specific need that justifies the acceleration while continuing to treat legislative quality as an integral part of the law-making process.[51] Enacting legislation within a short period without clear justification or accountable procedures may undermine the quality of the enacted legislation.[52] Therefore, a short legislative timeframe is not, in itself, sufficient to classify a process as fast-track legislation. Such classification also depends on the existence of urgency, a special procedure, and adherence to the fundamental principles of good lawmaking.[53]

Scholars, such as Ni'matul Huda et al., argue that the only instrument enabling legislation to be formed through an accelerated procedure is the *Perppu*.[54] This view is grounded in the 1945 Constitution, which expressly provides an emergency lawmaking instrument belonging solely to the executive branch. Under Article 22, when a "compelling urgency" arises, the President is empowered to issue a *Perppu*, subject to approval by the People's Representative Council at its next session. Saldi Isra describes this provision as *noodverordeningsrecht*, namely the President's emergency power to enact government regulations that carry the same legal force as statutes.[55] This explicit executive power, however, emphasizes a significant legislative gap. The 1945 Constitution does not, in fact, nominally recognize a "fast-track" concept for the legislature. It contains no provision stipulating acceleration or a specific timeframe for enacting laws in urgent situations, leaving the entire matter to be regulated by lawmakers under Article 22A.

3.1.3. Fast-Track Legislation as an Emergency Legislation

Law 12/2011 on the Formation of Laws and Regulations and its subsequent amendment, Law 15/2019, especially Article 23 sets out the formal basis for fast-track legislation by introducing two separate mechanisms.

1) National Legislative Program contains Open Cumulative List consisting of:
   a. legalization of certain international treaty;
   b. consequences of constitutional court's decision;
   c. state budget;
   d. formation, division, and integration of provincial and/or regency/city region; and stipulation/cancellation of government regulation in lieu of law.
2) In certain condition, the People's Representative Council or President can submit a Bill outside the National Legislative Program, covering :
   a. dealing with extraordinary condition, conflict condition, or natural disaster; and
   b. other certain condition that ensures national urgency for a Bill that can be collectively agreed upon the People's Representative Council instrument that can specifically

[48] Aryanto, Harijanti, and Susanto, "Menggagas Model Fast-Track Legislation Dalam Sistem Pembentukan Undang-Undang Di Indonesia."
[49] Aryanto, Harijanti, and Susanto.
[50] Miladmahesi et al., "The Possibility of the Implementation of Fast-Track Legislation in Indonesia."
[51] Aryanto, Harijanti, and Susanto, "Menggagas Model Fast-Track Legislation Dalam Sistem Pembentukan Undang-Undang Di Indonesia."
[52] Aryanto, Harijanti, and Susanto.
[53] Miladmahesi et al., "The Possibility of the Implementation of Fast-Track Legislation in Indonesia."
[54] Huda, Rishan, and Pratiwi, "Fast-Track Legislation: The Transformation of Law-Making Under Joko Widodo's Administration."
[55] Saldi Isra, *Lembaga Negara: Konsep, Sejarah, Wewenang, Dan Dinamika Konstitusional*, 1st ed. (Depok: Rajawali Pers, 2020), 200.

deals with legislation and minister that administers governmental affairs in the field of law.

First is the open cumulative list fast-track legislation.[56] The inclusion of an Open Cumulative List in the Annual Priority National Legislative Program is intended to accommodate bills that are considered highly urgent and need to be enacted within the same year.[57] The Open Cumulative List offers a solid foundation because its urgency arises from objective and measurable legal events. For instance, when the Constitutional Court invalidates or provides a "new interpretation" of a law, the lawmakers are obliged to respect and comply with the Court's decision by amending or enacting a new law.[58] Similarly, the need to enact a *Perppu* into law or to ratify the state budget is a form of procedural urgency that ensures the smooth operation of government and fiscal stability. The subject matter in the Open Cumulative List, such as the ratification of international agreements or the enactment of a *Perppu* into law,[59] is often more focused on agreement over the existing substance. This makes it more suitable for an accelerated discussion process without sacrificing the quality of the legislation.[60]

The term "open" does not denote an unrestricted legislative category, but rather the possibility of introducing a bill whenever any of the legally predetermined events under Article 23 Paragraph (1) of Law 15/2019 occurs. Beyond providing a route for agenda inclusion, the Open Cumulative List also serves a planning and budgetary function. In Constitutional Court Decision Number 165/PUU-XXII/2024, the Constitutional Court explained that these bills are placed in a distinct category because their needs cannot always be anticipated when the medium-term Prolegnas is prepared; their inclusion in the Prolegnas also provides budget certainty for the legislative process if they need to be prepared. Thus, the list combines flexibility in the timing of agenda entry with planning certainty for legislative resources. However, inclusion in the Open Cumulative List only facilitates access to the legislative agenda. It does not establish special time limits or modify the ordinary procedures governing drafting, deliberation, approval, and public participation.

Second is emergency fast-track legislation. In certain circumstances, both the executive branch and the legislature are empowered to propose draft laws that fall beyond the scope of the National Legislative Program under Article 23 paragraph (2) of Law 15/2019. The main strength of emergency fast-track legislation is its ability to cut through the legislative queue. This is the primary essence of an accelerated process. A bill does not need to wait for years to enter the Annual Priority National Legislative Program list. The clause regarding "extraordinary circumstances, conflict, or natural disasters" explicitly provides a legal basis for lawmakers to respond quickly to crises, without being hindered by the National Legislative Program cycle. The invocation of Article 23 paragraph (2) can therefore be assessed by examining three connected matters. First, the statutory circumstance relied upon. Second, the relationship between that circumstance and the subject of the bill. Third, the reason the bill cannot reasonably await the ordinary planning cycle.

