

Carry Over Mechanism As An Efficient Legislative Instrument For Strategic Bills

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Abstract

This study explores the carryover mechanism in the legislative process of the Indonesian House of Representatives. It discusses the carryover mechanism in the legislative process in the Indonesian House of Representatives as an instrument of efficiency that allows a bill to be discussed across different periods without starting over from the beginning. This mechanism is assessed as capable of overcoming legislative stagnation, which is a consequence of changing members of the DPR, as seen in the successful passage of the Criminal Code Bill and the TPKS Bill, both approved after experiencing the carryover mechanism. Carryover is present as an innovation in law aimed at solving classic legislative problems, such as many priority bills failing to be approved within one period due to limitations of time, political dynamics, and the complexity of discussions. From the perspective of efficiency, carryover can prevent waste of resources and strengthen the principle of value for money in public administration, while also ensuring legislative continuity across periods, as evidenced by the ratification of the Criminal Code Bill and the TPKS Bill. However, from the legitimacy perspective, this mechanism raises constitutional concerns because it can cause a legitimacy deficit when new members of the DPR continue discussions without proper validation, repetition, or public participation. An analysis using constitutional law shows that carryover can be viewed as legitimate if it is balanced with procedures that guarantee principles of political representation, transparency, and accountability. Meanwhile, a review through progressive legal theory confirms that law must adapt to societal needs and substantive justice, so carryover can only be effective if managed transparently, participatorily, and responsibly.

Keywords: *Carry Over; Efficiency Legislation; Democratic Legitimacy.*



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1. INTRODUCTION

1.1. Background

The formation of Legislation (PUU) is an important component in addition to other components in the framework of national legal development, while producing laws or regulations that are in accordance with the dynamics of society, especially in the current era of globalization caused by advances in information technology, and do not conflict with the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) or overlap with existing laws and regulations.¹ Thus, it is carried out through the National Legislation Program (Prolegnas) planning instrument, which is implemented in a planned, integrated, and methodical manner, while still prioritizing the scale according to the community's legal needs.

In Indonesian constitutional practice, the legislative function carried out by the House of Representatives (DPR) together with the President and the Regional Representative Council (DPD) often faces challenges in the form of a backlog of strategic draft laws (RUU) that are not fully discussed within a single term. This problem not only impacts the slow formation of national law but also reflects inefficiencies in the national legislative system. The large number of priority bills in the National Legislation Program (Prolegnas) whose deliberations have been delayed raises urgent legal and political issues that require further study.²

One effort to overcome the stagnation in the discussion of strategic bills is through the carry-over mechanism, namely, continuing the discussion of bills from the previous DPR membership period to the next period. This mechanism is part of the renewal of legislative practices in Indonesia that aims to strengthen the effectiveness and efficiency of the PUU.³ The normative basis is expressly regulated in Article 71A of the Republic of Indonesia Law Number 15 of 2019 concerning Amendments to the Republic of Indonesia Law Number 12 of 2011 concerning the Formation of Legislation (Law No. 15/2019). However, there are no clear and comprehensive regulations regarding technical procedures, implementation limitations, and substantive accountability standards in continuing the discussion of bills between DPR membership periods. This creates a gap between the existing formal legal basis and the implementation practices in the legislative environment that are prone to causing legal uncertainty and reducing the legitimacy of the legislative process. Furthermore, the implementation of carry-over in practice still leaves issues related to

¹ Fandi Nur Rohman, "Carry Over Model in the Formation of Law," *Lex Renaissance Journal* 7, no. 2 (April 2022): 213–25, <https://doi.org/10.20885/jlr.vol7.iss2.art1>.

² Syafa'at Anugrah Pradana et al., "The Intersection Between Constitutional Supremacy and the Legal Formation System," *JAPHTN-HAN* 3, no. 2 (2024): 113–32, <https://doi.org/10.55292/japhtnhan.v3i2.161>.

³ Nur Ghenasyarif Albany Tanjung and Fitriani Ahlan Sjarif, "The Legal Politics of Carrying Over the Draft Constitution in System Formation Regulation Legislation in Indonesia," *Journal Indonesian Legislation* 19, no. 1 (March 2022): 12–28.



legitimacy, continuity of substance, and accountability of legislative discussions, especially in the context of changes in political composition and legislative interests between DPR periods.⁴

Changes in the political composition of parliament each term bring different dynamics of representation, so that carryover without a mechanism for re-examination or substantive discussion has the potential to ignore the principle of popular representation as the primary basis of the legislative function. Furthermore, the absence of public oversight and accountability standards in bill deliberations also creates space for non-participatory and elitist legislation.⁵ Thus, there is a legal gap between the ideal of an efficient and sustainable legislative system and the procedural reality that does not guarantee effectiveness and democratic legitimacy. This gap is an important basis for examining how the carryover mechanism should be designed and implemented to address the need for legislative efficiency without sacrificing the principles of representation, participation, and accountability in the national legal system.

Theoretically, this study is rooted in the approaches of Constitutional Law and State Administrative Law, particularly in the analysis of the validity of the procedures for the formation of legislation, the sustainability of public policy, and the principles of good governance. From the perspective of constitutional law, the principle of continuity, where representative institutions serve as a conceptual basis that can justify the carry-over mechanism, but at the same time open up space for evaluation of the principle of people's representation in the re-discussion of bills carried over from the previous period. Meanwhile, from the perspective of state administrative law, the principles of efficiency and effectiveness in the implementation of government functions justify the need for a mechanism that can accelerate the completion of legislation without sacrificing the quality of the resulting legal norms.⁶

Various literature reviews and previous studies indicate that carryover is a common practice in parliamentary systems in several countries, especially in parliamentary systems, as a form of adaptation to legislative cycles that do not always align with legislative term periods. In Indonesia, the debate regarding carryover emerged after the cancellation of controversial or strategic bills whose deliberations were delayed due to changes in DPR membership, such as the Criminal Code Bill, the Criminal Procedure Code Bill, the Land Bill, the Personal Data Protection Bill, the Asset Confiscation Bill, and others. Therefore, this is a crucial issue because strategic bills that are formulated and made have a significant impact on Indonesian society; it is certainly important to emphasize the carryover as one of the legislative instruments in the discussion of strategic bills.

⁴ Rodiyah et al ., "Reformulation Statutory Legal System Based Prosperous Justice in Prevention Corruption (Perspective of Legal Politics Carry Over in Law No. 15 of 2019)," *KNAPHTN* 2, no. 1 (December 2024): 282–318.

