

Public Participation as a Determinant of Democratic Legitimacy and the Quality of Legislation in the Formation of Laws and Regulations

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Abstract. *Public participation is a fundamental element in the formation of legislation as a manifestation of popular sovereignty in a democratic state governed by the rule of law. Although normatively guaranteed in the constitution and legislation, its implementation still tends to be formalistic, thus not optimally improving democratic legitimacy and the quality of national legislation. The urgency of this research lies in the effort to emphasize the role of public participation as a determinant of legislative quality in the formation of legislation and formulate an effective model of public participation in the legislative process. The novelty of this research lies in the construction of a public participation model based on the legislative cycle that integrates a deliberative approach, information transparency, inclusiveness, and feedback mechanisms as a systemic whole in the formation of legislation. This research uses a normative legal research method by applying a legislative approach, a conceptual approach, and a case approach. The results show that public participation plays a major role in determining democratic legitimacy and the quality of national legislation in the formation of legislation. Meaningful public participation strengthens democratic legitimacy, improves the quality of normative substance, prevents regulatory disharmony, and strengthens the effectiveness of legal implementation. Effective public participation models for the formation of legislation include the legislative cycle-based participation model, the deliberative-institutional participation model, the information transparency-based participation model, the digital participation model, and the feedback-based participation model. All of these models must be based on the principles of inclusivity, transparency, accountability, and sustainability, and supported by strengthening institutional capacity and increasing public legal literacy.*

Keywords: *Democratic; Determinants; Legitimacy; Participation; Quality.*

1. Introduction

The history of the development of the Indonesian state during the reform era demonstrates a fundamental transformation toward a more democratic system, marked by the strengthening of the rule of law, limitations on power, and increased public participation in governance. As a democratic state governed by the rule of law, popular sovereignty is placed as the primary foundation for all aspects of government, including the formation of legislation. Within this framework, public participation is a fundamental principle that affirms the people's position as holders of sovereignty and serves as a mechanism of social control over governance. (Napitupulu 2024) Public participation in the formation of legislation is not merely viewed as a procedural right of citizens, but also as a substantive instrument that ensures that the resulting legislation is able to accommodate the needs, aspirations, and interests of the wider community. The quality of legislation is essentially measured not only by the technical perfection of the formulation of norms, but also by the level of democratic legitimacy, social acceptability, and the effectiveness of its implementation in community and state life. Normatively, the Indonesian legal system has provided a relatively strong foundation for public involvement in the formation of legislation. The 1945 Constitution of the Republic of Indonesia affirms the principle of popular sovereignty as the basis for the implementation of state power. This principle was then further operationalized in Law Number 12 of 2011 concerning the Formation of Legislation, which has undergone two amendments: through Law Number 15 of 2019 as the first amendment, and Law Number 13 of 2022 as the second amendment. The law expressly regulates the principle of openness and guarantees the public's right to express opinions and input, both verbally and in writing, at every stage in the formation of legislation. (Afendi 2022)

Public participation is closely linked to democratic legitimacy and the quality of national legislation. Meaningful participation enables the exchange of information between lawmakers and the public, enriches perspectives in norm formulation, and reduces the potential for regulations that are unresponsive to social realities. Through public participation, lawmakers can gain a more comprehensive understanding of the social, economic, and legal impacts of a regulation. Therefore, public participation should function as a determinant of democratic legitimacy and the quality of national legislation, namely a determining factor influencing the extent to which a law achieves the legal objectives of justice, benefit, and certainty. However, empirical reality shows a significant gap between normative regulation and the practice of lawmaking. In practice, public participation is often carried out in a limited and formalistic manner, without providing space for the public to provide input that could influence the content of a draft law. (Irawan 2025) Public engagement is often undertaken merely to fulfill procedural obligations, without mechanisms to ensure that public input is substantively considered in norm formulation. Consistent with this, research by the Indonesian Center for Law and Policy Studies (PSHK) shows that the House of

Representatives (DPR) and the government have not fully complied with lawmaking procedures. Although the legislative function is normatively regulated, its implementation often ignores applicable provisions, including those concerning guarantees of public participation in the legislative process.(Indonesia 2020) In fact, in laws and regulations, including Constitutional Court Decision Number 91/PUU-XVIII/2020, public participation is a prerequisite that must be met at least at the stage of proposing a draft law, the discussion process, and joint approval by the DPR and the President.(Simajuntak 2025)

Many laws and regulations have drawn public criticism and rejection, sparked controversy, and even resulted in judicial review at the Constitutional Court. The high number of judicial reviews of laws and regulations can be seen as an indicator of problems with the quality of legislation, both in terms of substance, the process of formation, and its democratic legitimacy. This is reflected, among other things, in the experience of the formation of several strategic legislative products, such as the 2019 amendment to the Corruption Eradication Commission Law, the 2020 Job Creation Law, and the 2020 amendment to the Constitutional Court Law. These clearly demonstrate that the process of formulating laws and regulations is carried out quickly, without adequate public involvement and tends to ignore the voices and aspirations of the community. Ni'matul Huda, stated that the process of formulating laws that is carried out quickly does not necessarily produce good quality, but it certainly ignores the principle of meaningful participation.(Huda 2022) This situation impacts the quality of the resulting legislative products, where legislation born without meaningful public participation tends to lose its social utility, is difficult to implement effectively, and has the potential to create legal uncertainty. The discrepancy between normative provisions (*das sollen*) and empirical practice (*das sein*) indicates that the main problem lies not in the absence of legal norms regarding public participation, but rather in the suboptimal implementation and institutionalization of public participation in the legislative process. Public participation has not been fully positioned as a determinant of democratic legitimacy and the quality of legislation, but is still understood as a procedural complement in the formation of laws and regulations. As a result, the legislative process tends to be dominated by the interests of political elites and technocratic considerations, while the aspirations and needs of the community are often marginalized.

