



THE CONCEPT OF E-PARLIAMENT: STRENGTHENING MEANINGFUL PARTICIPATION IN LAWMAKING IN INDONESIA

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Abstract:

Act as a legal instrument has an important role in state life. The act is one of the ways the people govern themselves. People's involvement in the law-making is something that cannot be abandoned. This is based on the importance of meaningful public participation to ensure that laws are to the needs of the people. People's involvement in law-making is still low, therefore an e-parliament concept is needed. This article will focus on the flow and concept of community involvement in the process of law formation in Indonesia. The method used in this writing is socio-legal which focuses on technological phenomena that expand and strengthen community involvement in the laws making. A comparative approach is also used to see the extent to which other countries use technology in the legislation. This article concludes two things, namely first, public involvement in law-making in Indonesia is still low. Limited access to be involved in the formation of laws is one factor. This affects the quality of the law because it does not fulfill meaningful public participation. Second, the concept of e-parliament is one way to strengthen meaningful participation in the formation of laws in Indonesia. In addition, the comparison of other countries that use technology in the formation of laws needs to be a reference to improve the quality of the system and the quality of public participation. That way law-making will be better, especially in meaningful public participation. E-Parliament can be a means of developing effective and solutive community involvement.

Keywords:

E-Parliament, Law-Making, Meaningful Public Participation, Public Participation

Introduction

Laws as legal instruments have an important role in the life of the state. Therefore, the formation of laws and regulations in a good legal state (democratic) should emphasize the involvement of the community to participate in it. Without public involvement in its formation, it is impossible for a law to be accepted and implemented properly (Andriani 2023).

Public participation in the formation of laws is a manifestation of the principles of transparency and openness guaranteed in Article 5 letter g of Law Number 12/2011 on the Formation of Legislation as amended by Law Number 15/2019 (PPP Law). The formation of laws by applying the principle of transparency makes every stage of legislation conveyed, and allows the process carried out by the legislative body, in this case the DPR, to be known and understood by the public. With the knowledge and understanding gained, the public can convey objections, suggestions, and input as they wish.

Throughout its establishment since 2003, the Constitutional Court has decided as many as 1,769 Decisions on Law Examination (PUU) both from formal and material testing applications, from this data, as many as 310 or 17.5% of PUU decisions contain rulings granting the petition, 677 or 38,2% of Decisions rejecting, and 546 or 30.8% of Decisions of which cannot be accepted PUU petitions. These legal facts show that there are still many laws that are contrary to the constitutional rights of citizens or against the will and wishes of the people. One of the causes of this is the lack of public participation in the formation of laws, which in practice makes the implementation of a law not always run well (Chandra SY and Irawan 2022).

Table. 1 Examination Case Law 2003-2022 at the Constitutional Court

Law Examination Cases 2003-2022		
Description	Amount	Presentase
Request Granted	310	17,5%
Request Denied	677	38,2%
Unacceptable Request	546	30,8%
Total Amount	1.769	

Source: Mahkamah Konstitusi Republik Indonesia

The issue of public participation in the formation of previous laws was raised in 2019 due to the assessment of some people on the lack of public involvement as a form of participation in the formation of the draft Criminal Code, the Second Amendment to the KPK Law and the promulgation of several draft laws at the end of the DPR's term of office in 2019 (Ramdan 2021). A similar issue was also repeated when the enactment of Law Number 11 of 2020 on Job Creation (Job Creation Law), which was formed using the omnibus law method, was considered by various parties to be flawed in its implementation, so that a formal review was submitted to the Constitutional Court again.

In answering this problem, the Constitutional Court through Constitutional Court Decision Number 91/PUU- XVIII/2020 concerning the formal testing of Law Number 11 of 2020 concerning Job Creation, brought an expansion of the meaning of public participation. The decision states that public participation in the formation of laws needs to be carried out in a

meaningful manner (meaningful participation). The Constitutional Court is of the view that participation is meaningful when the right to be heard, the right to be considered, and the right to receive an explanation or answer to the opinion given (right to be explained) are fulfilled by the legislator.

To strengthen meaningful public participation in lawmaking, it is important for parliaments, in this case legislators, to continue to communicate, consult and dialogue with the public. Nowadays, information and communication technology (ICT) is one of the tools that can be used to achieve this. Modern legislatures around the world have utilized ICT in bridging the large gap between parliamentarians and the public (Oni et al. 2021).