⁵ Imran Eka Saputra and Ali Rahman, "Reforming the Indonesian Legal System: Strategy for Establishing an Independent Institution to Address Hyper-Regulation," *JAPHTN-HAN* 3, no. 1 (2021): 69–88, <https://doi.org/10.55292/japhtnhan.v3i1.159>.

⁶ Satria Sukananda , " Progressive Legal Theory Approach in Answer Problems Legal Gaps in Indonesia," *JOURNAL OF SHARIA ECONOMIC LAW* 1, no. 2 (October 2018): 135, <https://doi.org/10.30595/jhes.v1i2.3924>.



For example, previous research has discussed the problem of the effectiveness of the formation of legislation and efforts to improve it, including mechanisms. Carry over. Arief Hidayat highlighted the weak effectiveness of the Prolegnas due to the absence of a follow-up instrument for discussing bills between periods, but did not specifically discuss carryover.⁷ Zainal Arifin Mochtar emphasized the risk of decreasing legal legitimacy if the mechanism is carried over carried out without thorough re-discussion, even though on the one hand it could speed up the legislative process.⁸ Bambang Susetyo proposed carry over as a solution to the backlog of priority bills, but the study is still conceptual without examining its technical implementation.⁹ Meanwhile, Rahayu Kusumaningrum provides a comparative perspective with the system carried over in England, but has not yet adapted it concretely to the institutional and political legal context in Indonesia.¹⁰

Based on the gaps in these studies, this article presents several scientific innovations. First, it integrates analysis of the efficiency and legitimacy aspects in a balanced manner, which previously tended to be studied separately. Second, the research focuses specifically on implementation. Carry over. The journal focuses on strategic bills in the National Legislation Program (Prolegna), making the discussion more contextual and relevant to national legal dynamics. Third, the approach used combines constitutional law and state administrative law perspectives, taking into account the principle of legislative sustainability and the principles of government efficiency and accountability. Fourth, this journal is not only normative but also offers implementative criticism and technical institutional recommendations to strengthen the legitimacy of the legislative mechanism. Carry over in the Indonesian legislative system.

1.2. Research Problem

Based on topics to be discussed writer studies, then can formulate a problem study as follows: What are the mechanisms and implications? Does the carry over of priority bills in the Prolegnas affect to efficiency and legitimacy of the legislative process in the Indonesian House of Representatives? What is the authority of the State Administrative Court in determining compensation?

⁷ Arief Hidayat, *Effectiveness National Legislation Program in Formation Regulation Legislation in Indonesia* (Yogyakarta: FH UGM, 2010), 45–50.

⁸ Zainal Arifin Mochtar, *Carry Over in Formation Law : Answering Legislative Problems or Fertilize Legislation Just So?* (Jakarta: Pustaka Hukum, 2019), 62.

⁹ Bambang Susetyo, *Evaluation Priority Bill Legislation Prolegnas and the Implications of Legal Politics in Indonesia* (Jakarta: Secretariat General of the Indonesian House of Representatives, 2020), 70.

¹⁰ Rahayu Kusumaningrum, *Comparison Carry Over Mechanism in System Indonesian and English Legislation* (Bandung: Center for Legislation Studies, 2022), 33–35.



1.3. Method

This research focuses on normative juridical research, namely researching through document and literature studies.¹¹ The approach used is legislation to examine the regulations contained in the 1945 Constitution of the Republic of Indonesia, Law No. 15/2019, and other relevant regulations. A conceptual approach is used to view the problem from various expert perspectives and existing doctrines.¹² This study uses primary, secondary, and legal materials. Research sources are collected by reading references related to the issue of the carry-over mechanism in PUU in Indonesia to obtain literature, laws and regulations, and scientific works. The collection is carried out by reading and citing these sources. Analysis of legal materials is carried out descriptively and qualitatively by referring to norms, principles, doctrines, and laws and regulations that apply as a legal basis.¹³

2. RESULT AND DISCUSSION

2.1. Carry Over Mechanism for Priority Bills in the National Legislation Program

The carry over mechanism for strategic bills in the Prolegnas (National Legislation Program) is a form of procedural innovation in the Indonesian legislative system that has begun to have a strong legal basis since the regulation of Article 71A of Law No. 15/2019. This mechanism allows the discussion of bills that have not been completed in one DPR period to be continued to the next period, provided that the bill has entered the level I discussion stage with the President, and has received joint approval from the DPR, the President, and the DPD. This regulation is designed to overcome a classic problem in national legislation, namely the accumulation of priority bills that fail to be passed due to limited session time or political dynamics between periods.¹⁴

Implementationally, the carry-over mechanism has been used in a number of priority bills in the 2020–2024 National Legislation Program and continued in the 2025 priority National Legislation Program. Based on the official statement of the Indonesian House of Representatives in the Plenary Session in early 2025, six priority bills are the result of carry-over from the previous period, including the New and Renewable Energy Bill, the Tourism Bill, and the Bill on Regional Elections. The decision to carry over these bills was taken to prevent re-discussion from the beginning and to maintain legislative continuity on strategic issues that require immediate ratification in the 2025 national development agenda of the Indonesian House of Representatives.¹⁵

¹¹ Peter Mahmud Marzuki, *Legal Research*, Edition Revision (Jakarta: Prenadamedia Group, 2019), 57.

¹² Marzuki, *Legal Research*, 133.

¹³ Muhaimin, *Legal Research Methods* (Mataram : Mataram University Press, 2020), 35.

¹⁴ The House of Representatives of the Republic of Indonesia, *the Bill Carry Over Process, Bales Revisions Rules of Procedure National Legislation Program* (Jakarta: dpr.go.id, 2023), <https://www.dpr.go.id/berita/detail/id/26374>.

¹⁵ VOI, *Puan Announces the DPR's Legislative Agenda for Session II: There are 41 Priority Bills and 6 Carry Over Bills* (Jakarta: voi.id, 2025), <https://voi.id/berita/453232>.



The implementation of the carryover has not been without legal and constitutional criticism. One crucial issue is the potential for diminishing the legitimacy of the deliberations, particularly when the composition of the House of Representatives (DPR) membership has changed significantly due to the election results. In this context, continuing the deliberations could be seen as contradicting the principle of new representation of the people, which is the foundation of representative democracy. Criticism has also arisen regarding the lack of technical regulations governing the substance of the re-deliberations in the following period. This is feared to lead to carryover. Becomes merely an administrative formality without the critical review process that should be inherent in every stage of legislation.