An additional institutional condition applies to the residual national-urgency ground, a bill based on "other conditions" must receive joint approval from the People's Representative Council organ responsible for legislation and the minister or head of agency responsible for lawmaking before it may be proposed outside the National Legislative Program. Because this requirement involves both legislative and executive lawmaking institutions, it functions as an *ex ante*

[56] Miladmahesi et al., "The Possibility of the Implementation of Fast-Track Legislation in Indonesia."
[57] Wicipto Setiadi, *Ilmu Dan Pembentukan Peraturan Perundang-Undangan* (Jakarta: Damera Press, 2022), 59.
[58] Anugerah Perdana et al., "Reformulation of Public Participation in Fast- Track Legislation in an Open Cumulative National Legislative Program," *Jurnal Konstitusi* 20, no. 4 (2023): 678–703, https://doi.org/10.31078/jk2047.
[59] Maslul, "Presidential Emergency Legislation in Indonesia: A Comparative Study of Fast-Track Mechanisms in Ecuador and Colombia."
[60] Wicipto Setiadi et al., "Simplifying the Ratification Process of International Treaties in the Indonesian Legal System: Fast-Track Legislation as an Efficient Option," *International Journal of Innovative Research and Scientific Studies* 8, no. 1 (2025): 1152–1160, https://doi.org/10.53894/ijirss.v8i1.4545.

coordination check. Nevertheless, concurrence alone does not establish a substantive threshold for “national urgency” or show that the bill’s provisions are sufficiently connected to the asserted emergency, underscoring the need for transparent and legally defined criteria for invoking this residual ground.[61]

Table 2.
Differences Between the Open Cumulative List Model and the Emergency Model

	Open Cumulative List Model	Emergency Model
Urgency	The urgency is procedural and constitutional in nature, arising because there is a legal or constitutional obligation that must be fulfilled. Its nature is by design.	Urgency is substantive and situational, arising because of a crisis, disaster, or unexpected condition that threatens national interests. Its nature is incidental.
The Reasons	Legally defined events include Constitutional Court decisions, treaty signings, the annual state budget cycle, and the issuance of *Perppu*. Their triggers are generally objective and predictable.	Extraordinary circumstances that are subjective in nature, such as natural disasters, conflicts, and economic crises. Their triggers cannot be predicted.
Main Function	Ensures legal certainty and compliance. Its function is to ensure that mandatory state processes (such as the state budget) or legal follow-ups (such as Constitutional Court decisions) are not delayed by the National Legislative Program queue.	Acts as a safety valve. Its function is to provide a rapid response to unexpected crises so that the legislative system does not become paralyzed and the country can take swift action.

Source: processed by the Authors, 2025

The observed distinction is essential, a reflected in the fact that while the "open cumulative list" model serves a procedural function, it is emergency fast-track legislation that represents the true essence of the concept.[62] This is because its entire operational foundation rests on the claim of an emergency, whether objective (natural disasters) or highly subjective (national urgency). Therefore, Article 23 paragraph (2) of Law 15/2019 contains the principal characteristics of emergency legislation. First, its application is triggered by an extraordinary circumstance, conflict, natural disaster, or another condition reflecting national urgency. Second, the relevant circumstances create a need for an immediate legal response that cannot reasonably await the ordinary National Legislative Program cycle. Third, the provision allows the DPR or the President to submit a bill outside the National Legislative Program, thereby enabling the bill to bypass the ordinary legislative queue.[63] With the flexible phrase "extraordinary circumstances" or "other conditions of national urgency," lawmakers gain legitimacy to bypass the National Legislative Program planning cycle and directly include a bill in the priority discussion agenda.[64]

The entire typology of legislative procedures, distinguishing the ordinary process from the two fast-track models, is summarized in Figure 1.

[61] Kaharuddin et al., “Fast Track Legislation without a Legal Track: A Comparative Critique of Accelerated Law-Making in Indonesia and Other Jurisdictions.”
[62] Fadli, Putra, and Sholehudin, “Fast-Track Legislation Yang Benar Dan Demokratis.”
[63] Muhammad Addi Fauzani, Dian Kus Pratiwi, and Ahmad Ilham Wibowo, “Legalitas Dan Praktek Pembentukan Undang-Undang Secara Cepat Di Indonesia (Studi Terhadap Pembentukan Undang-Undang Tentang Komisi Pemberantasan Korupsi Dan Undang-Undang Mahkamah Konstitusi),” *Jurnal Legislasi Indonesia* 19, no. 4 (2022): 502–517, https://doi.org/10.54629/jli.v19i4.968.
[64] Chandranegara, “Pengadopsian Mekanisme Fast-Track Legislation Dalam Pengusulan Rancangan Undang-Undang Oleh Presiden.”