Since the Public Information Disclosure Law (UU KIP) was launched in 2010, the demand for ICT utilization in supporting the performance of parliament in Indonesia has become inevitable. As a form of adaptation of the Indonesian parliament to various technological and digital innovations, e-Parliament was launched as a concept of digital transformation and is expected to have a significant impact on three main things, namely administrative efficiency, improved access and dissemination of information and interaction with the public (Ahmad, Heriyono, and Anggoro 2021). Beyond information disclosure, e-Parliament also enables citizens to articulate their needs to the legislature through existing channels and actively participate in the decision-making process that affects them (Meijer, Curtin, and Hillebrandt 2012).

Research Methods

The method used in this writing is socio-legal which focuses on technological phenomena that expand and strengthen community involvement in the laws making. A comparative approach is also used to see the extent to which other countries use technology in the legislation.

Literature Review

The Practice of Lack of Public Participation in Law Formation in Indonesia

The practice of lack of public participation in the formation of laws in Indonesia has been a problem that seems endless to discuss. This seems to be a legal phenomenon that is commonplace and usually occurs when a law will be formed. The participation or involvement of the community in providing input in the formation of laws has been considered only on paper. In practice, in several laws, public involvement has been ignored, such as in the process of revising Law Number 8 of 2011 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court (MK Bill), revising Law Number 30 of 2002 concerning the Corruption Eradication Commission (KPK) and the formation of Law Number 11 of 2020 concerning Job Creation (Job Creation Law) (Rofiq Hidayat 2021).

During the revision of Law Number 24 of 2003 concerning the Constitutional Court which later became Law No.7 of 2020. The Constitutional Court Bill was passed into law in only 7 working days, starting with the approval of the discussion between the DPR and the government on 24 August 2020. Then on 26-29 August, a long closed meeting was held to discuss the problem inventory list (DIM). Then, on 31 August 2020, the ratification of the Constitutional Court Bill in level I talks and on 1 September 2020, the ratification of the Constitutional Court Bill into law in a plenary meeting. Some consider the ratification of the Constitutional Court Bill into law to be problematic in terms of procedural regulation formation

because it ignores the space for public participation to provide input. In addition, the content material is also insubstantial and not urgent because it only emphasises the term of office of constitutional judges. As a result, the amendment to the Constitutional Court Law also led to a "lawsuit" at the Constitutional Court filed by the Constitution and Democracy (KoDe) Initiative (Sahbani 2022).

Then during the process of drafting, discussing and ratifying the revision of Law Number 30 of 2002 concerning the Corruption Eradication Commission (KPK Bill) which later became Law Number 19 of 2019, the process was very fast and lacked public input. In fact, the KPK itself was not even asked for input. As a result, this event led to protests from a number of elements of society, including students, which led to a "lawsuit" at the Constitutional Court because it was considered formally flawed and the material weakened the KPK. In the formal examination to the Constitutional Court, the applicant argued that in the drafting stage, the KPK Bill was considered not to consider input from the public. Furthermore, in the stage of discussion and ratification of the KPK Bill, it was discussed behind closed doors without involving the public, which indicated a violation of the principle of openness by not involving public participation in it.

Next, the ratification of the Job Creation Bill into Law Number 11 of 2020 on Job Creation, which until the issuance of Constitutional Court Decision No.91/PUU-XVIII/2020 regarding the constitutionality of the Job Creation Law, still leaves a polemic. In one of its rulings, the Constitutional Court stated that the Job Creation Law was considered formally flawed and conditionally unconstitutional by determining several implications for the enactment of the law because the formation process lacked public participation.

Table.2 The “Community Participation” Argument In The Constitutional Court's Formal Examination

Decision Number	Case	Claimant's argument	Decision
59/PUU-XVII/2019	Formality Test of Law No.19/2019 on KPK	<ul style="list-style-type: none"> The discussion of the bill does not fulfill the principle of openness. Lawmakers ignore public participation which closes the public space to provide input. 	Request Denied
62/PUU-XVII/2019	Formality Test of Law No.19/2019 on KPK	<ul style="list-style-type: none"> The bill drafting stage does not consider input from the community. The discussion stage and ratification stage is closed without involving the community. The discussion and ratification stages ratification stage, 	Request Denied