In response to this criticism, the House of Representatives (DPR), through the Legislative Body (Baleg), has revised DPR Regulation No. 2 of 2016 concerning Procedures for Preparing the National Legislation Program (Prolegnas) to align with Article 71A of Law No. 15/2019 and strengthen the legitimacy of the carryover procedure. This includes affirming that carryover can only be done for bills that have already passed the deliberation stage, and the requirement to include complete documents, such as academic papers and a problem inventory list (DIM), when continuing deliberations.¹⁶ This demonstrates an improvement in legislative governance, although the effectiveness and accountability of the procedure still need to be tested in ongoing practice.

The author further notes that the use of carryover also provides tangible efficiency benefits, particularly in the deliberation of large and strategic bills, such as the Criminal Code Bill, which was successfully passed in 2022 after undergoing a carryover across several periods. Lessons learned from the Criminal Code Bill demonstrate that carryover can be used constructively to resolve complex legislative processes, as long as transparency and public participation are maintained in the deliberations. Certainly, the author believes this is an experience, and therefore, the use of carryover should be encouraged. This is as stipulated in Article 71A of Law No. 15/2019, which must be implemented considering that strategic bills cannot span several periods.

The author argues, based on analysis, that carryover has been partially implemented in practice for priority bills in the Prolegnas, both as an instrument of efficiency and legislative continuity. However, the author also states that the success of its implementation depends heavily on the DPR's internal mechanisms, political inter-factional will, and clarity of technical procedural arrangements so that they are not only time-efficient but also democratically and substantively legitimate.¹⁷ The author outlines several aspects of the carryover function as an efficient instrument in the legislative process in the Indonesian House of Representatives (DPR RI).

¹⁶ Gatra, *Carry Over Bill Regulated by Law 15/2019, Observer: Mandatory* (Jakarta: Gatra.com, 2023), <https://www.gatra.com/news-457164>.

¹⁷ Detik News, *DPR Agrees to Carry Over the PPRT Bill and the Constitutional Court Bill to the 2024–2029 Period* (news.detik.com, 2024), <https://news.detik.com/berita/d-7564456>.

Table 2.1. Carry over function in the legislative process in the Indonesian House of Representatives

Aspect	Carry Over Function as an Efficient Instrument
Legislative Continuity	The bills that have been discussed by the DIM will not be lost when the DPR changes in order to accelerate strategic targets.
Time & Budget Efficiency	Avoiding discussing the bill from scratch every period, saving the DPR and executive budget.
Legal certainty	Bringing legal stability by maintaining unfinished legislative agendas.
Good Governance	Increase the effectiveness of the DPR, minimize stagnation, and optimize the Prolegnas .
Responsiveness to public aspirations	If well designed, it allows for solutions that are more responsive to community needs.
Issues Highlighted	The reconstruction of public aspirations is often interrupted, the risk of DPR performance declining, and public trust declining.

Source : Detik News , 2024

As can be seen in the table, in the legislation of the RUU that has been discussed, DIM does not disappear when the period changes in the DPR RI. Its main function is to guarantee Legislative continuity, namely by allowing the discussion of bills that have reached the DIM stage to be continued by the next DPR period without having to start from scratch. This is crucial for accelerating the completion of strategic legislative targets contained in the Prolegnas.



¹⁸Furthermore, carry over support time and budget efficiency by preventing re-deliberations from the beginning each time a new term of office is renewed in the House of Representatives. This mechanism saves costs and effort for both the legislative and executive branches involved in the legislative process.¹⁹

In the context of efficient government, the savings budget legislation becomes part of the institutional reform of the DPR, which is more accountable. Next carry over also supports certainty law, because guard continuity formation regulation legislation that has not been completed during the trial period previously. When legislation is important delayed consequence on the DPR community, potential experience uncertainty regarding laws at their impact implementation of the nation state policy.²⁰ Function, this is also closely related close with effort increase governance good governance. Minimizing stagnation discussion of the bill, carry over, make the legislative process more effective and targeted, as well as strengthen DPR capacity in managing the National Legislation Program.²¹

This process reflects the principle of public efficiency and accountability in the process of forming law. No, it is not important to carry over and also improve DPR's responsiveness to the aspirations public. Because it allows the bill to be assessed strategically by the community can be completed faster without the wait cycle of legislative news.²² Responsiveness is important to guard the relevance of the DPR as a representative of the people in responding to the dynamic needs law society. However, many problems need to be aware of. One of them is the potential disconnection reconstruction aspirations, the emergence of the public from the change in composition politics in the DPR after the election. If not managed with Be careful mechanism, precisely can lower legislative legitimacy and trust public to DPR's performance.²³

The foundation intended to address the normative problem of stagnation and inefficiency, legislative consequences, and limitations term of office of the DPR. Mechanism, this is also in line with the principle of effectiveness law in theory state administration, where the process of forming public policy may be disconnected solely because change cycle of power. Tehe xiste Ace article 71A Law no.15/2019 raises debate in the theory of constitutional law in particularly in the

¹⁸ Eny Purwaningsih, "The Carry Over Mechanism as an Efficient Legislative Strategy in the Indonesian House of Representatives," *Indonesian Legislation Journal* 19, no. 1 (2022): 13–14.

¹⁹ R. Hasibuan, "The Effectiveness of Carry Over in National Legislative Reform," *Journal of Law and Development* 50, no. 2 (2020): 227–230.

²⁰ Sutaryo, "Legal Certainty in the Carry Over Mechanism for Discussion of Bills," *Constitutional Journal* 18, no. 4 (2021): 720–725.

²¹ Aji Wibowo, "Good Governance and Legislation: Evaluation Prolegnas and Carry Over," *Journal Knowledge Social and Political Science* 24, no. 3 (2020): 215–218.

²² M. Syahrul, "The Role of Carry Over in Legislation Responsive towards the Public," *Rechts Vinding: Media for National Legal Development* 12, no. 1 (2023): 90–92.

²³ D. Arifin, "Carry Over and the Legitimacy of Democracy in the Formation of Laws," *Amanna Gappa Journal of Legal Studies* 30, no. 2 (2022): 112–115.



context principle of representative political and democratic legitimacy.²⁴ The question that emerges is whether the new DPR can still represent the people legitimately in continuing the discussion of the bill that was previously abandoned by the DPR, remembering configuration politics and membership faction can change drastically after elections. In principle, popular sovereignty, every legislation ideally formulated by the current representatives of the people takes office, No results from the inheritance discussion by the previous representative. For the answer, Dil, Emma. This needed reading progressive normative with strengthened rule implementer, especially those who regulate technical carry over such as evaluation substance of the bill, involvement of repeated public civil, as well as transparency of the political process taking place in the DPR period, new²⁵.

