

Public Participation in Democratic Lawmaking Processes

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ABSTRACT

This study aims to analyze the position of public participation in the legislative drafting process and examine the implementation of the meaningful participation concept in promoting democratic, transparent, and responsive lawmaking. The research employs a normative legal method using statutory, conceptual, and analytical approaches. Data were collected through a literature review consisting of primary legal materials, including legislation, and secondary legal materials such as books, scholarly articles, and relevant previous studies. The findings indicate that public participation holds a strategic position as an embodiment of popular sovereignty and participatory democracy within a democratic rule-of-law state. Normatively, public participation has been strongly recognized through Law Number 12 of 2011 and its amendments, which emphasize the principle of openness and the public's right to provide input at every stage of legislative drafting. Furthermore, the concept of meaningful participation enhances the quality of public involvement by ensuring the rights to be heard, to have opinions considered, and to receive explanations regarding submitted inputs. However, its implementation still faces several challenges, including limited access to legislative information, ineffective public consultations, and the absence of comprehensive evaluation mechanisms. Therefore, strengthening transparency, legislative digitalization, and more inclusive participation mechanisms is essential to improve regulatory quality and legal legitimacy.

Keywords: *Legislative Drafting, Meaningful Participation, Openness, Participatory Democracy, Public Participation.*

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1. | INTRODUCTION

The formation of laws and regulations is one of the main instruments in the implementation of a democratic state of law. In the modern legal system, law is no longer seen solely as a product of power, but rather as the result of a process that reflects the aspirations, needs, and interests of society. Therefore, public involvement in the process of forming laws and regulations is an important aspect to ensure the legitimacy, effectiveness, and acceptability of a regulation. Community participation not only functions as a means of conveying public aspirations, but also as a control mechanism for the legislative process to remain in line with the principles of democracy and the rule of law (Wijaya, 2021; Octavian, 2022).

In the context of a democratic state, public participation is a manifestation of the principle of people's sovereignty that places citizens as subjects in the public decision-making process. Community involvement in the formation of laws allows for the exchange of ideas between policymakers and community groups that will be affected by the regulation. Through effective participation, the quality of regulatory substance can be improved because the legislative process obtains more comprehensive input from various social, economic, and legal perspectives. In addition, public participation also contributes to increasing transparency and accountability in law formation so that it can minimize the potential for the dominance of certain interests in the legislative process (Roza, 2019; Arkana & Firdaus, 2022).

The urgency of public participation in the formation of laws and regulations is increasingly gaining normative strengthening through the development of national regulations. Law Number 12 of 2011 concerning the Formation of Laws and Regulations, which was later updated through Law Number 15 of 2019 and Law Number 13 of 2022, emphasizes the importance of the principle of openness in every stage of regulatory formation. Through this arrangement, the public is given the right to provide input both orally and in writing in the process of drafting regulations. The presence of these provisions shows that community participation has become an integral part of the democratic law-making mechanism and is no longer positioned as a mere complement (Nasution & Sapii, 2022; Artioko, 2022).

Nevertheless, the implementation of community participation in the practice of forming laws and regulations still faces various challenges. Studies have shown that community involvement is often a formality and has not fully had a significant impact on the substance of the regulations formed. In many cases, the space for participation is available procedurally, but the quality of public involvement is still limited due to lack of access to information, low transparency of the legislation process, and lack of feedback mechanisms for input submitted by the public. This condition shows that there is a gap between normative arrangements regarding public participation and their implementation in law-making practices (Prastyo, 2022; Ummah, 2022).

The latest developments in the law on the formation of laws and regulations introduce the concept of meaningful participation as an effort to strengthen the quality

of community involvement in the legislation process. This concept emphasizes that the public is not only given the opportunity to express opinions, but also to obtain adequate access to information, the opportunity to be heard substantially, and the right to get an explanation for the follow-up to the input provided. Thus, public participation is no longer understood as limited to fulfilling administrative procedures, but as a democratic instrument that is able to increase the legitimacy and quality of the resulting regulations (Aris & Putri, 2022; Nasution & Sapii, 2022).