In line with this, previous research has also examined these legal issues. First, research by Dodi Jaya Wardana (2025) explains that public participation can be carried out through structured mechanisms, such as appointing facilitators, compiling stakeholders, and providing transparent information regarding draft laws. Furthermore, the use of information technology, providing public input, and participatory forums such as discussions and working groups are considered important to encourage effective public involvement. However, this research has not yet confirmed public participation as a determinant of democratic legitimacy and improving the quality of national legislation. Second, research by Muhamad

Irsyad Hanafi et al. (2024) emphasizes that involving the public in shaping legislation is not merely formal but is a crucial element in producing democratic regulations that are responsive to public needs. Conversely, low public participation results in the formation of ineffective regulations and triggers dissatisfaction and rejection. However, this research has not yet outlined an effective model of public participation to improve the quality of national legislation. Third, research by Iza Rumester RS (2012) explains that public participation in shaping legislation can be achieved through several methods, including involving independent members of the public in the drafting team, holding public hearings, conducting validity tests, gathering aspirations through surveys or mass media, and utilizing community empowerment institutions or citizen forums. However, this research has not yet examined public participation as a determinant of democratic legitimacy and the quality of national legislation.

This study was conducted to analyze the role of public participation as a determinant of democratic legitimacy and the quality of national legislation, and to formulate an effective model of public participation in shaping legislation. This study is based on the view that the quality of legislation is not only determined by the technical aspects of the regulatory designer and the appropriateness of the norm hierarchy, but also by the extent to which the formation process reflects the aspirations, needs, and desires of the community. Empirically, public involvement in shaping legislation still tends to be formalistic and therefore has not provided a substantive impact on the process or substance of legislation, whereas ideally public participation plays a substantive role that produces responsive, inclusive, and sustainable regulations. The main focus of this study is the role of public participation as a determinant of democratic legitimacy and the quality of national legislation in the formation of legislation and what an effective model of public participation is in the process of shaping legislation. The novelty of this research lies in the integration of the concepts of public participation with democratic legitimacy and legislative quality within a systematic analytical framework, as well as the formulation of a public participation model that is not only oriented towards procedural aspects, but also emphasizes the substantive dimension and the use of information technology to expand access, increase transparency, and optimize the effectiveness of public involvement in the stages of legislative regulation formation. This research is expected to bridge the gap between ideal conditions (*das sollen*) and empirical practice (*das sein*) in national legislation.

2. Research Methods

This research uses a normative legal research method (*doctrinal legal research*) which focuses on the analysis of legal norms, principles and principles (Muhaimin 2020) which regulates public participation in the formation of legislation and its relevance to democratic legitimacy and the quality of national legislation. Normative research is used to analyze the consistency and harmonization of legal norms within the Indonesian legal system, as well as to formulate an effective

model of public participation from the perspective of a state based on the rule of law and democracy. The research approaches used include the statute approach, the conceptual approach, and the case approach.(Ibrahim 2008) The statutory approach is used by examining various statutory regulations that are related to the legal problems that are the object of research. A conceptual approach is applied to analyze the theory of the rule of law, deliberative democracy, and public participation as philosophical and theoretical foundations. Meanwhile, a case study approach is conducted through an analysis of court decisions related to public participation in the formation of legislation. Secondary data, consisting of primary, secondary, and tertiary legal materials, are used as sources. Data collection was carried out using the library research method.by tracing, inventorying, and reviewing relevant legal documents and academic literature. Furthermore, qualitative data analysis techniques were used, using legal interpretation and prescriptive analysis methods, to formulate an effective public participation model for improving the quality of national legislation.

3. Result and Discussion

3.1. Public Participation as a Determinant of Democratic Legitimacy and the Quality of National Legislation in the Formation of Legislation

Based on the history of state administration, legislative power in Indonesia can be divided into two periods, namely before and after the amendment to the 1945 Constitution. Before the amendment, the authority to form laws rested with the President as stipulated in Article 5 paragraph (1) of the 1945 Constitution. After the amendment to the 1945 Constitution, there was a fundamental shift in the structure of legislative power by placing the DPR as the holder of the legislative function, as stipulated in Article 20 paragraph (1) of the 1945 Constitution.(Firdaus 2024) From the DPR's institutional perspective, the main changes in the law-making process after the amendment to the 1945 Constitution include strengthening the constitutional basis, affirming the legislative function, increasing the number of laws originating from DPR initiatives, and reducing executive dominance in the law-making process.(Saifudin 2006) Normatively, the procedures for the formation of laws are further regulated in Law No. 12 of 2011 concerning the Formation of Legislation, as amended by Law No. 15 of 2019 and most recently by Law No. 13 of 2022, which covers the stages of planning, drafting, discussion, ratification, and promulgation. Furthermore, Article 5 letter g of the law emphasizes that every stage of the formation of legislation must be carried out based on the principle of openness. This principle serves to ensure transparency in the legislative process while opening up broad participation space for the public to convey aspirations, views, and input on the formation of legislation. In this context, public participation becomes an inseparable element of the modern legislative process, because public involvement plays a crucial role in ensuring that the resulting legal product has not only formal legitimacy, but also social legitimacy.(Nugraha 2025)