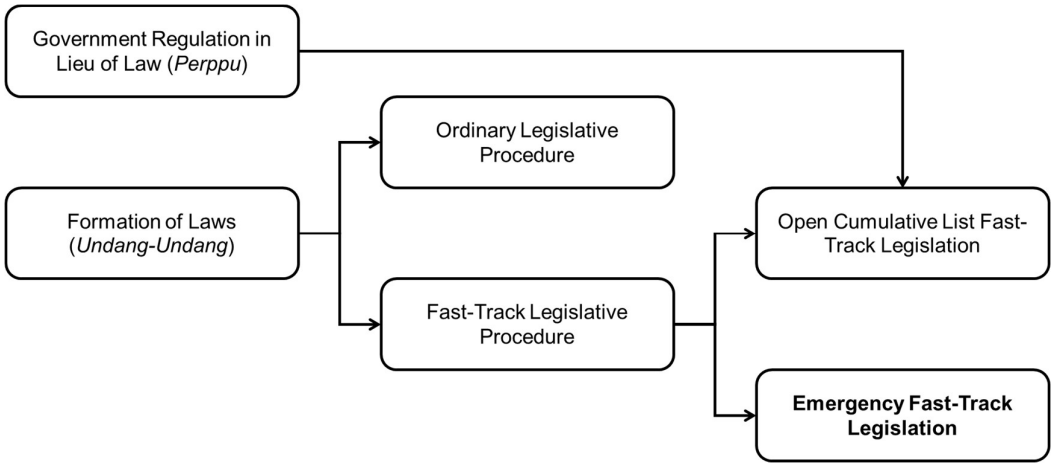

Figure 1. Typology of Legislative Procedures in Law 12/2011 as Lastly Amended by Law 13/2022
Source: processed by the Authors, 2025

The emergency fast-track legislative mechanism serves as a legal avenue for departing from the ordinary legislative cycle. It operates on the rationale of a "state of exception," in which the existence of an emergency is used to justify accelerating the lawmaking process.[65]

3.2. Who to Involve and How Much Involvement: Public Participation's Role in Shaping Emergency Fast-Track Legislation

Civic engagement throughout the legislative process represents a fundamental pillar of any democratic system, essential to the legitimacy of any law enacted.[66] In Indonesia, the standard for this principle was decisively set by the Constitutional Court through its landmark ruling, Decision Number 91/PUU-XVIII/2020. This ruling established that participation must be "meaningful," defined as fulfilling three core rights, namely (1) the right to be heard, (2) the right to be considered, and (3) the right to be explained. The judicial standard was subsequently codified into statute through Law 13/2022. Specifically, Article 96 implements the Court's mandate by guaranteeing the public's right to provide written or oral input at every stage of lawmaking and requiring that all drafts be "easily accessible" to the public. Together, the Court's definition and the statute's procedural requirements establish a binding, substantive standard for public participation that goes far beyond formality.

This binding, substantive standard of "meaningful participation" does not simply evaporate when a bill is introduced through fast-track procedures. It creates an important distinction. While the form of participation may be shortened or modified to meet an urgent timeline, the substantive purpose cannot be neglected. Therefore, emergency fast-track legislation is not exempt from the constitutional requirement to genuinely hear, consider, and provide explanations for public input, a requirement that inherently demands time for deliberation.

However, a significant gap exists between this constitutional standard and the implementing regulations that govern how participation is carried out. The flaw in these regulations is that the specified methods are optional, not mandatory.[67] While these regulations list various traditional

[65] Miroslav Čellár, "Fast-Track Legislative Procedure During the COVID–19 Pandemic in Slovak Parliamentarism," *Comparative Law Review* 28 (2022): 315–39, https://doi.org/10.12775/CLR.2022.010.

[66] Fahmi Ramadhan Firdaus, Ratih Listyana Chandra, and Christo Sumurung Tua Sagala, "Meaningful Participation as People's Sovereignty Form in Democratic Rule of Law State," *Jurnal Hukum IUS QUIA IUSTUM* 31, no. 2 (2024): 337–357, https://doi.org/10.20885/iustum.vol31.iss2.art5.

[67] Mar'atun Fitriah, "Rekonstruksi Perencanaan Pembentukan Undang-Undang Dalam Akselerasi Partisipasi Masyarakat," *Jurnal Legislasi Indonesia* 20, no. 2 (2023): 74–98, https://doi.org/10.54629/jli.v20i2.1056.

consultation methods, such as seminars, workshops, public hearings, and expert review, their use is ultimately left to the "political will and interests of the lawmakers."[68] This creates a one-way process where lawmakers simply request input from the public, which fundamentally fails to guarantee the mandatory meaningful participation defined by the Constitutional Court. The practice, therefore, fails to realize the principle of meaningful participation.

The democratic legitimacy of any law passed via fast-track legislative procedures, therefore, hinges on providing adequate public access and participation. This access is not simply a procedural formality. It is a fundamental constitutional and human right for those potentially affected by the law. Furthermore, ensuring this right is also a matter of good governance, as its absence or improper implementation can essentially lead to inefficiency in state administration, creating the central paradox of this study.[69] Emergency fast-track legislation is an outlier, uniquely caught between two irreconcilable demands. On the one hand, its entire purpose is to provide a rapid response to "abnormal conditions," operating under a "logic of exception" in which ordinary, business-as-usual processes are insufficient.[70] However, it is legally bound by the meaningful participation mandate. This mandate, as defined by the Constitutional Court, is not simply a formality. It is a substantive, time-consuming, and deliberative requirement intended to ensure meaningful participation. The two stated foundational principles are in direct, irreconcilable opposition and their conflict does not simply "pose a difficult relation." Rather, it creates a legislative procedure that is fundamentally in conflict with itself, leading directly to the "ossification" that this study will now explore.