		violating the principle of openness.	
70/PUU-XVII/2019	Formality Test of Law No.19/2019 on KPK	<ul style="list-style-type: none"> • Law formation does not involve the participation of community and stakeholders. • Law making violates the principle of openness. 	Request Denied
79/PUU-XVII/2019	Formality Test of Law No.19/2019 on KPK	<ul style="list-style-type: none"> • Lawmakers are not participatory when conducting discussion. 	Request Denied
103/PUU-XVIII/2020	Formality Test of Law No. 11/2021 on Job Creation	<ul style="list-style-type: none"> • Does not involve stakeholders. • Closed draft bill. • Discussion only in a short time short time. 	Unacceptable Request
105/PUU-XVIII/2020	Formality Test of Law No. 11/2021 on Job Creation	<ul style="list-style-type: none"> • There is no element of public participation public. 	Unacceptable Request
107/PUU-XVIII/2020	Formality Test of Law No. 11/2021 on Job Creation	<ul style="list-style-type: none"> • Lack of public participation in the discussion of the bill. • No participation from affected communities. 	Unacceptable Request
4/PUU-XIX/2021	Formality Test of Law No. 11/2021 on Job Creation	<ul style="list-style-type: none"> • Absence of public participation public participation, especially stakeholders. 	Unacceptable Request
6/PUU-XIX/2021	Formality Test of Law No. 11/2021 on Job Creation	<ul style="list-style-type: none"> • No rights are given the public to provide input. • Violates the principle of transparency and openness because the bill is difficult to access. 	Unacceptable Request
91/PUU-XIX/2021	Formality Test of Law No. 11/2021 on Job Creation	<ul style="list-style-type: none"> • Contrary to the principle of formation of laws and regulations legislation. • The formation process does not fulfill the requirement of public 	Declared Disability Form and Unconstitutional Conditional

participation public
participation.

- The bill is difficult to access, especially with the circulation of 5 manuscripts Bill with different substance.

Source: Mahkamah Konstitusi Republik Indonesia

Public participation in the formation of laws has so far been considered a mere formality, resulting in the quality of the resulting laws being far from expectations. Moreover, in the regulatory aspect, public participation in the formation of laws is also considered minimal because it is only regulated in Article 96 of the PPP Law. Public participation is actually also regulated in the Minister of Law and Human Rights Regulation (Permenkumham) Number 11 of 2021 concerning Procedures for Implementing Public Consultation in the Formation of Laws and House of Representatives Regulation Number 2 of 2020 concerning Law Formation. In both regulations, there are three stages where public participation is possible. First, open public consultation in the preparation of academic papers. Second, public consultation in the bill drafting stage. Third, public consultation in the discussion stage. However, in Permenkumham 11/2021, the term used is "public consultation", so whether or not public input is needed depends on the needs of the lawmaker. Ironically, in the practice of the five stages of the formation of laws and regulations, such as planning, drafting, discussing, ratifying, and enacting, legislators often do not involve the community.

Meaningful Community Participation in Lawmaking

The Constitutional Court through Decision Number 91/PUU-XVIII/2020 stated that: "Community participation needs to be carried out in a meaningful manner (meaningful participation) so as to create / realize real public participation and involvement. This more meaningful community participation fulfills at least three prerequisites, namely: first, the right to be heard; second, the right to be considered; and third, the right to get an explanation or answer to the opinion given (right to be explained). Public participation is primarily intended for groups of people who are directly affected or have concerns about the draft law being discussed."

Philippus M. Hadjon explains that the right to be heard is a concept where people have the right to demand the fulfillment of their rights as an effort to realize justice. The importance of the right to be heard are: first, the community as individuals affected by government actions can express their rights and interests so as to ensure justice, and second, to support the running of good governance (Philipus M. Hadjon 1987). The provisions in Article 96 of the PPP Law have regulated that the public has the right to provide input orally and / or in writing at every stage of the Formation of Legislation. To fulfill this right, the legislator may conduct public consultation activities through: a. public hearing meeting; b. working visit; c. seminar, workshop, discussion; and/or d. other public consultation activities.

The concept of the right to be considered is a right that obliges the legislator to consider all input that arises as an effort of the community in its participation in creating an aspirational legislation. The existence of public opinion is very important in the formation of a law. The community will become the object of the application of the law when the bill is passed into

law, so the opinions of the community, especially the affected community, should be considered at every stage of the formation of the law (Andriani 2023).

Then the right to be explained is the government's obligation to the community to provide feedback on all aspirations that have been given, and the government's obligation to explain to the public about all discussions and mechanisms that are running in the process of forming laws and regulations. (Prastyo 2022) explains that meaningful participation can be realized through several conditions: first, the availability of public space created with the aim of accommodating or receiving community opinions and input. The space in question is an absolute requirement for realizing deliberative democracy or democracy with healthy community involvement. In the case of lawmaking, such space must be available at the stages of planning, drafting, deliberation, ratification, and enactment as defined in Article 1.1 of the PPP Law. By not providing space for the public to formally provide opinions or input at these stages, the implementation of the principle of participation still does not meet meaningful criteria.