In a way conceptual mechanism carried over can be seen as an instrument for adaptive legislation in a framework of good governance, namely the process of running a responsive, efficient and accountable state. In theory, policy carry-over law represents a shift from a legislatively-based period to legislation-based issues and urgency.²⁶ However, to ensure that carry over does not reduce the legitimate substance of the law under discussion, needed harmonization between legal norms, positive and principled normative democracy deliberative, namely, meaningful and inclusive participation in every stage of law formation. Thus, carry over must be positioned as a mechanism of administrative mere but as a procedural reform tool, legislation to be more adaptive to dynamic politics, needs development of law, and complexity of the substance of the strategic bill.²⁷

Based on the explanation of the reviewed perspective theory in a democratic society, the legislative body has a dual function, which often gives rise to tension. Because on the one hand, there are demands for political legitimacy, namely, the obligation for the DPR to represent the aspirations of the people obtained through the mechanism of elections, while on the other hand, there is a need for public effectiveness, namely, producing legal products that are consistent, timely, and implementable. This tension becomes a testing ground for every procedural instrument introduced in the legislative process, including the carry-over mechanism.

Superiority. The main carryover lies in the aspect of Efficiency. Thus, deliberation on bills that have passed the substantive stage does not have to start from scratch, but can be continued in the next DPR period. This efficiency has a significant impact in the Indonesian political context, which is characterized by a high number of strategic bills, a dense legislative agenda, and limited session time. Empirical studies show that the carryover mechanism is capable of reducing repetitive academic studies, reducing legislative costs, and accelerating the process of finalizing complex bills.

²⁴ Tanjung and Sjarif, "Legal Politics of Carry Over Draft Laws in the System of Legislation Formation in Indonesia."

²⁵ Rohman, "Carry Over Model in the Formation of Laws."

²⁶ Achmad Maulida and Kusnadi Umar, "The Urgency of Carry Over in The Law-Making Process in Indonesia: A Siyasa Study," *AL TASYRITYYAH JOURNAL*, Alauddin State Islamic University Makassar, June 15, 2022, 13–23, <https://doi.org/10.24252/jat.vi.30176>.

²⁷ *Ibid.*



Thus, from the perspective of rationality, administratively, carry over can be viewed as instruments that support continuity of legislation and rationalization of Work in parliament.²⁸

More carry-over benefits efficiency. This raises serious problems when viewed from the perspective of the legitimacy of representative democracy. The political process post-elections often results in configuration of new in the DPR with composition fraction, balance of political strength even priority policies may change significantly. In the event of Thus, the carry-over mechanism saves risk. The occurrence of a democratic disconnect, namely a disconnect between the political aspirations of the people as a result of the most recent election and the legislative products inherited from the previous parliament. This has the potential to reduce the substantive legitimacy of the resulting laws, because the new DPR only acts as an "administrative successor" rather than a deliberative actor representing the people. Preference latest political preferences.

In theory, deliberative democracy, every legal product should be born from an open, rational, and reflective argumentative process based on the will of the people. Carrying over without a corrective mechanism can be seen as ignoring the principle of re-legitimation, which is essential in a representative democratic system. Recent literature on representation even emphasizes the concept of deliberative representation. Responsiveness, namely the capacity of parliament to respond to changes in public preferences through procedures updated deliberative process. If carryover is not accompanied by participation and re-verification mechanisms, the resulting legal products tend to lose their responsiveness. To dynamics of socio-political. Therefore implications theoretically are that carryover is not possible. It is seen as a "neutral" mechanism that is automatically democratically valid. It is merely an administrative solution to the problem of continuity, but normatively it must be positioned as a conditional mechanism. The efficiency it offers must be balanced. With procedure real legitimacy, like for example, through public hearings, updates to the academic text and DIM, or explicit approval by the new DPR in a plenary session. The procedure said, carry over will be functioning like a "legislative shortcut" which actually reduces the value-based democracy representative.²⁹

In line with this, in constitutional law theory, every formation of a law is a manifestation of the legislative function, which is carried out based on constitutional principles, namely accountability, openness, checks and balances, and the rule of law. The carryover mechanism, as stipulated in Article 71A of Law No. 15 of 2019, is a legal innovation that deviates from the usual legislative periodization pattern, as it allows for the continuation of bill deliberations across the DPR's term of office. Normatively, this exception is valid as long as it complies with constitutional principles and is limited by strict conditions: First, the bill has entered the level I discussion stage with the President. Second, joint approval between the DPR, the President, and the DPD. Third, it

²⁸ Ben Abramowitz and Nicholas Mattei, "Flexible Representative Democracy," *Social Choice and Welfare* 64, no. 1 (September 2024): 263–308, <https://doi.org/10.1007/s00355-024-01543-0>.

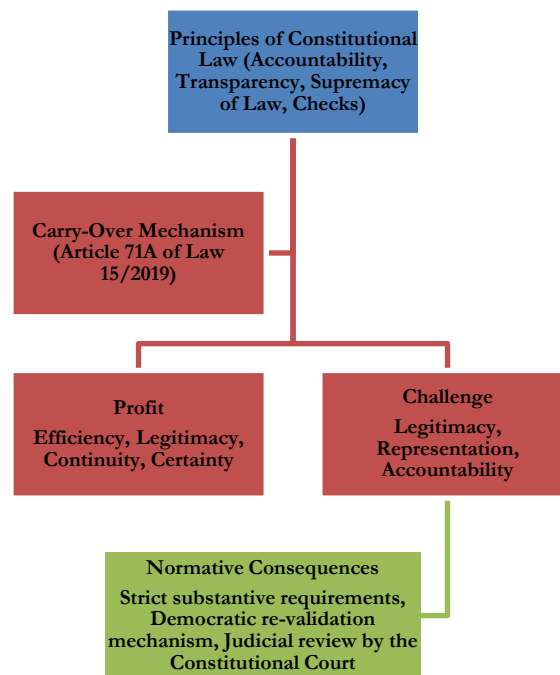
²⁹ Claudia Landwehr and Armin Schäfer, "The Promise of Representative Democracy: Deliberative Responsiveness," *Res Publica* 31, no. 2 (2023): 359–79, <https://doi.org/10.1007/s11158-023-09640-0>.



must be accompanied by substantive documents in the form of an academic paper and a problem inventory list (DIM). In other words, carryover can only be used if the bill has reached the point of substantial deliberation, not simply an administrative list in the Prolegnas.³⁰

In state practice, debate has arisen over whether this mechanism is consistent with the principle of popular representation. After the election, the political configuration of the House of Representatives (DPR) changed significantly, both in terms of the number of seats, dominant factions, and policy orientation. The Constitution positions the newly elected DPR as the legitimate representative of the people, thus creating a dilemma: is it legitimate for the new DPR to continue discussing the legacy of the old DPR without revalidating the people's political aspirations? This is evident, for example, in the debates over the TNI Bill and the New and Renewable Energy Bill, which were carried over. Some civil society groups believe that the new DPR tends to simply "inherit the agenda" without opening up space for public participation. This criticism highlights the potential degradation of constitutional accountability, as discussions are more administrative than deliberative.³¹ Carryover from a constitutional perspective is presented in the following diagram:

Figure 2.1. Carry over in a constitutional perspective



³⁰ Cahyo Saputro, "Carry-Over and Principles Political Representation in Legislation : Analysis on National Legislation Program Priorities 2025," *Journal Constitution* 20, no. 4 (2023): 789–808, <https://doi.org/10.31078/jk2046>.