3.3. Balancing Emergencies and Meaningful Public Participation: *Quo Vadis* Emergency Fast-Track Legislation?

The "ossification" of the legislative process, defined here as the procedural gridlock and delays stemming from the meaningful participation mandate, becomes apparent when comparing emergency fast-track legislation to the *Perppu*.[71] Comparatively speaking, the term "ossification" in the United States is often used to describe the imposition of procedural constraints on agency rulemaking under the Administrative Procedure Act (APA).[72] Specifically, Section 553 of the APA requires agencies engaging in informal rulemaking to comply with the public participation mandate through a notice-and-comment mechanism. [73] Similar to notice-and-comment requirements, Indonesia's "meaningful participation" mandate also operates as an additional procedural constraint upon lawmakers' lawmaking authority. Consequently, the imposition of these additional procedural constraints could have the effect of ossifying the legislative process, thereby running contrary to the urgent nature of emergency legislation.

Both instruments serve as legal mechanisms to address emergencies, but they belong to distinct constitutional categories. Emergency fast-track legislation is an *ex-ante* legislative procedure for enacting laws (*undang-undang*) under Article 20 of the 1945 Constitution, whereas *Perppu* is an executive-issued emergency regulation under Article 22, subject to *ex-post* legislative review. To fully understand the incentive structure that makes a *Perppu* a more

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[68] Fitriah.

[69] Angga Prastyo, Samsul Wahidin, and Supriyadi Supriyadi, "Pengaturan Asas Keterbukaan Dalam Pembentukan Undang-Undang," *Jurnal Cakrawala Hukum* 11, no. 2 (2020): 125–35, https://doi.org/10.26905/idjch.v11i2.4136.

[70] Susi Dwi Harijanti, "Perppu Sebagai Extra Ordinary Rules Makna Dan Limitasi," *Jurnal Paradigma Hukum Pembangunan* 2, no. 1 (2017): 77–91, https://ejournal.atmajaya.ac.id/index.php/paradigma/article/view/1761.

[71] Elena Griglio, "Parliamentary Oversight under the Covid-19 Emergency: Striving against Executive Dominance," *The Theory and Practice of Legislation* 8, no. 1–2 (2020): 49–70, https://doi.org/10.1080/20508840.2020.1789935.

[72] Jason Webb Yackee and Susan Webb Yackee, "Procedural Constraints and Regulatory Ossification in the US States," *Regulation & Governance* 19 (2025): 885–900, https://doi.org/10.1111/rego.12627.

[73] Kyle Schneider, "Judicial Review of Good Cause Determinations Under the Administrative Procedure Act," *Stanford Law Review* 73, no. 1 (2021): 237–83, https://www.stanfordlawreview.org/print/article/judicial-review-of-good-cause-determinations-under-the-administrative-procedure-act/.

attractive option to the executive, a direct comparison is necessary. This distinction is detailed in Table 3.[74]

Table 3.
Structural Comparison Between Emergency Fast-Track Legislation and *Perppu*

	Emergency Fast-Track Legislation	*Perppu*
Nature of Instrument	A legislative procedure for the establishment of laws (*undang-undang*)	Constitutionally distinct emergency government regulations.
Enacting Authority	Joint approval between the People's Representative Council (DPR) and the President, pursuant to Article 20.	Enacted unilaterally by the President, subject to later DPR approval in accordance with Article 22.
Triggering Conditions	1. Extraordinary conditions, conditions of conflict, and natural disasters; and 2. Other states of national exigency that require legislative action, provided there is concurrence between the DPR's legislative committee and the cabinet member or institutional head in charge of legal affairs and statutory drafting.	Compelling urgency (*kegentingan yang memaksa*).
Procedural Expediency	Bypasses only the legislative planning stage.	Bypasses all *ex-ante* planning, drafting, discussion, and approval stages.
Deliberative Model	*Ex-ante* deliberation and meaningful public participation required.	*Ex-post* legislative review at the next legislative session.

Source: processed by the Authors, 2025.

The comparison in Table 3 shows a structural asymmetry. Viewed from an executive perspective, a *Perppu* functions as a comparatively efficient mechanism because its enactment depends on the President's subjective judgment and it defers deliberation.[75] First, it is not bound by the meaningful participation mandate established in Decision Number 91/PUU-XVIII/2020, which applies only to the formation of laws (*undang-undang*). Second, its trigger mechanism depends on a broader, "open-textured" standard compared to the stricter requirements of emergency fast-track legislation. While the Constitutional Court in Decision Number 165/PUU-XXII/2024 emphasized the inclusion of public participation in fast-track legislation as a democratic advantage, this requirement concurrently acts as a procedural hurdle during a crisis. Consequently, this structure incentivizes the executive to utilize a *Perppu*, instead of emergency fast-track legislation, effectively bypassing the legislative process.

Comparatively, Article 86 of the Spanish Constitution allows the government to enact a Royal Decree Law (*Real Decreto-ley* or RDL).[76] Similar to a *Perppu*, an RDL belongs to the category of "executive legislative acts" with the force of law enacted in the event of "extraordinary and urgent necessity."[77] While the Spanish Constitutional Court recognized that RDLs are

[74] Fitra Arsil and Qurrata Ayuni, "Model Pengaturan Kedaruratan Dan Pilihan Kedaruratan Indonesia Dalam Menghadapi Pandemi Covid-19," *Jurnal Hukum & Pembangunan* 50, no. 2 (2020): Article 9, https://scholarhub.ui.ac.id/jhp/vol50/iss2/9/; Chandranegara, "Pengadopsian Mekanisme Fast-Track Legislation Dalam Pengusulan Rancangan Undang-Undang Oleh Presiden."