Public participation can be defined as the active involvement of the community in the process of policy planning, decision making, policy implementation and monitoring of policies made by the government.(Lidia Rumapea et al. 2025) Meanwhile, according to Smith, public participation is a process that provides opportunities for individuals, groups or organizations to be involved in decision-making or policy formulation that impacts them.(Oktavia 2022) Public participation in a democratic system is essentially a means to prevent abuse of power, channel citizens' aspirations to the government, involve the public in public decision-making, and uphold the people's sovereignty.(Parlindungan 2019) Public participation in the formation of legislation is essentially a substantive prerequisite for the realization of democratic, responsive, and quality national legislation. Constitutionally, the principle of popular sovereignty as affirmed in Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia has the consequence that the legislative process cannot be separated from the involvement of the community as the holder of sovereignty. In addition, Article 28C paragraph (2) of the 1945 Constitution essentially guarantees the right of every person to develop themselves and fight for their interests together in order to build society, the nation, and the state.(Syakuran 2024) Public participation is not merely a policy choice, but rather a constitutional right that lawmakers must facilitate. Normatively, this guarantee is explicitly stipulated in Article 96 of Law No. 13 of 2022 concerning the Second Amendment to Law No. 12 of 2011, which states that the public has the right to provide input verbally and/or in writing at every stage of the formulation of legislation. This input can be conveyed through various mechanisms, both online and offline, including public hearings, working visits, outreach activities, seminars, workshops, discussions, and various other forms of public consultation forums provided by legislative bodies and the government.(Nazulfa 2024)

From the perspective of national legislative quality, optimal public participation impacts several aspects. First, it improves the quality of normative substance because public input can identify potential conflicts, inconsistencies with social needs, or technical weaknesses in formulation. Second, it strengthens social legitimacy, making the resulting norms more easily accepted and implemented. Third, it reduces the potential for legal disputes and regulatory review in both the Constitutional Court and the Supreme Court. The high number of judicial reviews is often an indicator that the legislative process is not fully responsive to public aspirations. A concrete example can be seen in the dynamics of the formation of Law Number 6 of 2023 concerning the Stipulation of the Job Creation Perppu, which has again sparked public debate. Although formally intended to follow up on the Constitutional Court's ruling, the process has drawn criticism regarding participation and transparency.(Gibran 2024) This case demonstrates that the quality of legislation is significantly influenced by public perception of the transparency of the process. Public participation in the process of formulating legislation is a key determinant of the quality of national legislation, both in terms

of democratic legitimacy, normative consistency, implementation effectiveness, and social acceptability. In a democratic state governed by the rule of law, law is not merely understood as a formal product of legislative bodies, but as the result of interactions between the state and society within the framework of popular sovereignty. Therefore, participatory legislative formulation must be interpreted in two dimensions: procedural and substantive. Procedurally, public participation requires structured, open, and meaningful public involvement in every stage of regulatory development. Substantively, this participation must be able to influence the content of regulations so that they reflect the needs, aspirations, and interests of the wider community.(Elcaputera 2022)

From the perspective of the theory of the rule of law (*rechtstaat*), the formation of legislation must fulfill the principles of legality, legal certainty, and the protection of human rights as the main pillars of state power. Modern theory of the rule of law has evolved to incorporate elements of participatory democracy as part of legal legitimacy. According to Jürgen Habermas, democracy must contain a deliberative dimension, namely a condition in which public policies gain legitimacy through a rational process of public discourse before being enacted. Thus, deliberative democracy seeks to open up broad spaces for citizen participation, which ultimately result in laws with strong legitimacy.(Haliim 2016) In this context, public participation is a determinant of legislative quality because it ensures that the resulting norms reflect a rational societal consensus. Furthermore, the quality of national legislation can be measured through several parameters. First, substantive quality, namely the extent to which norms reflect social needs and align with constitutional values. Second, technical quality, which includes clarity in norm formulation, systematicity, and consistency between regulations. Third, procedural legitimacy, which relates to transparency and participation in the formulation process. Fourth, implementability, namely the ability of norms to be effectively applied in practice.

Public participation in the formation of legislation has significance not only substantive but also procedural. From a substantive aspect, public participation allows lawmakers to obtain empirical information and diverse perspectives on the impact of a regulation. Affected community groups, academics, practitioners, and civil society organizations can provide input that enriches academic texts and draft legislation. From a technical aspect, public participation can help identify potential multiple interpretations, inconsistencies, or conflicts between norms and other regulations. In legislative practice, norms are often found to be ambiguous or overlap with previous regulations. Public input based on academic studies can improve the quality of norm formulation techniques and prevent norm disharmony within regulations. Legal products formulated responsively and in line with community needs will increase the legitimacy of legislation. Thus, the resulting legal legitimacy becomes stronger and has an optimal level of effectiveness and effectiveness.(Ramur 2023) Meanwhile, from a procedural perspective, public participation strengthens the constitutional legitimacy of

legislation. The Constitutional Court, through Decision Number 91/PUU-XVIII/2020, emphasized that public participation must be meaningful, encompassing the right to be heard, considered, and to receive an explanation. This decision demonstrates that the quality of legislation is not solely judged by the final outcome but also by the process by which it is formulated. Therefore, legislation formulated without adequate public participation has the potential to contain formal flaws and be declared unconstitutional through the Constitutional Court's judicial review mechanism.(Nurasikin 2023)