³¹ I. Adiputra, "Flexibility in Executive Discretion and Its Constitutional Limits," *Journal of Comparative Public Law* 9, no. 1 (2024): 77–95.



Based on the table above regarding constitutional law analysis, there are three important consequences. First, the affirmation of substantive requirements so that carryover does not become a "legislative shortcut." The House of Representatives must emphasize that only bills that have gone through a substantive deliberation process of discussing the DIM, public hearings, and tested academic drafts can be forwarded. Second, the democratic revalidation mechanism of the new DPR period should revalidate the discussions, for example, through a plenary session to re-ratify the agenda, re-submit the DIM, or open a public participation forum. This is crucial to uphold the principle of public representation, which is the result of the election. Third, constitutional oversight, because carryover is a new legal innovation, potential disputes regarding its validity could be submitted to the Constitutional Court. A review is needed as a safeguard so that carryover is not misused as a political instrument that erodes checks and balances.³²

Furthermore, constitutional law theory demands that operational regulations and institutional oversight be an integral part of the carryover mechanism. Legislative authority is never absolute, as the House of Representatives (DPR), the Government, and the Regional Representatives Council (DPD) must mutually check each other to prevent political manipulation of the carryover status. Judicial oversight by the Constitutional Court is a crucial instrument in the event of disputes regarding formal or substantive requirements.³³ Without this oversight mechanism, carryover can become a political tool to maintain old agendas without considering shifting public aspirations.

Normatively, constitutional theory also requires a democratic re-legitimization mechanism in the carryover process. This re-legitimization can take the form of plenary ratification by the new DPR of the carried-over bill, updating documents such as academic papers or DIMs if necessary, and transparency of the public deliberation process in the new DPR. Only with such a procedure can the carryover mechanism be considered constitutionally valid, as it ensures that the resulting legislation is not only efficient but also meets the political and moral legitimacy that underpins a constitutional democratic system.³⁴

2.2. Implications of Using the Carry Over Mechanism on the Efficiency and Legitimacy of the Legislative Process in the Indonesian House of Representatives

To begin this discussion, the author emphasizes that carryover is a form of legal innovation in the national legislative system that aims to increase the efficiency of lawmaking, especially in the context of the large number of priority bills that cannot be completed within a single term of the

³² Kelik Iswandi Purnomo and Nanik Prasetyoningsih, "The Position of State Auxiliary Organs in System Constitutionalism in Indonesia," *Journal of Law and Development* 50, no. 2 (2020): 280.

³³ Jimly Asshiddiqie, *The Indonesian Constitution and Constitutionalism* (Jakarta: Sinar Grafika, 2011).

³⁴ H. Kenji, "Recalibrating Executive Power: Evaluating the Effectiveness of Checks and Balances in Indonesia's Presidential System," *The Annals of the American Academy of Political and Social Science* 707, no. 1 (2023): 112-29.



House of Representatives (DPR). From an efficiency perspective, it provides a solution to the classic legislative problem, namely the backlog of bills that have stagnated due to time constraints, political dynamics, and the complexity of deliberations. With carryover, the time, effort, and budget spent on the first-level deliberation process are not wasted because the deliberations can be continued by the next DPR term without having to start from the beginning.

This efficiency is in line with the principle of value for money in public administration and strengthens the principle of utility in modern legal theory, where the legislative process is directed to maximize benefits for the state and society while minimizing resource waste. As reflected in the lengthy discussion of the Criminal Code Bill, which underwent a multi-period process before finally being passed, the carryover mechanism *allows for* continuity of substance and accelerates legislative decision-making on bills that have previously gone through the technical and consultative phases.³⁵

The author views the legitimacy of this mechanism as leaving constitutional and ethical challenges. The House of Representatives (DPR), as a legislative body, is representative based on election results. Therefore, carryover legislation has the potential to create a legitimacy gap when DPR members who continue deliberating on a bill are not the same representatives who deliberated and approved the original substance. This raises the fundamental question of to what extent the results of these deliberations still reflect the will of the people, as represented by the new parliament. In a democratic system, legitimacy is determined not only by procedure but also by public deliberation and participation. If a bill brought through the carryover mechanism is not re-socialized or the space for public participation reopened, the resulting substance may lose its social and constitutional basis. This poses a risk to legitimacy. Deficit in the national legal system.³⁶

In line with the description above, several monitoring institutions, such as Formappi and ICEL, have highlighted the potential for misuse of the carry-over mechanism as a tool to push through controversial bills by avoiding public debate through the label "continued discussion."³⁷ Therefore, strengthening regulations for the implementation of carryover is essential, such as the requirement to refresh the DIM (Dimensional Document Information System), re-public testing, and a substantive review mechanism by the relevant commissions. Therefore, carryover is a double-edged sword. On the one hand, it can be an accelerating instrument for the formation of national law, but on the other hand, it can simultaneously erode legislative legitimacy if not accompanied by the principles of transparency, representation, and public accountability. A balance between efficiency and legitimacy is a key prerequisite for carryover to not only be an administrative solution but also reflect the substantive democratic process in lawmaking.

³⁵ Kusumaningrum, *Comparison Carry Over Mechanism in Indonesian and English Legislative Systems*.

³⁶ Bivitri Susanti, "Carry Over and the Problem of Legislative Legitimacy," *Journal of Law and Politics* 11, no. 2 (2023): 156–158.

³⁷ Formappi, *Notes Critical Parliamentary Legislation 2023* (Jakarta: Formappi, 2023), 22–25.