[75] Reza Fikri Febriansyah, "Eksistensi Dan Prospek Pengaturan Perppu Dalam Sistem Norma Hukum Negara Republik Indonesia," *Jurnal Legislasi Indonesia* 6, no. 4 (2009): 667–82, https://doi.org/10.54629/jli.v6i4.338.

[76] Rut Bermejo and Juan Iglesias, "Autocratic Tools in Spanish Democratic Migration Governance. A Critical Analysis of the Use of Royal Decree-Laws," *Hague Journal on the Rule of Law* 18 (2026): 49–70, https://doi.org/10.1007/s40803-026-00272-z.

[77] Bermejo and Iglesias.

legitimate when the requirements of urgency and necessity are met, constitutional scholars argue that these requirements are elastic enough to allow broad executive discretion.[78] According to Bermejo and Iglesias, RDLs have been frequently used by the government as an instrument to bypass legislative gridlock and limit deliberation, thereby transforming RDL into an "autocratic tool."[79] In addition, the broad and elastic concept of the RDL's requirements has shifted its temporary use into one that is routinized by the government, particularly as a pragmatic tool to address routine and politically contested matters.[80]

Within the context of Indonesia, the reliance on the *Perppu* as a workaround, or rather as an "autocratic tool," is illustrated in these two cases. First, during the height of the Islamist movement in 2017, the government resorted to *Perppu* to amend the Mass Organizations Law.[81] The amendment simplified the disbandment procedure of mass organizations, which subsequently became the basis for the government to disband Hizbut Tahrir Indonesia (HTI) without prior judicial authorization.[82] While the move was criticized as targeted and signifying an anti-democratic departure from prior due process precedents, the Constitutional Court subsequently upheld the amendment as constitutional in Decision Number 2/PUU-XVI/2018.[83]

Second, after the Constitutional Court declared the Job Creation Law unconstitutional in Decision 91/PUU-XVIII/2020, Jokowi's presidency responded to the ruling by enacting a *Perppu*. The *Perppu* itself practically re-enacted the Job Creation Law that the Court had just declared unconstitutional, effectively bypassing the meaningful participation mandate that the Court imposed against the backdrop of the Job Creation Law legislative process.[84]

These two instances exemplify how the *Perppu* has been employed by the government to circumvent procedural and deliberative "hurdles." It further demonstrates how the government are incentivized to rely on *Perppu*, not only as an "autocratic tool," but also as a way of avoiding a court mandate, let alone deliberation and public accountability to their actions. Similarly, the routinization and democratic erosion caused by the circumvention of the meaningful participation mandate are further demonstrated by the number of *Perppus* enacted into law. Within the span of 20 years, specifically from 2006 to 2025, there were 23 *Perppus,* of which 21 (91.3%) were subsequently enacted into law, as seen in Table 4.

Table 4.
Number of *Perppus* Enacted into Law from 2006 to 2025

Year	*Perppu*	Content	Σ*Perppu*	Enacted into Law	ΣEnacted into Law
2006	*Perppu* 1/2006	Legislative Election	2	Law 10/2006	1
	Perppu 2/2006	Suspension of the Fisheries Court		No, but not repealed	
2007	*Perppu* 1/2007	Free Trade and Free Port Zone	2	Law 44/2007	2
	Perppu 2/2007	The Handling of Legal Issues in the Province		Law 48/2007	

78 Bermejo and Iglesias.
79 Bermejo and Iglesias.
80 Bermejo and Iglesias.
81 Greg Fealy, "Jokowi in the Covid-19 Era: Repressive Pluralism, Dynasticism and the Overbearing State," *Bulletin of Indonesian Economic Studies* 56, no. 3 (2020): 301–23, https://doi.org/10.1080/00074918.2020.1846482.
82 Marcus Mietzner, "Flirting with Autocracy in Indonesia: Jokowi's Majoritarianism and Its Democratic Legacy," *Journal of Current Southeast Asian Affairs* 44, no. 3 (2025): 366–384, https://doi.org/10.1177/18681034251318053.
83 Giri Ahmad Taufik, "Proportionality Test in the 1945 Constitution: Limiting Hizbut Tahrir Freedom of Assembly," *Constitutional Review* 4, no. 1 (2018): 45–79, https://doi.org/10.31078/consrev413.
84 Anna Sanders et al., "The Omnibus Law on Job Creation and Its Potential Implications for Rural Youth and Future Farming in Indonesia," *Asia Pacific Viewpoint* 65, no. 2 (2024): 248–62, https://doi.org/10.1111/apv.12408.

Year	*Perppu*	Content	Σ*Perppu*	Enacted into Law	ΣEnacted into Law
		of Aceh and the Nias Islands, North Sumatera Province			
2008	*Perppu* 1/2008	Special Autonomy for Papua Province	5	Law 35/2008	4
	Perppu 2/2008	Bank Indonesia (Central Bank)		Law 6/2009	
	Perppu 3/2008	Indonesia Deposit Insurance Corporation		Law 7/2009	
	Perppu 4/2008	Financial System Safety Net		No, repealed by Law 11/2015	
	Perppu 5/2008	Taxation		Law 16/2009	
2009	*Perppu* 1/2009	Legislative Election	3	Law 17/2009	3
	Perppu 2/2009	Hajj		Law 34/2009	
	Perppu 3/2009	Immigration		Law 37/2009	
2013	*Perppu* 1/2013	Constitutional Court	1	Law 4/2014	1
2014	*Perppu* 1/2014	Regional Head Election	2	Law 1/2015	2
	Perppu 2/2014	Regional Government		Law 2/2015	
2015	*Perppu* 1/2015	Corruption Eradication Commission	1	Law 10/2015	1
2016	*Perppu* 1/2016	Child Protection	1	Law 17/2016	1
2017	*Perppu* 1/2017	Information Access for Taxation Purposes	2	Law 9/2017	2
	Perppu 2/2017	Mass Organization		Law 16/2017	
2020	*Perppu* 1/2020	State Finance and Financial System Stability during COVID-19	2	Law 2/2020	2
	Perppu 2/2020	Regional Head Election		Law 6/2020	
2022	*Perppu* 1/2022	General Election	2	Law 7/2023	2
	Perppu 2/2022	Job Creation		Law 6/2023	
	Total		**23**		**21**