From an implementation perspective, public participation increases the level of public compliance with the law. The theory of legal legitimacy states that compliance is not solely based on the threat of sanctions, but on normative acceptance of the law itself. When the public feels involved in the regulation-making process, they are more likely to accept and comply with the resulting norms. Therefore, public participation contributes to legal effectiveness. The role of participation as a determinant of legislative quality is also closely linked to the principle of good governance. Good governance requires transparency, accountability, and participation as key pillars. Legislation, as a product of governance, must reflect these principles. Without participation, the legislative process risks being dominated by the interests of elites or certain groups, thereby reducing distributive justice and legal inclusiveness. In the context of the right to information, Law Number 14 of 2008 concerning Public Information Disclosure strengthens the public's right to obtain information related to the legislative process.(Setiawan 2025) Access to academic papers and draft laws is a prerequisite for effective participation. Without information transparency, public participation becomes superficial and non-substantive. Therefore, integrating the principle of information transparency and public participation mechanisms is crucial for improving the quality of legislation. In this context, indicators of meaningful participation within a democratic state can be measured by the level of transparency of legislative and executive institutions in conveying information regarding all stages of the formulation of legislation, from planning, drafting, and discussion to ratification and enactment.(Andriani 2023)

From the perspective of legal pluralism, Indonesian society possesses complex social, cultural, and economic diversity. Public participation allows for the accommodation of local interests and values in national legislation. This is crucial to prevent conflicts between state norms and prevailing social norms. Legislation that ignores social plurality has the potential to generate resistance or even horizontal conflict. Furthermore, in Rousseau's social contract theory, legal legitimacy stems from the collective agreement of citizens. Public participation in legislation is a concrete manifestation of this social contract. Laws created without participation risk losing moral legitimacy because they do not reflect the general will (*volonte generale*). From an evaluative perspective, the quality of national legislation can be assessed by the frequency of judicial review in the Constitutional Court and the effectiveness of their implementation. A high rate of judicial review

often reflects problems with the substance or procedures of legislation. By strengthening public participation, the potential for normative conflict and constitutional disputes can be minimized. Overall, public participation plays a role as a determinant of democratic legitimacy and the quality of national legislation because it influences the legitimacy, substance, formulation techniques, and effectiveness of norm implementation.

From an administrative law perspective, the principles of openness and participation are integral to the General Principles of Good Governance (AUPB), so that violations of these principles can be classified as procedural defects that have implications for the validity of laws and regulations. Therefore, public participation is not only understood as an ethical obligation in the practice of governance, but also as a legal obligation that determines the legitimacy of regulatory products. Correspondingly, from the perspective of constitutional law and modern legal theory, the quality of legislation is largely determined by the participatory, transparent, and accountable process of its formation, because an inclusive process can strengthen the representation of public interests as well as democratic legitimacy. In this context, strengthening public participation is a primary determinant of the quality of national legislation, because the level of substantive public involvement directly influences the quality of normative substance, social acceptance, and the effectiveness of the implementation of laws and regulations. Public participation also functions as a mechanism of social control over legislative power, considering that in a constitutional democratic system, the authority to form laws is not absolute, but is limited by the principles of accountability and transparency through a mechanism of checks and balances.

Optimizing public participation in the formation of legislation is a key determinant in realizing democratic legitimacy and the quality of responsive national legislation. These efforts need to be institutionalized through strengthening the regulatory framework for participation, increasing information transparency and accessibility, developing digital-based participation infrastructure, enhancing public legal literacy, and strengthening the political commitment of legislators. From this perspective, the quality of legislation is not solely determined by the accuracy of norm formulation techniques, but also by the level of democratic legitimacy established through a participatory, inclusive, and accountable process. Thus, public participation serves as a key determinant variable that significantly influences both the legitimacy and the substantive quality of legislation. Public involvement in the process of formulating legislation not only strengthens the democratic legitimacy of a regulation but also contributes significantly to improving the quality of the resulting legal substance. Public participation allows for the collection of diverse perspectives, aspirations, and empirical knowledge relevant to the social reality to be regulated, thereby making the resulting legislation more responsive, adaptive, and able to comprehensively accommodate public interests. In other words, the higher and more meaningful public

participation, the stronger the resulting legal legitimacy and the better the quality of the regulations formed.

3.2. Effective Public Participation Model in the Formation of Legislation

Conceptually, the idea of meaningful participation is rooted and developed from the doctrines of democratic governance, rule of law, and deliberative democracy.(Erham 2025) Lothar Gundling argues that the urgency of public participation in policy-making is based on several reasons: to provide information for the government; to increase public acceptance of decisions; to strengthen legal protection; and to encourage a more democratic decision-making process.(Chandra 2022) Community aspirations in the formation of legislation need to be accommodated because the community is the subject that is directly impacted by the implementation of these regulations.(Prasojo 2025) Formulating an effective public participation model in the formation of legislation is a strategic necessity for strengthening the quality of national legislation. The formation of legislation must ensure meaningful public participation so that the resulting laws have democratic legitimacy and substantive quality. Public participation is regulated in Article 96 of Law No. 13 of 2022, which affirms that the public has the right to submit input, both verbally and in writing, at every stage of the regulation formation process. Public participation in the formation of legislation can be carried out both individually and collectively.(Ramlan Surbakti 1999) Maria Farida Indrati S, stated that the community in question includes every individual in general, with a special emphasis on groups vulnerable to the implementation of a regulation, which includes individuals, related institutions, and civil society organizations that have a connection with the substance of the regulation.(Luthfy 2019)