Carry-over mechanism for priority bills can be seen from several important examples in the 2014–2024,³⁸ Prolegnas below:

Table 2.2. Carryover period for priority bills in the Indonesian House of Representatives

Name of the bill	Initial Discussion Period	Carry Over Period	Current Status
Criminal Code Bill	2014–2019	2019–2024	Approved 2022
Corrections Bill	2014–2019	2019–2024	Not Yet Approved
EBT Bill	2014–2019	2019–2024	In the process
Maternal and Child Welfare Bill	2014–2019	2019–2024	In the process
TPKS Bill	2014–2019	2019–2024	Approved 2022
Asset Confiscation Bill	2014–2019	2019–2024	Not Yet Approved
Criminal Procedure Code Bill	2014–2019	2019–2024	Not Yet Approved

Source: House of Representatives of the Republic of Indonesia Report, 2025

As seen in the table, the Criminal Code Bill was discussed from 2014–2019, then continued (*carried over*) in 2019–2024, and finally passed in 2022. A similar situation also occurred with the Sexual Violence Crimes Bill (TPKS), which was finally passed in the same year. However, several other bills, such as the Corrections Bill, the New and Renewable Energy Bill (EBT), the Asset Confiscation Bill, and the Criminal Procedure Code Bill, have not been passed despite being carried over. This shows that the carry-over mechanism does provide an opportunity for acceleration, but does not guarantee that acceleration will automatically occur. From a legitimacy perspective, carry over raises debates regarding political representation. Because each election brings new faces to the

³⁸ House of Representatives of the Republic of Indonesia, *Priority Bill Prolegnas and Carry Over* (Jakarta: dpr.go.id, 2025), <https://www.dpr.go.id/berita/detail/id/26374>.



legislature, it is natural for the public to question the moral and political authority of new members in continuing old legal products. Questions such as: Do new legislators have a complete understanding of the previous process? Does carry over ignore the principle of community re-participation? Becomes very relevant in the context of deliberative democracy.

From a constitutional law perspective, the use of the carryover mechanism has dual implications for both the efficiency and legitimacy of legislation. From a constitutional legitimacy perspective, the House of Representatives (DPR) is a representative institution whose membership is constantly renewed through elections, a manifestation of popular sovereignty. Therefore, each term carries a new political mandate that is theoretically different from the previous term. If a bill that was not completed in the previous term is simply continued by the new DPR term without revalidation, for example, through updating the Problem Inventory List (DIM), public consultation, or plenary approval, then there is a risk known as legitimacy Deficit. This risk arises because legislative products may be perceived as not fully representing the aspirations of the people in the most recent period, thus reducing public trust in the legislative results.³⁹

Constitutional law also emphasizes institutional continuity. The House of Representatives (DPR), as a constitutional organ, does not cease to exist despite changes in its membership. This principle supports the implementation of carryover, as all processes, academic studies, and discussions that have taken place are not immediately lost but can instead be optimized. In this way, the carryover mechanism prevents the waste of political, administrative, and financial resources. From an efficiency perspective, it strengthens legal stability and reduces the risk of stagnation due to changes in the composition of the legislative membership. However, if the carryover mechanism is not regulated transparently or ignores the full involvement of the new DPR, there is a danger that the interests of the executive or the old political majority will dominate the legislative agenda. This could create an imbalance in the distribution of power, thus contradicting the basic principles of constitutionalism. Therefore, the carryover mechanism must be viewed not only as an efficiency instrument but also as a constitutional compromise that requires revalidation procedures, limitations on the content of changes, and transparency of public information.⁴⁰

Such normative standards allow the carryover mechanism to remain constitutionally valid while maintaining a balance between legislative efficiency and democratic legitimacy. Conversely, without adequate revalidation and public participation, carryover has the potential to produce formalistic legal products that are unresponsive to social dynamics and may even be perceived as a means of expediting the passage of controversial bills. The practical implication is that public trust in the House of Representatives (DPR) will erode, while the quality of the resulting law will be

³⁹ Fitria Esfandiari and Surya Anoraga, "Repositioning Delegated Authority in Indonesian Administrative Law," *Jurnal Rechtsvinding* 13, no. 2 (2023): 201–15.

⁴⁰ Isra Balance, *Shift Function Legislation: Strengthening the Legislative Model Parliamentary in System Indonesian Presidential* (Jakarta: Rajawali Pers, 2010), 75–89.



questioned. Therefore, the carryover mechanism must be placed within a broader constitutional framework, namely, how laws are not only administratively efficient but also constitutionally and democratically valid.

Departing from the description above, indirectly, the existence of the carry-over mechanism can be seen as a constitutional form. Engineering is aimed at overcoming the weaknesses of short-term political cycles. Often, the change of legislative periods causes priority bills to be delayed or even fail to be passed, even though their substance is strategic for national legal development. With the existence of carryover, constitutional law seeks to bridge the gap between the need for legal continuity and the dynamics of electoral politics. This means that the constitution functions not only as a normative text but also as an instrument capable of adapting to societal needs through more flexible institutional arrangements. Furthermore, the carryover mechanism also demonstrates the dialectic between the principles of procedural democracy and substantive democracy. From a procedural perspective, each legislative period should have full authority to restart deliberations on bills to reflect the new representation of election results. However, from a substantive perspective, the essence of democracy is producing policies that are responsive to the needs of the wider community, not simply repeating procedures. Thus, carryover provides a middle ground that allows the substance of bills to continue, but still leaves room for correction to maintain democratic legitimacy.