Based on this description, community participation has a strategic position in realizing the formation of laws and regulations that are democratic, responsive, and oriented to the public interest. However, a more in-depth study is still needed on the position of public participation in the Indonesian legal system and how the concept of meaningful participation can be effectively implemented in the process of forming laws and regulations. Therefore, this study is directed to answer two research questions. First, what is the position of public participation in the formation of laws and regulations based on the principles of the democratic state of law and the provisions of applicable laws and regulations? Second, how to implement and strengthen the concept of meaningful participation in the formation of laws and regulations in order to realize democratic, transparent, and responsive regulations to the needs of the community?

2. | RESEARCH METHOD

This study uses a normative legal research method with a library research approach. Normative legal research is a research method that focuses on the study of legal norms contained in laws and regulations, legal doctrines, legal principles, and various scientific literature relevant to the issue being studied. This method was chosen because the research aims to analyze the position of community participation in the formation of laws and regulations and examine the implementation of the concept of meaningful participation in a positive Indonesian legal perspective. Thus, the object of research study is not oriented to community behavior or field data, but to norms, concepts, and legal principles that govern public participation in the legislative process.

The approaches used in this study include statute approach, conceptual approach, and analytical approach. The statute approach is used to analyze various legal provisions related to public participation in the formation of laws and regulations, especially Law Number 12 of 2011 concerning the Formation of Laws and Regulations and their amendments through Law Number 15 of 2019 and Law Number 13 of 2022. In addition, the study also examined provisions related to public participation in Law Number 23 of 2014 concerning Regional Government and Law Number 6 of 2014 concerning Villages. The conceptual approach is used to understand various concepts that develop in the study of law and democracy, such as the rule of law, participatory democracy, the principle of openness, good governance, and meaningful participation. Meanwhile, an analytical approach is used to evaluate the relationship between normative provisions and the development of the concept of community participation in law formation (Oktavia, 2022).

The data sources in this study consist of primary legal materials and secondary legal materials. Primary legal materials include laws and regulations relevant to the object of research. The secondary legal materials are obtained from law books, scientific journal articles, previous research results, and academic works published in the last five years and are related to community participation in the formation of laws and regulations. Data collection techniques are carried out through searching, identifying, and inventorying various relevant literature sources. Furthermore, the data was analyzed using a qualitative analysis method with a descriptive-analytical approach to interpret legal norms, identify relationships between concepts, and formulate legal arguments that can answer the formulation of research problems. Through this method, the research is expected to be able to produce a comprehensive understanding of the position and strengthening of community participation in the formation of democratic and responsive laws and regulations (Roza, 2019).

3. | RESULTS

The Position of Community Participation

Community participation is one of the fundamental elements in the formation of democratic laws and regulations. In the perspective of the modern legal state, the existence of law is determined not only by the authority of its forming institutions, but also by the extent to which the process of its formation is able to accommodate the aspirations of the people who are the subject as well as the object of regulation. Therefore, community participation has a strategic position as an instrument to realize legal legitimacy, improve the quality of regulations, and strengthen the relationship between the state and citizens in the public decision-making process (Wijaya, 2021; Octavian, 2022).

Theoretically, public participation is a manifestation of the principle of people's sovereignty which is one of the main characteristics of a democratic state. In a democratic system, the people not only play a role in choosing their representatives through the general election mechanism, but also have the right to be involved in the process of formulating policies and forming laws that will govern common life. The involvement of the community in the legislative process reflects a more balanced distribution of power between the government, the legislature, and citizens. Thus, public participation is a means to ensure that the laws formed not only reflect the will of the lawmakers, but also pay attention to the needs and interests of the community at large (Arkana & Firdaus, 2022).