Furthermore, the principle of transparency in Article 5 letter g of Law Number 12 of 2011 also strengthens the obligation of lawmakers to conduct the legislative process transparently. However, although the normative framework regarding public participation has been explicitly regulated in legislation, the implementation of public participation in legislative practice still faces various challenges. Below, we analyze several factors that influence the quality of public participation in the formation of legislation. The first factor influencing the quality of participation is the clarity and completeness of implementing regulations. Although Law 13 of 2022 regulates the right to participation, its implementation often depends on the internal procedures of legislative institutions and the technical policies of each ministry or agency. The absence of detailed procedural standards makes public participation tend to be formalistic and does not guarantee that public input is considered in the formulation of norms. The second factor is transparency and access to information. Meaningful participation can only be realized if the public has adequate access to legislative documents, including academic papers and draft laws and regulations. Delays or restrictions on access to draft legislation can hamper the quality of participation because the

public does not have sufficient time and opportunity to conduct critical studies, so that the legislative process has the potential to lose social legitimacy.

The third factor is the political will of lawmakers. Legislation processed within the framework of accelerated political processes (*fast track legislation*) often sacrifices space for public deliberation. Closed or hastily executed legislative processes reduce the opportunity for the public to provide comprehensive input. The fourth factor is institutional capacity and participation infrastructure. The digital divide can be a barrier for certain community groups to participate in the formation of legislation. The fifth factor is the level of legal literacy and public awareness. Quality participation requires the public's ability to understand the substance of draft legislation and its implications. Low legal literacy can lead to symbolic or emotional participation without strong normative arguments. In this context, the role of universities, civil society organizations, and the media is crucial in increasing the public's capacity to provide input based on academic studies. The sixth factor is the evaluation and feedback mechanism. Optimal participation does not stop at the stage of conveying aspirations but also requires transparency regarding how that input is processed and integrated into the final draft. The absence of a feedback mechanism can lead the public to feel that their participation has no real impact, potentially eroding public trust in legislative institutions. Therefore, an effective, measurable and sustainable public participation model is needed.

The formation of law in a democratic state system should produce participatory and aspirational legal products, in line with the theory of deliberative democracy as put forward by Jurgen Habermas. Regulations formed through deliberative communication have stronger normative legitimacy because they reflect the rational consensus of society. Therefore, an effective model of public participation must integrate deliberation mechanisms that allow for an open and equal exchange of arguments. Similarly, Philippe Nonet and Philip Selznick explain that legal development can be classified into three main types: repressive law, autonomous law, and responsive law. (Husein 2008) According to Mahfud MD, the character of a responsive legal product is essentially determined by a country's political configuration and government system. Democratic political configurations tend to produce responsive laws, while authoritarian configurations produce orthodox or repressive legal products. Furthermore, the assessment of a legal product's responsiveness can be seen through three main indicators: its participatory formation process, aspirational substance, and the formulation of norms that are structured in a limited manner, which overall strengthens the quality and legitimacy of the legislation. (MD 2010)

The lawmaking process essentially involves three main stages: the ante-legislative stage, the legislative stage, and the post-legislative stage. The ante-legislative stage encompasses research activities, the submission of proposed initiatives, planning, and the preparation and submission of draft laws (RUU). The legislative

stage encompasses the discussion process, the enactment of draft laws into law, and their ratification. Meanwhile, the post-legislative stage encompasses the enactment, enforcement, and enforcement of laws. The public has the right to participate in all or part of the stages of lawmaking according to their preferences and interests, as a manifestation of the principles of democracy and openness. (Saifudin 2009) Active public involvement in shaping legislation plays a crucial role in minimizing the potential for rejection of enacted norms, as it reflects social acceptance of the substance of the regulation. An effective public participation model must be able to absorb public aspirations and integrate them into the formulation of norms. Without a responsive mechanism, the law risks being autonomous or even repressive, serving only the interests of state institutions without considering social dynamics. The Constitutional Court, through Decision Number 91/PUU-XVIII/2020, has introduced the concept of "meaningful participation" as a constitutional standard that public participation must encompass three elements: the right to be heard, a right that guarantees the public the opportunity to express opinions, objections, and analysis adequately without narrow restrictions; then the right to be considered, this right emphasizes that all input is not only recorded but also analyzed and used as a basis for consideration in making decisions; and the right to be explained, this right requires the legislative body to provide rational reasons for accepting or rejecting input, so that the decision-making process is transparent and accountable. (Putra 2024)

The Constitutional Court's decision then became the basis for the formation of Law No. 13 of 2022 concerning the Second Amendment to Law No. 12 of 2011. In this amendment, public participation in the formation of laws and regulations is strengthened by granting the public the right to submit input at every stage, both online and offline, as well as the obligation of lawmakers to explain the follow-up to such input. (Wafa 2023) Public participation should not occur only at the end (during socialization), but must be integrated into every stage. At the planning stage (agenda setting), the public is involved in determining the priority scale of the National Legislation Program (Prolegnas) to prevent the issuance of regulations that are not needed by the public or only serve the interests of certain groups. Then, during the drafting and discussion, this is a crucial phase where academic papers and draft legislation are publicly reviewed, through holding Focus Group Discussions (FGDs) involving academics, practitioners, and affected groups or through digital crowdsourcing using digital platforms to receive annotations (*notes*) directly on certain articles. Next, at the ratification and promulgation stage, the government is required to explain why a suggestion was accepted or rejected (*accountability of reasons*) to minimize the potential for judicial review by the Constitutional Court in the future. The public participation model can be considered effective in the formation of legislation if it is able to encourage the birth of legislative products that fulfill the three main legal ideals: justice, benefit, and legal certainty. From a justice perspective, public participation must ensure that the substance of regulations is formulated inclusively,

accommodating and protecting the interests of all levels of society, particularly minority groups and vulnerable communities, who are often underrepresented in formal deliberations. From a utility perspective, public participation plays a role in ensuring that regulations are not merely normative and theoretical but can also be implemented in practice and meet community needs. Meanwhile, from a legal certainty perspective, meaningful public participation helps identify potential ambiguities, disharmony, or conflicting norms early in the formulation process, resulting in clearer, more consistent, and more easily implemented regulations.