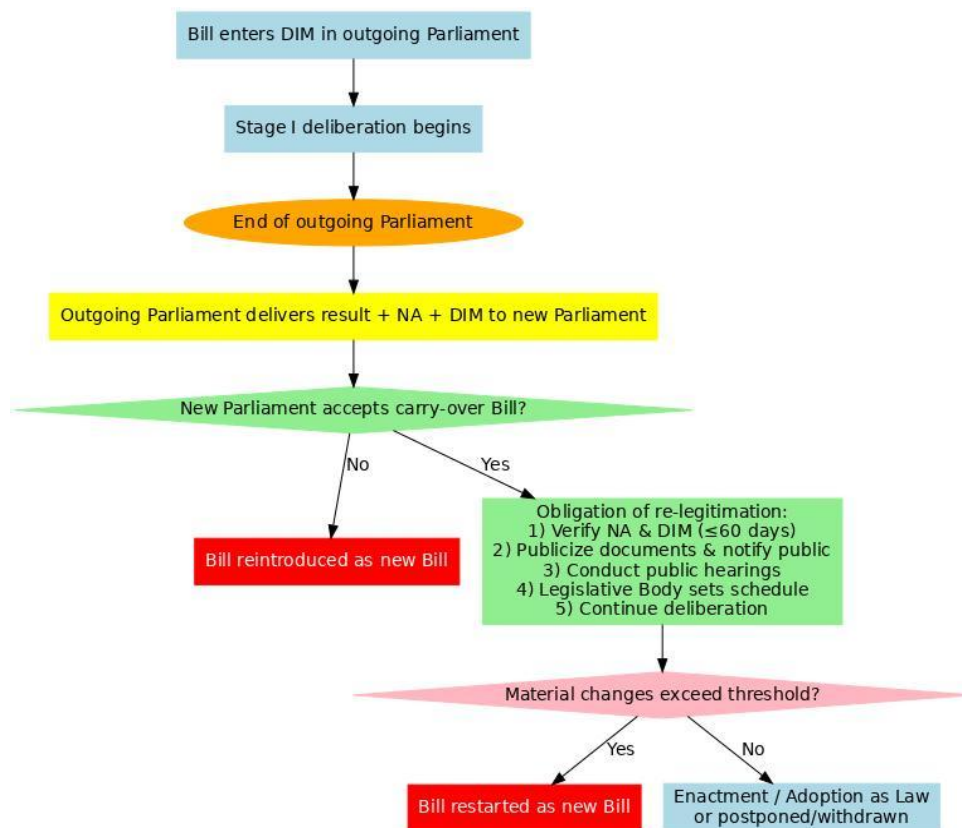
If viewed from the concept of separation of Carryover powers have the potential to shift the balance between branches of power. If this mechanism is not complemented by strict oversight procedures, the new DPR could become a mere rubber stamp for the decisions of the previous DPR and the executive. This would certainly weaken the legislative oversight function and diminish the principle of checks and balances. Therefore, within the framework of constitutional law, carryover regulations must ensure re-approval by the new House of Representatives (DPR), so that every legislative product truly arises from actual constitutional authority. From the perspective of legal political legitimacy, the carryover mechanism can have both positive and negative consequences. Positively, it can guarantee the continuity of national legal development, especially for strategic bills that require lengthy deliberations. Negatively, if not managed properly, carryover can become a loophole for "entrusting" controversial bills for faster passage without further debate in parliament. In this regard, the principles of openness and public participation, as mandated by Law Number 13 of 2022, are absolute requirements to ensure that carryover does not harm democratic legitimacy.

In practice, the implementation of carryover requires a balance between administrative efficiency and democratic accountability. While efficiency is crucial to prevent the legislative system from becoming trapped in a "reset" cycle each term, accountability must be maintained to ensure the public feels that the new term's representatives are truly carrying out their political mandate. Therefore, the success of the carryover mechanism depends on the DPR's ability to formulate

internal regulations that are not only efficient but also meet the principles of constitutional legitimacy, transparency, and public accountability.

The carryover bill can be maintained if the House of Representatives (DPR) reopens the public consultation and comprehensive discussion of the DIM (Dimensional Implementation Plan), especially if there are changes in the social context or public aspirations since the initial deliberations. Without this, carryover can be misinterpreted as an acceleration strategy without critical evaluation, and even become a loophole for smuggling controversial bills without adequate public debate.⁴¹ Therefore, according to the author, carry over. This is an important efficiency mechanism, but it needs to be accompanied by the principles of accountability and transparency. To avoid eroding public legitimacy, there must be updates to implementation procedures. Carryovers, such as the requirement for public re-testing of strategic bills carried over to the next period, are required. The Indonesian House of Representatives needs to formulate stricter internal regulations regarding decision-making standards for bills resulting from the draft. Carry over. In other words, the author emphasizes that to embody Carry over must be carried out by updating the implementation procedures internally by the DPR, considering that many strategic bills need to be passed for the benefit of the community and the state.

Figure 2.2. Carry over stages in the DPR



⁴¹ Susanti, "Carry Over and the Problem of Legislative Legitimacy."



Above figure, from the perspective of constitutional law theory, the formation of laws is not merely a technical process but also a manifestation of the people's sovereignty through their representatives in the House of Representatives (DPR). Therefore, when a bill that was not passed during the previous DPR period is continued by the new DPR period, questions arise regarding democratic legitimacy and the principle of political representation. On the one hand, the principle of constitutional continuity requires that laws and policies not be interrupted simply because of the election cycle. The carryover mechanism ensures legal certainty and legislative stability by maintaining strategic deliberations on bills. This reflects the concept of institutional memory, namely that even though DPR members change, the DPR as an institution still bears the constitutional responsibility to continue the legal agenda. However, on the other hand, challenges arise in ensuring that this mechanism does not diminish the democratic legitimacy of the new DPR, which carries the people's mandate after the election. The adoption of the carryover mechanism in Indonesia marks a shift from term-based legislation to issue-based and urgency-based legislation. From a constitutional perspective, this aligns with the principles of effective good governance and legal certainty. However, to be in line with constitutional democracy, this mechanism needs to be equipped with safeguards, such as repeated public consultations, transparent deliberations in the new DPR, and explicit approval from members of the current DPR period. These steps will ensure that the carry-over mechanism does not diminish the new people's mandate, but rather becomes a means of strengthening efficiency, legitimacy, and responsiveness. Legislation. Thus, carry over must be seen not merely as an administrative instrument, but as a legislative reform tool that balances legal certainty, procedural efficiency, and democratic legitimacy within the framework of constitutional law.

In line with the explanation above, viewed from the perspective of progressive legal theory developed by Satjipto Rahardjo, law is not merely a static formal text, but rather a dynamic instrument that must work for the benefit of humanity and substantive justice. Within this framework, law should not be an obstacle to change, but rather a means that adapts to the needs of society. The application of the ⁴²carryover mechanism to strategic bills in the Indonesian House of Representatives can be analyzed as a concrete form of the spirit of progressive law, because this mechanism seeks to address the classic problem of legislation: the many priority bills that fail to be completed within one period due to time constraints and political dynamics.