In the context of positive Indonesian law, the position of community participation has obtained a strong normative foundation through various laws and regulations. Law Number 12 of 2011 concerning the Formation of Laws and Regulations emphasizes that the formation of regulations must be carried out based on the principle of openness. This principle means that all stages of the formation of laws and regulations must provide opportunities for the public to actively provide input and opinions. This

provision was then strengthened through Law Number 15 of 2019 and Law Number 13 of 2022 which further emphasized the importance of community involvement in every stage of the legislation process (Nasution & Sapii, 2022; Artioko, 2022).

Strengthening the position of community participation can also be seen from the recognition of the community's right to provide input orally and in writing in the formation of laws and regulations. The regulation shows that community participation is not just a policy choice, but has become a legal right guaranteed by laws and regulations. In this perspective, the community is no longer positioned as a passive recipient of a regulation, but as an actor who has the right to influence the direction and substance of law formation. The existence of these rights is also an indicator that the modern legislation process must be carried out in an open, accountable, and responsive manner to the public interest (Roza, 2019).

In addition to the national level, recognition of community participation is also found in Law Number 23 of 2014 concerning Regional Government and Law Number 6 of 2014 concerning Villages. Both regulations place openness and participation as important principles in the administration of government and the formation of legal products at each level of government. The regulation shows that community participation has become a principle that is applied in stages in the Indonesian legal system, starting from the formation of laws to the formation of regulations at the regional and village levels. This condition reflects a broad recognition of the importance of community involvement in the law-making process (Prastyo, 2022).

Furthermore, the position of public participation is not only related to the fulfillment of democratic principles, but also closely related to the quality of the regulations produced. Various studies show that regulations drafted through participatory processes tend to have a higher level of acceptance in society because their substance has gone through a process of dialogue and exchange of ideas with various stakeholders. On the other hand, the lack of public participation has the potential to produce regulations that are less responsive to the needs of the community so that they can cause resistance at the implementation stage. Therefore, community participation must be seen as an instrument to increase the effectiveness of the law while strengthening the legitimacy of the formation of laws and regulations (Aris & Putri, 2022; Ummah, 2022).

Based on this description, it can be understood that community participation has a very important position in the formation of laws and regulations. Conceptually, participation is a manifestation of the principles of people's sovereignty and participatory democracy. Meanwhile, normatively, this position has gained recognition through various laws and regulations that regulate the principles of openness and the right of the public to be involved in the legislative process. Thus, community participation is not only a complementary element in the formation of laws, but is an essential component that determines the legitimacy, quality, and effectiveness of laws

and regulations in a democratic legal state system (Oktavia, 2022; Nasution & Sapii, 2022).

Implementation of Participation

The implementation of community participation in the formation of laws and regulations has undergone significant developments in line with increasing demands for democratic and transparent governance. These developments are marked by the strengthening recognition of the community's right to be involved in the legislation process, both through the submission of opinions, public consultations, academic discussions, and various other forms of communication between the public and regulators. However, the existence of formal participation spaces does not necessarily guarantee the realization of effective public engagement. Therefore, the concept of meaningful participation emerged which emphasizes that community participation must have real quality and influence on the process of forming laws and regulations (Nasution & Sapii, 2022; Artioko, 2022).

The concept of meaningful participation developed in response to the practice of participation which has often only been oriented towards fulfilling administrative procedures. In various legislation processes, the public is indeed given the opportunity to provide input, but these inputs are not always considered substantively in the preparation of regulations. This condition causes public participation to lose its essence as a democratic means to influence public policy. Therefore, meaningful participation requires community involvement that is not only symbolic, but able to make a real contribution to the substance of the regulations that are being formed (Prastyo, 2022).

Normatively, the strengthening of the concept of meaningful participation has gained a clearer legal basis through Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Establishment of Laws and Regulations. The regulation affirms that the public has the right to obtain access to information related to the formation of regulations, the right to express views or objections, and the right to obtain an explanation regarding the follow-up to the input that has been given. These arrangements show that community participation is no longer understood as a one-way activity, but as a process of mutual communication between the community and the formation of laws and regulations (Tuhumena et al., 2021; Artioko, 2022).