The following model of effective public participation can be formulated through several main components. First, the legislative cycle model. In this model, participation is not limited to the discussion stage of draft legislation, but also from the planning stage in the National Legislation Program (Prolegnas), the preparation of academic papers, discussions, and post-implementation evaluation. Such participation is continuous and integrated. Second, the deliberative-institutional model of participation emphasizes the establishment of a structured and representative public consultation forum, involving academics, civil society organizations, business actors, and vulnerable groups. The forum must have a clear documentation and reporting mechanism, so that all input is recorded and considered transparently. This aligns with the principle of accountability in good governance. Third, the transparency-based model of participation. The effectiveness of participation depends on public access to legislative information. Law Number 14 of 2008 concerning Public Information Disclosure serves as an important foundation for ensuring the timely online publication of academic papers and draft regulations, so that the public has adequate opportunities for critical review. Fourth, the digital participation model (*e-participation*), the use of information technology in public participation in the formation of laws can be done through three main methods, namely the use of interactive applications, legislative crowdsourcing, and the use of big data. (Wardana 2025) The use of information technology allows for expanded participation through online consultation platforms, public surveys, and virtual discussion forums. However, this model must be balanced with inclusive policies to address the digital divide and avoid excluding certain community groups. Fifth, the feedback-oriented participation model requires an evaluation mechanism for public input. Lawmakers must provide an explanation for the acceptance or rejection of a proposal so that participation does not stop at the aspiration stage but continues to the accountability stage. The entire model must be based on the principles of inclusivity, transparency, accountability, and sustainability, and supported by strengthening institutional capacity and increasing public legal literacy.

From the perspective of legal legitimacy, Max Weber argued that legal-rational legitimacy stems from adherence to rules established through legitimate procedures, and in this context, an effective public participation model can strengthen this legitimacy. Legislation formed through participatory procedures has a stronger basis for legitimacy because the public feels involved in the

decision-making process. This results in increased compliance with the law and effective implementation. From the aspect of legislative quality, an effective public participation model contributes to improving the quality of normative substance. Input from various stakeholders allows for the identification of potential normative conflicts, inconsistencies with social practices, or unanticipated economic and social impacts. Such public participation serves as an early correction mechanism in the legislative process. Furthermore, an effective public participation model can reduce the potential for legal disputes and judicial review of laws in the Constitutional Court. Legislation formed through transparent and participatory processes tends to have stronger social legitimacy, thereby reducing public resistance and increasing the stability of the national legal system. Conceptually, an effective public participation model must meet the principles of inclusivity, transparency, accountability, and sustainability. Inclusivity ensures representation of diverse community groups. Transparency ensures adequate access to information. Accountability holds legislators accountable for the process and outcomes of participation. Sustainability ensures that participation is carried out consistently at every stage of legislation. In practice, implementing an effective public participation model requires strengthening institutional capacity and human resources. Legislative and executive institutions need to have dedicated units to manage public consultations and document public input. Furthermore, legal education for the public needs to be improved to strengthen legal literacy and the quality of participation.

Thus, an effective public participation model for enhancing democratic legitimacy and the quality of national legislation cannot be understood as a single approach, but rather as an integrative framework that combines various participation models in a complementary manner across all stages of the legislative process. The legislative cycle model emphasizes the importance of public involvement from the planning stage through evaluation, ensuring that public aspirations are continuously internalized throughout the legislative process. Meanwhile, the deliberative-institutional participation model emphasizes the quality of dialogue between legislators and the public through structured, rational, and inclusive forums, to produce decisions that are not only procedural but also substantive democratic. Furthermore, information transparency-based participation is a fundamental prerequisite for ensuring open public access to documents, data, and legislative processes, enabling oversight and meaningful contributions. Developments in information technology also encourage the strengthening of digital participation (*e-participation*) as a strategic instrument for expanding the reach and inclusiveness of participation, particularly in reaching marginalized groups. Furthermore, the feedback-oriented participation model emphasizes the importance of state responsiveness to public input, ensuring that participation does not cease at the formal level but contributes significantly to norm formulation. Synergy between these models is key to building a participatory, transparent, and accountable legislative system, thereby strengthening

democratic legitimacy and producing high-quality, responsive, and equitable national legislation.

4. Conclusion

Public participation in the formation of laws and regulations is a fundamental prerequisite for the realization of quality national legislation within a democratic, rule-of-law framework. The high number of legislative review cases indicates problems in the quality of legislation, both related to the substance of norms, the process of their formation, and the democratic legitimacy underlying them. Public participation plays a key role in determining democratic legitimacy and the quality of national legislation in the formation of laws and regulations. Meaningful public participation strengthens democratic legitimacy, improves the quality of normative substance, prevents regulatory disharmony, and strengthens the effectiveness of legal implementation. Effective models of public participation in the formation of laws and regulations include the legislative cycle model, the deliberative-institutional model, the information transparency-based model, the digital participation model (*e-participation*), and the feedback-oriented model. All of these models must be based on the principles of inclusivity, transparency, accountability, and sustainability, and supported by strengthening institutional capacity and increasing public legal literacy. So that public participation is no longer positioned as a procedural complement, but rather as a substantive foundation that determines the development of a democratic, responsive and just national legal system.