Source: Processed by the Authors, 2026.

The data in Table 4 show that the DPR is rather receptive to the government's enactment of *Perppus*. There were only two instances in which a *Perppu* was not enacted into law by the DPR. Interestingly enough, among those two, one was repealed only after seven years and the other has yet to be repealed. This demonstrates how the rather flexible framework for *Perppu* enactment and the DPR's permissive approach to a *Perppu*'s subsequent enactment into law, coupled with the procedural hurdles the Court imposes via the meaningful participation mandate, have further called into question the attractiveness of the fast-track legislative procedure to the executive.

The "meaningful participation" mandate creates a procedural paradox for lawmakers during emergencies.[85] If lawmakers strictly adhere to the mandate, the legislative process is prolonged, defeating the purpose of an emergency tool designed for swift enactment.[86] Conversely, if lawmakers prioritize swift enactment, thereby bypassing substantive public input, the enacted laws become highly susceptible to invalidation through formal judicial review.[87]

This dilemma was evident during the recent attempt by the DPR to utilize expedited procedures for the Draft Law on the Amendment to the Regional Head Election Law. Following Constitutional Court Decision Number 70/PUU-XXII/2024 concerning gubernatorial age requirements,[88] lawmakers attempted to trigger the "other conditions of national urgency" clause under Article 23 paragraph (2). This was evident from the fact that the bill was not included in either the 2024 Priority National Legislative Program or the 2020-2024 National Legislative Program.[89] While the move was criticized as strategic political maneuvering rather than a response to substantive emergency,[90] it illustrated the procedural vulnerability of the mechanism. To be precise, the mechanism expedited the deliberative stages without a clear constitutional framework, thereby leaving the enacted laws vulnerable to formal constitutional challenges.

The "great task" of reform, therefore, must begin by diagnosing the fundamental defect in the current law. The specialized procedure under Article 23 paragraph (2) is not a "true" fast-track procedure. It acts only as an exception to the legislative planning stage while leaving the most time-consuming stages, namely drafting, discussion, and approval, subject to ordinary legislative procedures. This subjects the bill to the very process that is "ossified" by the meaningful participation mandate, rendering the mechanism counterproductive during crisis. As Brunila observes, balancing this necessary "need for swift action" with non-negotiable participation requirements presents a key challenge.[91] Building on this framework, this study proposes a four-part reconstruction to transform emergency fast-track legislation into a workable and viable alternative to the *Perppu*.

First, mandatory timelines. The procedure must impose strict, non-negotiable time limits on the drafting, discussion, and approval stages. Comparative examples show the feasibility of this approach. In Ecuador and Colombia, for instance, fast-track deliberations must be concluded

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[85] Angga Prastyo, "Limitation of Meaningful Participation Requirements in the Indonesian Law-Making Process," *Jurnal Hukum Dan Peradilan* 11, no. 3 (2022): 405–436, https://doi.org/10.25216/jhp.11.3.2022.405-436; Yackee and Yackee, "Procedural Constraints and Regulatory Ossification in the US States."

[86] Tuukka Brunila, "Legislation, Emergencies and the Need for Swift Action Tensions between the Executive Branch and Emergency Legislation during the COVID-19 Pandemic in Finland," *The Theory and Practice of Legislation* 13, no. 1 (2025): 31–49, https://doi.org/10.1080/20508840.2024.2407225.

[87] Kardiansyah Afkar and Zainal Arifin Mochtar, "Formal Constitutionality Review of Legislation at the Constitutional Court: Case of the Nusantara Capital City Law (IKN Law)," *As-Siyasi: Journal of Constitutional Law* 5, no. 1 (2025): 163–76, https://doi.org/10.24042/as-siyasi.v51.26536.

[88] Simon Butt and Tim Lindsey, "Jokowi, the DPR and the Dismantling of the Constitutional Court," in *The Jokowi Presidency: Indonesia's Decade of Authoritarian Revival*, ed. Sana Jaffrey and Eve Warburton (Singapore: ISEAS – Yusof Ishak Institute, 2025), 165; Eka Yudha Saputra, "DPR Tolak Putusan MK Tentang Syarat Usia Calon Kepala Daerah," *Tempo*, August 21, 2024, https://www.tempo.co/politik/dpr-tolak-putusan-mk-tentang-syarat-usia-calon-kepala-daerah-17276.

[89] Dewan Perwakilan Rakyat Republik Indonesia, "Keputusan Dewan Perwakilan Rakyat Nomor 15/DPR RI/I/2023-2024 Tentang Program Legislasi Nasional Rancangan Undang-Undang Prioritas Tahun 2024," 2023; Dewan Perwakilan Rakyat Republik Indonesia, "Keputusan Dewan Perwakilan Rakyat Nomor 13/DPR RI/II/2022-2023 Tentang Program Legislasi Nasional Rancangan Undang-Undang Perubahan Prioritas Tahun 2022 Dan Program Legislasi Nasional Rancangan Undang-Undang Perubahan Keempat Tahun 2020-2024," 2022.