Second, opinions or inputs submitted by the public must be considered by legislators. This stage is a form of seriousness, appreciation and a form of accountability of the legislators to the voices of their constituents. The attitude of legislators who do not consider these opinions and inputs or consider only the indicators of like or dislike is a betrayal of the trust and mandate given to them by the people. It is said to be treasonous, because legislators are actually representatives of the people, their actions or policies as much as possible must be in accordance with the will of the people, so ignoring the opinions and input of the community is an act that contradicts the essence of the existence of representatives of the people in the legislature.

The final requirement to create meaningful participation is to provide explanations or answers to the public regarding the opinions and inputs they have expressed in the participation process. This stage is important so that people understand how their opinions or inputs will influence the policies made by legislators. Without adequate explanations or answers, people will be confused and find it difficult to understand how legislators' decisions are made. As a result, the public will not be adequately educated on how to properly express their opinions or inputs in future lawmaking processes. The lack of clarity in providing explanations or answers also leaves the public wondering about the continuation of their participation. Worse still, if laws are passed without accommodating public opinion or input and without adequate explanations, public trust in their representatives will be further undermined. This can lead to questions about the effectiveness of existing representative systems and institutions.

The Concept Of E-Parliament To Strengthen Meaningful Participation In Law-Making In Indonesia

The use of Information Communication Technology (ICT) has become a trend to develop democracy in cyberspace while encouraging the improvement, effectiveness and efficiency of state institution services, including parliament. The implementation of ICT in parliament creates a new concept and role for parliament, namely e-parliament. E-Parliament is a concept where stakeholders can interact in relevant processes through the use of modern information and communication technologies and standards to achieve transparency, quality, results, efficiency, and flexibility. E-Parliament is defined as empowering legislatures through ICT to become more transparent, accessible and accountable (Sari and Purbokusumo 2022).

In implementing e-Parliament, the UK Parliament has a Parliamentary Data and Video Network (PDVN) whose discussion initiatives go back as far as 1983 when the Special Committee on Computer Services of the UK House of Commons (DPR) made a survey on the ICT needs of parliamentarians. The results of the survey and the report were discussed in 1984 but no further action was taken. Significant steps were only taken when the PDVN was introduced in 1994 with connections to the internet and intranet. The PDVN service eventually integrated a number of things such as the provision of electronic mail and facsimile, as well as access to the Parliamentary On-Line Information System (POLIS), which is a data center with over a million indexed names and topics. The PDVN has since become a key resource for members, especially as a research tool (Coleman 1999). While in the United States (US), which is considered a pioneer in technology development, the process of introducing automation of Congress' work through ICT can be traced back to the beginning of the use of electronic voting (e-voting) in the US House of Representatives in 1973. Although, the discussion of electronic voting dates back to 1848 when some members of the US House of Representatives petitioned for electronic voting. Thomas Alfa Edison also presented a telegraphic voting machine to the US House of Representatives in 1864. However, the proposal was rejected on the grounds that the machine would push the legislative process too fast and hamper the procedural rights of minority parties.

In the context of lawmaking in Indonesia, e-parliament is possible to accommodate the public in accessing information and channeling their aspirations towards the process of lawmaking from the drafting stage to ratification. Indonesia itself through the DPR RI has introduced Open Parliament as a form of information disclosure with the aim of providing information related to parliament and capturing aspirations from the public through information technology (Sekretariat Jenderal DPRRI). According to DPR RI, the existence of The Open Parliament policy will facilitate the public in gaining access to information related to parliament and use it to play an active role, namely by making it easy to convey aspirations. Easy access to information is available in the Open Parliament service. As a manifestation, there are various channels in expressing opinions, namely: (1) Rumah Aspirasi; (2) Public Participation in Law Drafting (SIMAS PUU); and (3) Offline public complaints such as public hearings, hearings, and direct visits (Sasmita and Rahaju 2023).

Rumah Aspirasi, as explained by DPR RI, is a media channel where the public can process requests to convey their aspirations to DPR RI. With this aspiration house channel, the public can submit an early notification of the request to convey their aspirations, whether it is related to input on discussions and political processes in the Council or related to all matters relating to government policies. The establishment of aspiration houses is regulated in the Regulation of the House of Representatives of the Republic of Indonesia Number 1 of 2014 on Rules of Procedure as amended by DPR RI Regulation Number 3 of 2015. Article 215 states that the public can provide input orally and/or in writing to DPR in the process of: a. Preparation and determination of Prolegnas; b. Preparation and discussion of Draft Laws; c. Discussion of Draft Laws on the State Budget; d. Monitoring the implementation of laws; and e. Monitoring the implementation of laws. Monitoring the implementation of laws; and e. Monitoring the implementation of government policies. The aspiration house has also accommodated online community aspiration requests through the website rumahaspirasi.dpr.go.id. However, it should be noted that the aspiration house only accommodates public aspirations at the stage of preparation and discussion of the Draft Law as mentioned above.