5. References

Journals:

- Afendi, Pran Mario Simajuntak; Rezki Julranda; Sultan Fadillah. 2022. "Quo Vadis: Urgensi Penerapan Asas Partisipasi Publik Dalam Pembentukan Peraturan Perundang-Undangan Di Indonesia." *Padjadjaran Law Review* 10(2):4. doi:<https://doi.org/10.56895/plr.v10i2.1052>.
- Andriani, Henny. 2023. "Pertisipasi Bermakna Sebagai Wujud Asas Keterbukaan Dalam Pembentukan Undang-Undang." *UNES Journal Of Swara Justisia* 7(1):314. doi:<https://doi.org/10.31933/ujsj.v7i1>.
- Chandra, Helmi. 2022. "Perluasan Makna Partisipasi Masyarakat Dalam Pembentukan Undang-Undang Pasca Putusan Mahkamah Konstitusi." *Jurnal Konstitusi* 19(4):768. doi:<https://doi.org/10.31078/jk1942>.
- Elcaputera, Ahmad Wali; Asep Suherman; Arie. 2022. "Menakar Partisipasi Bermakna Dalam Pembentukan Peraturan Perundang-Undangan Yang Aspiratif: Telaah Terhadap Penataan Legislasi Indonesia." *Lex Jurnalica* 19(3):299. doi:<https://doi.org/10.47007/lj.v19i3.5956>.
- Erham, Ramadoni; Suryadin; Mustamin; 2025. "Partisipasi Masyarakat Dalam

- Pembentukan Undang-Undang: Studi Terhadap Partisipasi Masyarakat Secara Substansial/Bermakna (Miningful Participation).” *SENTRI: Jurnal Riset Ilmiah* 4(12):4323. doi:<https://doi.org/10.55681/sentri.v4i12.5152>.
- Firdaus, Fahmi Ramadhan. 2024. “Partisipasi Publik Dalam Pembentukan Undang-Undang: Perspektif Perbandingan 5 (Lima) Negara Demokratis.” *Jurnal Konstitusi* 21(2):218–19. doi:<https://doi.org/10.31078/jk2123>.
- Gibran, Danar Aji Kirana; Muhammad Anas Ulil Absor Munif; Mokhammad Fajar Zihady Faturrahman; Radithya Fathan Al. 2024. “Partisipasi Masyarakat Dan Pengaruhnya Terhadap Proses Legislasi Di Indonesia: Tinjauan Analitis Terhadap Peran Rakyat Dalam Pembentukan Kebijakan Publik.” *Eksekusi: Jurnal Hukum Dan Administrasi* 2(3):295. doi:<https://doi.org/10.55606/eksekusi.v2i3.1260>.
- Haliim, Wimmy. 2016. “Demokrasi Deliberatif Indonesia: Konsep Partisipasi Masyarakat Dalam Membentuk Demokrasi Dan Hukum Yang Responsif.” *Masyarakat Indonesia* 42(1):21. doi:10.14203/jmi.v42i1.556.
- Huda, Ni’matul. 2022. “Catatan Akhir Tahun: Pembentukan Undang-Undang Yang Belum Bermakna Di Indonesia,’ Disampaikan Dalam Seminar Refleksi Akhir Tahun 2022: Potret Dan Tantangan Ke Depan.”
- Indonesia, Pusat Studi Hukum dan Kebijakan. 2020. *Legislasi Masa Pandemi: Catatan Kinerja Legislasi DPR 2020*. Jakarta: YSHK.
- Irawan, Muhammad Aldo Savero; Dio Setiawan; Faiq Muhammad Zufar; Muhammad Rizky. 2025. “Problematisasi Partisipasi Publik Dalam Penyusunan Undang-Undang: Analisis Kesesuaian Dengan Asas Demokrasi.” *Jurnal Penelitian Nusantara* 1(12):857. doi:<https://doi.org/10.59435/menulis.v1i12.823>.
- Lidia Rumapea et al. 2025. “Peran Hukum Dalam Meningkatkan Partisipasi Publik Pada Pemerintahan Daerah.” *Pemuliaan Keadilan* 2(1):90. doi:<https://doi.org/10.62383/pk.v2i1.408>.
- Luthfy, Riza Multazam. 2019. “Hubungan Antara Partisipasi Masyarakat, Pembentukan Undang-Undang Dan Judicial Review.” *Al-Daulah: Jurnal Hukum Dan Perlindungan Islam* 9(1):180. doi:<https://doi.org/10.15642/ad.2019.9.1.168-193>.
- Napitupulu, Bong Bong Prakoso. 2024. “Peran Partisipasi Publik Dalam Penguatan Demokrasi Dan Perlindungan Hak Asasi Manusia Di Indonesia.” *Journal Of Administration and International Development* 4(2):82. doi:<https://doi.org/10.0.205.137/jaid.v4i2.643>.
- Nazulfa, Muhamad Irsyad Hanafi; Lutvi Davina Damayanti; Indah. 2024. “Penerapan Partisipasi Masyarakat Dalam Pembentukan Peraturan Perundang-Undangan.” *Constitution Journal* 3(2):199.

doi:<https://doi.org/10.35719/constitution.v3i2.113>.