[90] Udi Sommer, Jonathan Parent, and Quan Li, "Opportunistic Legislation under a Natural Emergency: Grabbing Government Power in a Democracy during COVID-19," *Regulation & Governance* 18 (2024): 270–87, https://doi.org/10.1111/rego.12519; Lutfia Harizuandini and Cecep Hidayat, "Coalitional Presidentialism Dan Kepatuhan DPR Dalam Revisi UU Pilkada Agustus 2024," *SEIKAT: Jurnal Ilmu Sosial, Politik Dan Hukum* 5, no. 4 (2026): 1656–1671, https://doi.org/10.55681/seikat.v5i4.3477.

[91] Brunila, "Legislation, Emergencies and the Need for Swift Action Tensions between the Executive Branch and Emergency Legislation during the COVID-19 Pandemic in Finland."

within 30 days.[92] Procedurally, this 30-day limit should strictly apply from the formal introduction of the bill to its approval stage, compressing the deliberative legislative process into a mandatory, non-extendable schedule. The enactment stage, however, remains constrained by Article 20 paragraph (5) of the 1945 Constitution, which grants the President a 30-day period to sign the bill before it is automatically enacted into law.

Second, targeted participation standards. The imposition of a mandatory time limit provides a justification for proportionally limiting the scope and extent of public participation. To be precise, it shifts the formerly broad, open-ended deliberative process to targeted, front-loaded transparency. As Maatsch argues, the use of fast-track legislative procedures often erode transparency and diminishes public deliberative processes.[93] Therefore, maintaining public participation is important to ensure that fast-track legislative bills do not become “hidden bills.”

To comply with the meaningful participation mandate, the government must first satisfy the "right to be explained" by immediately publishing clear justifications for the emergency measures.[94] Furthermore, the "right to be considered" is maintained as an opportunity to influence the expedited legislative process, not as a requirement to exhaustively litigate every public input.[95] This logic is further supported by the text of Article 96 paragraph (8) of Law 13/2022, which renders "the right to be explained" optional rather than obligatory.

Complementing this proposal, Article 96 paragraph (6) letter d of Law 13/2022 contains an open-textured provision allowing other public consultation methods to be utilized. This opens the possibility for the adoption of e-participation platforms and mechanisms, thereby enhancing the efficiency and transparency of public input.[96] The platform would enable the public to participate and provide input efficiently without slowing down the legislative process. As Voermans et al. put it, the use of ICTs not only accelerates the legislative process, but also makes it more inclusive.[97]

In addition, the integration of AI could further enhance civic participation and governance effectiveness.[98] In Estonia, AI is integrated into the legislative process to analyze thousands of public submissions, categorize them, identify dominant opinions, and measure public sentiment.[99] The use of ICTs, therefore, could optimize the time and resources required for public consultation, ensuring that participation remains effective even under tight temporal constraints.

Third, agile business processes. In response to mandatory time limits, the internal "business processes" of lawmakers must be amended to allow for an expedited workflow. Drawing from the Finnish parliament's response to the COVID-19 pandemic, this reform requires rules that allow the legislature to suspend ordinary business to prioritize emergency bills, alongside logistical provisions for remote committee meetings and accelerated voting mechanisms.[100]

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92 Maslul, “Presidential Emergency Legislation in Indonesia: A Comparative Study of Fast-Track Mechanisms in Ecuador and Colombia.”

93 Aleksandra Maatsch, “Disempowerment through the Backdoor: The Impact of Populist Parties on the National Parliament in Poland,” *Parliamentary Affairs* 74, no. 4 (2021): 786–801, https://doi.org/10.1093/pa/gsab008.

94 Katarina Staronova, Nina Lacková, and Matúš Sloboda, “Post-Crisis Emergency Legislation Consolidation: Regulatory Quality Principles for Good Times Only?,” *European Journal of Risk Regulation* 15, no. 3 (2024): 637–55, https://doi.org/10.1017/err.2023.69.

95 Hämäläinen, “Inclusive Participation in Law-Making: Good Governance or a Constitutional Obligation?”

96 George Asimakopoulos et al., “Impact of Information and Communication Technologies on Democratic Processes and Citizen Participation,” *Societies* 15, no. 2 (2025): 40, https://doi.org/10.3390/soc15020040.

97 Wim Voermans, Hans-Martien ten Napel, and Reijer Passchier, “Combining Efficiency and Transparency in Legislative Processes,” *The Theory and Practice of Legislation* 3, no. 3 (2015): 279–94, https://doi.org/10.1080/20508840.2015.1133398.

98 Andrey Nechesov and Janne Ruponen, “Empowering Government Efficiency Through Civic Intelligence: Merging Artificial Intelligence and Blockchain for Smart Citizen Proposals,” *Technologies* 12, no. 12 (2024): 271, https://doi.org/10.3390/technologies12120271.

99 Dodi Jaya Wardana and Deni Setiyawan, “Integration of Artificial Intelligence in Indonesian Legislation: Towards Participatory and Transparent Smart Law-Makin,” *Jurnal Hukum IUS QUIA IUSTUM* 32, no. 3 (2025): 634–652, https://doi.org/10.20885/iustum.vol32.iss3.art5.