The implementation of meaningful participation basically requires three main elements, namely the right to be heard, the right to be considered, and the right to be explained. These three elements are interrelated in forming an effective participation mechanism. The right to be heard provides an opportunity for the public to express their views on the draft regulation. The right to have opinions considered requires policymakers to conduct an objective assessment of the input provided. Meanwhile, the right to an explanation ensures transparency regarding the reasons for accepting or rejecting input in the legislative process. Through this mechanism, community

participation can take place more substantively and does not stop at the mere formality stage (Nasution & Sapii, 2022).

Nevertheless, the implementation of meaningful participation still faces various challenges. One of the main challenges is the limited public access to adequate legislation information. Not all people have the same opportunity to obtain information about the draft regulations that are being discussed. In addition, it is still found that the practice of public consultation is carried out in a limited time so as to reduce the opportunity for the public to provide input optimally. Another challenge is related to the absence of an evaluation mechanism that clearly measures the extent to which public input has been accommodated in the process of forming laws and regulations (Roza, 2019; Ummah, 2022).

In order to strengthen the implementation of meaningful participation, various strategic steps are needed that are oriented towards increasing openness and accountability of the legislation process. Digitizing the regulatory process can be one of the means to expand public access to information and legislation documents. In addition, the publication of draft regulations openly from the initial stage of preparation allows the public to provide more quality and timely input. Strengthening an inclusive public consultation mechanism is also needed so that various community groups can be involved equally without barriers to access or limited information. Thus, community participation can develop from just a procedural obligation to a substantive instrument in the formation of laws (Oktavia, 2022).

In the end, the implementation of meaningful participation is an important part of efforts to realize the formation of laws and regulations that are democratic, transparent, and responsive to the needs of the community. The presence of such a concept shows that the quality of legislation is determined not only by the formal procedures taken, but also by the extent to which the public is given a real opportunity to influence the substance of the regulation. Therefore, the strengthening of meaningful participation needs to continue to be developed through improving regulations, increasing transparency, and strengthening the commitment of all stakeholders so that the process of forming laws and regulations truly reflects the principles of the state of democratic law and the public interest at large (Prastyo, 2022; Tuhumena et al., 2021).

4. | CONCLUSION

Community participation is one of the important elements in the formation of democratic laws and regulations oriented to the public interest. In the perspective of a democratic legal state, public involvement not only serves as a means of conveying aspirations, but also as a mechanism to strengthen the legitimacy, accountability, and quality of the resulting regulations. The position of public participation has gained strong recognition in the Indonesian legal system through various laws and regulations that place the principle of openness as the main principle in the law-making process. The arrangement shows that the community has the right to be involved in every stage

of regulatory formation as part of the implementation of the principles of people's sovereignty and participatory democracy.

This research also shows that the development of the concept *of meaningful participation* provides a new dimension in the implementation of community participation. Participation is no longer understood as providing a formal space to express opinions, but rather requires substantial involvement through adequate access to information, opportunities to express views effectively, and clear consideration and follow-up to the input provided. Thus, the quality of participation is an equally important factor as the existence of the participation mechanism itself.

Although a legal framework that supports community participation is available, its implementation still faces various challenges, especially related to information disclosure, the effectiveness of public consultation, and the optimization of the use of technology in the legislation process. Therefore, continuous efforts are needed to strengthen more inclusive, transparent, and accountable participation mechanisms. The strengthening is expected to be able to realize the process of forming laws and regulations that are more responsive to the needs of the community, improve the quality of regulations, and strengthen the principles of a democratic state of law in the administration of government.

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The authors declare no conflict of interest.

Ethical Approval and Originality Statement

Ethical approval was obtained for this study. The manuscript represents original work and has not been previously published, nor is it under consideration by another journal.

Data Disclosure Statement

The data that support the findings of this study are available from the corresponding author upon reasonable request.

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