- Nugraha, Eko Rinaldo Damanik; Thea Farina; Satriya. 2025. "Krisis Partisipasi Publik Dalam Pembentukan Undang-Undang Di Indonesia: Problematika Hak Konstitusional Dan Pengabaian Aspirasi Rakyat." *Journal Of Social Science Research* 5(2):10. doi:<https://doi.org/10.31004/innovative.v5i2.18664>.
- Nurasikin, Radika Wati; Yahya Ahmad Zein; 2023. "Partisipasi Masyarakat Dalam Pembentukan Peraturan Daerah." *Prosiding Seminar Nasional Pengembangan Potensi Kelautan Yang Berkelanjutan Dan Berkeadilan Di Kawasan Perbatasan* 289.
- Oktavia, Maris One. 2022. "Penguatan Partisipasi Masyarakat Dalam Proses Pembentukan Peraturan Perundang-Undangan." *Jurist-Diction* 5(4):1423. doi:<https://doi.org/10.20473/jd.v5i4.37337>.
- Parlindungan, Darmini Roza &. Gokma Toni. 2019. "Partisipasi Masyarakat Dalam Pembentukan Perundang-Undangan Untuk Mewujudkan Indonesia Sejahtera Dalam Pandangan Teori Negara Kesejahteraan." *Jurnal Cendikia Hukum* 5(1):137–38. doi:10.33760/jch.v5i1.185.
- Prasojo, Hermawan. 2025. "Inovasi Kolaboratif Dalam Pembentukan Peraturan Perundang-Undangan: Optimalisasi Teknologi Untuk Meningkatkan Partisipasi Publik Dalam Legislasi." *Hukum & Pembangunan* 54(4):679. doi:<http://doi.org/10.21143/jhp.vol54.no4.1683>.
- Putra, Lalu Hartawan Mandala. 2024. "Redefinisi Makna Partisipasi Publik Dalam Pembentukan Undang-Undang Pasca Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020." *ALADALAH: Jurnal Politik, Sosial, Hukum Dan Humaniora* 2(2):174. doi:<https://doi.org/10.59246/aladalah.v2i2.797>.
- Ramur, Irham. 2023. "Analisis Partisipasi Publik Dalam Pembentukan Peraturan Perundang-Undangan Menurut Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020." Universitas Islam Indonesia.
- Saifudin. 2006. "Partisipasi Masyarakat Dalam Pembentukan UU Di Era Reformasi." *Jurnal Hukum IUS QUIA IUSTUM* 13(1):9. <https://journal.uui.ac.id/IUSTUM/article/view/4721>.
- Saifudin. 2009. "Proses Pembentukan UU: Studi Tentang Partisipasi Masyarakat Dalam Proses Pembentukan UU." *Jurnal Hukum* 16:112. <https://journal.uui.ac.id/IUSTUM/article/view/3879>.
- Setiawan, Gunawan Widjaja;Wagiman Martedjo; Lisno. 2025. "Optimalisasi Partisipasi Publik Dalam Pembentukan Peraturan Perundang-Undangan Melalui Civic Participation Index." *Jurnal Ilmu Hukum "THE JURIS"* IX(2):539. doi:<https://doi.org/10.56301/juris.v9i2.1724>.
- Simajuntak, Sari Yulianti; I. Dewa Ayu Widayani; Tomson Situmeang;Jimmy. 2025. "Implementasi Partisipasi Publik Dalam Penyusunan Undang-Undang Di DPR

RI Studi Kasus: Penyusunan Undang-Undang Nomor 1 Tahun 2023 Tentang KUHP.” *Jurnal Hukum To-Ra: Hukum Untuk Mengatur Dan Melindungi Masyarakat* 11(2):255. doi:<https://doi.org/10.55809/tora.v11i2.584>.

Syakuran, Irwan Triadi; Khaidar Abdan. 2024. “Kedaulatan Rakyat Dan Partisipasi Publik Dalam Konteks Sistem Perundang-Undangan.” *Jurnal Hukum Progresif* 7(7):8.

Wafa, Muhamad Khoirul. 2023. “Peran Dan Partisipasi Masyarakat Dalam Pembentukan Undang-Undang.” *Siyasah: Jurnal Hukum Tata Negara* 3(1):100. doi:10.32332/siyasah.v4i1.

Wardana, Dodi Jaya. 2025. “Model Ideal Partisipasi Masyarakat Yang Responsif Dalam Pembentukan Undang-Undang.” *Jurnal Legislasi Indonesia* 22(4):570. doi:<https://doi.org/10.54629/jli.v22i4.1624>.

Books:

Huda, Ni'matul. 2022. ““Catatan Akhir Tahun: Pembentukan Undang-Undang Yang Belum Bermakna Di Indonesia,’ Disampaikan Dalam Seminar Refleksi Akhir Tahun 2022: Potret Dan Tantangan Ke Depan.”

Husein, W. 2008. *Hukum, Politik Dan Kepentingan*. Yogyakarta: LaksBang.

Ibrahim, Johnny. 2008. *Teori Dan Metodologi Penelitian Hukum Normatif*. Malang: Bayu Media Publishing.

MD, Moh. Mahfud. 2010. *Politik Hukum Di Indonesia*. Jakarta: Raja Grafindo Persada.

Muhaimin. 2020. *Metode Penelitian Hukum*. Mataram: Mataram University Press.

Ramlan Surbakti. 1999. *Memahami Ilmu Politik*. Jakarta: Gramedia Widiasarana.