From an efficiency perspective, carryover reflects the principle of utility in progressive law, namely ensuring that all state resources expended in time, money, effort, and public participation are not wasted simply because of a change in the DPR term. This aligns with the principle of value. Money in public administration emphasizes the optimal benefits of each policy. A concrete example is the successful passage of the Criminal Code Bill and the TPKS Bill after going through a carryover

⁴² Anisa Rizki Fadhila, "Progressive Legal Theory (Prof. Dr. Satjipto Rahardjo, SH)," *SINDA: Comprehensive Journal of Islamic Social Studies* 1, no. 1 (2024): 1–11, <https://doi.org/10.28926/sinda.v1i1.966>.



mechanism, demonstrating that legislative continuity can be maintained for the benefit of the wider public.⁴³

Progressive legal theory reminds us that law must not lose its ethical and social dimensions. The carryover mechanism poses a potential legitimacy deficit if the new DPR fails to reopen the space for public deliberation. ⁴⁴The legislative process must remain grounded in substantive democratic principles by involving the people, providing transparency, and adapting to changing social contexts. Otherwise, carryover could be seen as a mere administrative instrument that ignores the spirit of justice. Criticism from monitoring institutions such as Formappi and ICEL demonstrates the importance of progressive legal safeguards, such as refreshing the DIM (Dimensional List of Laws), renewed public consultations, and substantive review mechanisms in the new period to ensure the resulting law remains responsive and just. ⁴⁵Therefore, from a progressive legal perspective, carryover is a double-edged sword: on the one hand, it provides efficiency and legal certainty, but on the other, it can undermine democratic legitimacy if not accompanied by transparency and participation. Internal reform of the DPR is essential for this mechanism to not only expedite legislation but also become a path to responsive, humane, and contextual legal reform in accordance with the spirit of progressive law.⁴⁶

It is important to emphasize that the carryover mechanism should not be viewed solely as a technical solution to the DPR's legislative burden. From the perspective of constitutional law combined with progressive law, carryover needs to be positioned as an instrument capable of strengthening the quality of substantive democracy. This means that every continuation of bill deliberations must be accompanied by a recontextualization to current socio-political conditions, because the public, as legal subjects, has the right to be involved and heard. Therefore, carryover not only addresses the issue of time efficiency but also ensures that legislative products remain relevant, adaptive, and democratically legitimate. Furthermore, carryover practices regulated without regard to the principle of transparency have the potential to fragment public trust in the DPR. Experience in the deliberation of several controversial bills, such as the National Criminal Code or the Omnibus Law, shows that public resistance often arises not only due to substance but also due to procedures perceived as lacking transparency. If the carryover mechanism is implemented without progressive legal safeguards, this can exacerbate the perception that the law is an elitist instrument, far from the interests of the people. Therefore, good legislative governance requires checks and balances. And

⁴³ Yance Arizona, "Democracy and Lawmaking in Indonesia: Between Efficiency and Representation," *Journal of Southeast Asian Law* 3, no. 2 (2021): 45–63, <https://doi.org/10.52332/jsal.v3i2.67>.

⁴⁴ Lisma, "Progressive Law Functions in Realizing Justice in Indonesia," *Syariah: Journal of Law and Thought* 19, no. 1 (2024): 1–13, <https://doi.org/10.18592/sy.v19i1.2543>.

⁴⁵ Abu Rokhmad, "The Idea of Progressive Law Masalah Theory Perspective," *Al-Manabij: Journal of Islamic Legal Studies* 7, no. 1 (2023): 1–14.

⁴⁶ Bruce Ackerman, *Revolutionary Constitutions: Charismatic Leadership and the Rule of Law* (Cambridge: Harvard University Press, 2019), 76.



internal balance through review procedures, as well as strengthening public participation channels, is a real manifestation of the principle of open parliament.

Ultimately, carryover should be interpreted as a space to encourage the modernization of Indonesia's legislative system. Through internal reforms of the House of Representatives (DPR), for example, through the digitization of the legislative process, the open publication of the DIM (Division of Legislation), and technology-based public consultation forums, efficiency can be achieved without sacrificing legitimacy. This approach aligns with Satjipto Rahardjo's idea that the law should work for people, not the other way around. Within this framework, carryover can be a means of compromise between the need for efficiency and the demands of democracy, while simultaneously making the law a more responsive and equitable means of social reform. The DPR, as a legislative body, is required to demonstrate that carryover is not merely a shortcut to achieving legislative targets, but a means of democratic consolidation that balances efficiency with participation, legal certainty with substantive justice, and political stability with public aspirations. If these principles are ignored, carryover risks reduce the quality of legislation and negate the ideals of progressive law. However, if managed with a strong public oversight mechanism, it can become an important milestone towards a national legal system that is adaptive, accountable, and oriented towards the welfare of the people.

3. CONCLUSION

Based on the discussion above, it can be concluded that the mechanism carried over Article 71A of Law No. 15/2019 is a procedural breakthrough designed to address legislative stagnation due to the limited term of office of the DPR by ensuring that strategic bills can still be discussed across periods. Although effective in ensuring legislative continuity and time and budget efficiency, this mechanism has drawn criticism for potentially ignoring the principles of political representation and democratic legitimacy, especially when the composition of the DPR has changed after the election. National Legislation Program can be viewed as an instrument functioning legislative guard to ensure the continuity discussion of cross-border bills, at the same time strengthening the efficiency and certainty law in the legislative process. From the perspective theory constitutional law theory, mechanisms that reflect an effort to guard continuity function the DPR institution as a constitutional organ that is not broken by the cycle-year politics, although it causes a challenge to legitimacy because the DPR period's new mandate differentiates politics from the results of elections, lastly. Therefore, so that carry over does not occur, just become procedure administrative risk weaken principle representation, required arrangement technical guarantees revalidation discussion, involvement public repeat, and a mechanism of transparent accountability. Thus, carry over only will function optimally when placed in a framework balanced between efficiency,



procedural, and legitimacy democratic, so that it truly becomes an instrument of constitutional support principles democracy substantive.

Implications use of carry over. The efficiency and legitimacy of the legislative process in the Indonesian House of Representatives allow for the continuation of discussions on laws across periods without starting from the beginning, thus providing efficiency in time, energy, and budget in accordance with the principles of value for money and the principle of utility. If implemented without transparency, public involvement, and a thorough review of the substance, carryover has the potential to cause a legitimacy deficit. Therefore, its implementation must be accompanied by strict internal procedural updates, including technical clarity, a refresh of the DIM, and public transparency, so that carryover is not merely an administrative solution but also reflects a substantive, accountable, and adaptive democratic process to the dynamics of national policy. From an efficiency perspective, this mechanism can prevent waste of resources and ensure the continuity of discussions on strategic bills across periods, as seen in the cases of the Criminal Code Bill and the TPKS Bill. From a constitutional law perspective, this mechanism is valid as long as it is balanced with constitutional procedures that guarantee the principles of political representation, checks and balances. And balances, and public participation. Meanwhile, from a progressive legal theory perspective, carryover can be seen as a dynamic instrument that supports substantive justice, but still requires strengthening regulations, transparency, and accountability to prevent it from simply becoming a tool for administrative acceleration. Therefore, carryover will only be effective if it is positioned as a legislative reform mechanism that balances procedural efficiency with constitutional legitimacy and is oriented toward the interests of the wider community.

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