Then, Public Participation in Law Drafting (SIMAS PUU) is an online system-based public participation in order to realize participatory, transparent, accountable, integrated, efficient and effective law drafting for the preparation of Academic Scripts and Draft Laws at the Center for Law Drafting in the fields of Economy, Finance, Industry, Development, and People's Welfare of the House of Representatives Expertise Agency. SIMAS PUU has several functions as follows: Informing the public of the preparation of Academic Manuscripts and draft bills at the Center for Law Drafting in the fields of Economics, Finance, Industry, Development, and People's Welfare of the House of Representatives Expertise Agency. Receive public input on the Academic Paper and draft bill being drafted by the Center for Bill Drafting in the fields of Economy, Finance, Industry, Development, and People's Welfare of the House of Representatives Expertise Agency. Delivering or informing the public the results of input processing and follow-up in a transparent, accountable, efficient and integrity manner.

However, SIMAS PUU as part of the e-parliament concept should not only inform the public about the formation of a law but should be able to become a bridge between the legislators and the public in the actual process of public participation, the availability of public space should also be accommodated with the aim of accommodating or receiving public opinions and input. As explained above, public participation in the formation of a law must be a meaningful participation where the right to be heard, the right to be considered, and the right to get an explanation or answer to the opinion given (right to be explained) must be fulfilled by the legislator. When looking at the practice of the e-parliament concept in Indonesia carefully, the concept in fact has not been able to fulfill meaningful public participation in terms of:

1) Right to be heard

In every stage of the Formation of Laws and Regulations, public participation is guaranteed by legislation, but in practice, the establishment of community aspiration houses that should be a forum for listening to people's opinions only accommodates this limited to the planning and discussion stages of the Law, of course this is contrary to the mandate of the Constitutional Court which guarantees public participation in all stages of law formation, starting from the planning, drafting, discussion, ratification, to enactment. This situation creates a vacuum of public participation in the three stages of law-making, so that the public's right to be heard has not been fully guaranteed by the law-makers.

2) Right to be considered

The fulfillment of this right cannot be separated from the fulfillment of the previous right, namely the right to be heard. After the aspirations of the people are collected through the aspiration houses, all inputs, suggestions, and opinions of the people will be considered by the legislators and will be informed of their progress through SIMAS PUU. It should be underlined that the aspirations that are considered must be in every stage of law making, if the aspirations are considered only at the planning and discussion stages, then it cannot be said that the law makers guarantee the right of the people to be considered.

3) The right to get an explanation or answer to the opinion given (right to be explained)

Furthermore, the right to obtain an explanation or answer to the opinion given can be used as an indicator of whether the aspirations of the community are responded positively by the community or vice versa. The fulfillment of this right must be fulfilled by the legislators towards the aspirations that have been submitted by the community. After the right to be considered is fulfilled by lawmakers, lawmakers through SIMAS PUU inform the public about

their aspirations. However, in practice this has not been effective, as the communication is only one-way, which directly does not reflect active participation. The communication that should occur is a two-way communication, where when the community's aspirations are conveyed, the lawmakers actively discuss with the community what they want to be accommodated by lawmakers.

Based on the explanation above, so far the practice of e-Parliament in Indonesia does not reflect the active participation of the community in the formation of laws, in the Indonesian context, active participation is realized in the form of meaningful public participation by fulfilling the three rights above. Therefore, a breakthrough is needed for the concept of e-Parliament in Indonesia so that the implementation of meaningful public participation can be accommodated properly. Thus, the fulfillment of the principle of public participation in the formation of laws can be realized properly and correctly.

Conclusion

This article concludes two things, namely first, public involvement in law-making in Indonesia is still low. Limited access to be involved in the formation of laws is one factor. This affects the quality of the law because it does not fulfill meaningful public participation. Second, the concept of e-parliament is one way to strengthen meaningful participation in the formation of laws in Indonesia. In addition, the comparison of other countries that use technology in the formation of laws needs to be a reference to improve the quality of the system and the quality of public participation. That way law-making will be better, especially in meaningful public participation. E-Parliament can be a means of developing effective and solutive community involvement.

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