100 Brunila, “Legislation, Emergencies and the Need for Swift Action Tensions between the Executive Branch and Emergency Legislation during the COVID-19 Pandemic in Finland.”

Article 97B of Law 13/2022 permits the formation of laws and regulations through electronic means, which includes electronic signing during every stage of the legislative process. However, the provision remains silent regarding the operational scope of this "electronic legislation" mechanism, delegating further regulation to DPR Regulations, DPD Regulations, and Presidential Regulations.

Articles 254, 279, and 308 of DPR Regulation Number 1 of 2020 accommodate these business processes to some extent, namely by (1) allowing parliamentary meetings to be conducted virtually, (2) reducing quorum requirements to permit legislative meetings to proceed even when standard quorum thresholds are not met, (3) allowing virtual legislative meetings during recess periods, (4) permitting attendance to be recorded virtually, and (5) enabling virtual decision-making and digital signing of meeting outcomes. However, these accommodations are currently confined to internal DPR regulations. Neither DPD Regulation Number 1 of 2018 nor Presidential Regulation Number 87 of 2014, as lastly amended by Presidential Regulation Number 76 of 2021, accommodates these expedited workflows.

This expedited business processes must still be treated with caution. Consistent with Värttö and Leino's findings, the suspension of routine legislative procedures has allowed the executives more leeway in applying emergency measures.[101] Moreover, the suspension of these procedures has also undermined the legislative's representative and deliberative functions, thereby reducing the democratic accountability of the enacted emergency measures.[102] This creates a condition of democratic deficit, whereby the government dominates the legislative or policy-making process, without sufficient legislative oversight.[103]

Fourth, mandatory sunset clauses. The reduction in standard deliberative procedures must be balanced by strict temporal limits, similar to the nature of a *Perppu*. Any law passed via this mechanism must include an automatic expiration provision. As observed in the United Kingdom's Coronavirus Act 2020, which contained a two-year renewable sunset clause,[104] this safeguard prevents the normalization of emergency measures. Specifically, it ensures that laws passed with expedited public participation do not permanently alter the ordinary legal framework without eventual standard legislative review.[105]

If lawmakers aim to retain the law post-expiration, the policy must be reintroduced as a new bill, subject to the ordinary legislative process. This ensures the full operation of the standard deliberative mechanism under the meaningful participation mandate, functioning similarly to the parliamentary confirmation process of a *Perppu* under Article 22 of the 1945 Constitution. The subsequent deliberative process requires lawmakers to evaluate the measure more objectively, ensuring that the enacted legislation remains both inclusive and responsive to public input.

It must be acknowledged, however, that this proposal does not guarantee similar levels of "deliberative quality" as ordinary legislation in practice. As Voermans et al. observed, the speed at which fast-track legislation is enacted has affected the quality of legislation.[106] This often prompts subsequent "repair laws" to fix the defects produced by such procedures.[107] The goal of the proposed reforms, therefore, is not to replace the *Perppu*, but rather to reconstruct emergency fast-track legislation into a robust, collaborative alternative. It recalibrates the executive's incentive structure, thereby making fast-track legislation a viable option and reducing the executive's tendency to resort to a *Perppu*. Lastly, it ensures that during a crisis, the People's Representative Council retains effective control over proposed emergency measures.

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[101] Mikko Värttö and Mikko Leino, "Deliberation under the Circumstances of Acute Crises: Addressing the Democratic Deficit of Crisis Management," *Critical Policy Studies*, 2025, 1–21, https://doi.org/10.1080/19460171.2025.2589112.

[102] Värttö and Leino.

[103] Värttö and Leino.

[104] Ronan Cormacain, "Keeping Covid-19 Emergency Legislation Socially Distant from Ordinary Legislation: Principles for the Structure of Emergency Legislation," *The Theory and Practice of Legislation* 8, no. 3 (2020): 245–65, https://doi.org/10.1080/20508840.2020.1786272.

[105] Cormacain.

[106] Voermans, ten Napel, and Passchier, "Combining Efficiency and Transparency in Legislative Processes."

[107] Voermans, ten Napel, and Passchier.

4. Conclusion

This study found that Article 23 paragraph (2) of Law 15/2019 does not yet establish a genuine emergency fast-track legislative procedure. The provision permits only certain bills grounded in national urgency to be proposed outside the National Legislative Program, while their drafting, deliberation, and approval remain governed by ordinary procedures. An exception to legislative planning becomes a genuine fast-track procedure only when the subsequent legislative stages are also governed by predetermined and measurable rules of acceleration.

The study further found that the ossification of Indonesia's emergency fast-track legislation resulted from the interaction between this incomplete procedural design and the undifferentiated application of meaningful participation requirements. Meaningful participation is not an obstacle to be eliminated during emergencies. Its constitutional substance, comprising the rights to be heard, considered, and explained, must remain protected, although its timing, form, as well as scope may be proportionately adjusted according to the urgency and impact of the proposed legislation.

Accordingly, this study proposed that emergency fast-track legislation be reconstructed through mandatory timelines for drafting, deliberation, and approval, targeted and front-loaded public participation, agile legislative procedures, and mandatory sunset clauses followed by ordinary legislative review if the law is to remain in force. This reconstructed mechanism would not replace the *Perppu*, which constitutes a distinct form of presidential emergency regulation under Article 22 of the 1945 Constitution. Instead, it would provide a constitutionally permissible legislative alternative that enables rapid crisis response while preserving parliamentary control, meaningful public participation, and democratic accountability.

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