

The Urgency of Meaningful Participation in the Law Making Process from the Perspective of Democratic Countries (Comparison of Indonesia, South Africa and the United States)

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Abstract

Meaningful participation in law formation is a crucial aspect of a democratic country. The existence of this participation not only reflects the voice of the people but also increases the legitimacy of the resulting law. A legislative process that involves the community can create rules that are more responsive and in line with community needs. In this context, this research discusses meaningful participation practices in Indonesia, South Africa, and the United States. Each country has different approaches and mechanisms for involving the public in the legislative process. The research method used is normative legal research with a statutory approach and a comparative legal approach. Through this approach, the study analyzes the laws and regulations governing public participation and identifies best practices from each country. The research results show that South Africa implements an effective public consultation system, where the public can provide direct input in the discussion of draft laws. Meanwhile, the United States has a structured participation mechanism, including public hearings and gathering input from various stakeholders, thereby creating a space for constructive dialogue between policymakers and the public. On the other hand, Indonesia still faces challenges in ensuring meaningful participation, despite efforts through public discussion mechanisms. These findings suggest the need to improve

participation mechanisms in Indonesia to optimize the quality of democracy and legal legitimacy. Apart from that, support from the government and society is needed to create a stronger culture of participation, so that every individual feels they have a role in the legislative process. In this way, it is hoped that the resulting law will not be just a formality, but will

1. Introduction

A democratic country is a system of government in which political power is held by the people, either directly or through their elected representatives (Herawati, 2022). In this context, democratic principles include active participation of society in the political process, freedom of speech, and protection of human rights. A democratic country aims to create a government that is transparent, accountable and responsive to the needs and aspirations of its citizens (Daniel E Walters, 2022).

The relationship between democracy and law is very close, because law functions as a foundation that regulates the behavior of individuals and institutions in society (Moh. Mahfud MD, 2011). In democratic countries, law not only functions as a tool to maintain order and security, but also as an instrument to protect the rights of individuals and groups. The law provides a clear framework for the decision-making process, including lawmaking that involves public participation. In this context, the principle of the supremacy of law becomes very important, where all individuals and institutions, including the government, must obey the law.

Public participation in lawmaking is one of the key aspects of law in a democratic country (Fahmi Ramadhan Firdaus, Ratih Listyana Chandra, 2024). The law regulates how the legislative process takes place, providing opportunities for the public to provide input and monitor public policy making. Citizen involvement in this process ensures that the laws produced reflect the interests and values of society, and strengthen the government's legitimacy (D. M. K. Dkk., 2020). The law acts as a link between society's democratic aspirations and government action, creating a more just and inclusive system.

However, challenges often arise in practice. Although democratic countries have a legal framework that guarantees public participation, many factors can hinder its implementation (Mashaw, 2021). These include people's lack of awareness of their rights, complicated bureaucracy, and the dominance of certain groups in the political

process. Therefore, democratic countries need to continue to strengthen legal institutions and participation mechanisms, ensuring that the law not only exists to be followed but is also understood and recognized by all levels of society.

The existence of meaningful participation in the formation of laws and regulations is a very important element in a democratic government system (M. R. Dkk., 2024). This concept refers to the active involvement of society in the legislative process, from formulation to ratification of laws. Meaningful participation does not only include physical presence in public forums, but also involves the ability of the public to express opinions, provide input, and influence the outcome of the legislative process. In this way, meaningful participation becomes a bridge connecting the government and the people.

Meaningful participation has several benefits, both for the lawmaking process and for society as a whole. One of them is increasing the legitimacy of the resulting laws. When people feel involved, they tend to be more accepting and respectful of the law. This can contribute to greater social stability and legal compliance. In addition, by involving various elements of society, from non-governmental organizations (NGOs) to individuals, the legislative process can be more comprehensive and responsive to the diverse needs of society (Ruslan, 2023).

In various countries, there are mechanisms designed to facilitate meaningful participation (Ashrika Sharma dkk., 2022). For example, in South Africa, the government is required to conduct public consultations before submitting draft laws to parliament (Phooko, 2021). In the United States, the system of petitions and public auditions allows people to express their aspirations (Craig, 2022). Meanwhile, in Indonesia, despite efforts to engage the community through public forums and discussions, challenges such as lack of information and accessibility often hinder meaningful participation.

Meaningful participation in the law formation process has different applications in Indonesia, South Africa, and the United States, but has the same core principle, namely actively involving the community in decision making.

In Indonesia, meaningful participation is regulated in Law Number 12 of 2011 concerning the Formation of Legislation, which provides space for the public to be involved in the process of forming laws through a public consultation mechanism. However, its implementation often faces obstacles such as a lack of access to information and limited time for the community to participate effectively.

South Africa, with its history marked by apartheid, has a strong public participation system as part of efforts to strengthen inclusive democracy (Pirtle, 2022). The South African Constitution places great emphasis on community involvement in decision-making, and various legislative processes require the government to involve the public, particularly marginalized communities, in the deliberation of laws that impact them.

The United States, as one of the oldest democracies, has mature public participation mechanisms (Telaumbanua, 2020). Public hearings, petitions, and interest group involvement are an integral part of the legislative system in the US. The federal system also allows for multi-layered public participation from local to national levels.

Conducting a comparative study of these three countries is important because it will reveal differences in approach, implementation, and challenges faced by each country. This study will also show similarities in democratic principles, namely the importance of inclusive and transparent public participation in policy formation so that it can be used to improve systems in other countries.

The study of the role of meaningful participation in Indonesia, South Africa, and the United States is not just about comparing practices, but also about creating a deeper understanding of the challenges and opportunities in community engagement. It is hoped that the results of this research can make a significant contribution to the development of a fairer and more participatory legislative system, as well as increase public trust in the government and legislative institutions.

2. Research Method

In this research, the method used is a normative legal research method (Butar-Butar, 2018). The approach applied consists of two parts, namely legal studies and comparative studies, with an emphasis on literature review (Ibrahim, 2018).

A legal study approach was carried out to analyze various legal regulations and provisions governing public participation in the law-making process in the three countries in focus, namely Indonesia, South Africa, and the United States. In this regard, it is important to understand how each country regulates the rights and obligations of the public in participating meaningfully in the legislative process.

Meanwhile, the comparative study approach allows researchers to compare existing practices in the three countries. By analyzing the advantages and disadvantages of each system, this research aims to identify factors that can increase effective public participation in lawmaking. Through literature studies, various primary legal sources such as laws, and court decisions, as well as secondary sources such as books, journals, and scientific articles are used to strengthen the analysis and provide a deeper context regarding *meaningful participation* in the legislative process.

With this method, it is hoped that this research can provide comprehensive insight into the urgency of meaningful participation in lawmaking, as well as recommendations for improving the existing systems in Indonesia, South Africa, and

the United States.

3. Results and Discussion

Meaningful Participation in the Concept of a Democratic State

Meaningful participation, or meaningful participation, is a crucial element in every democratic system (Zakhour, 2020). This concept not only emphasizes the presence of individuals in the decision-making process but also highlights the quality and impact of that participation. In the context of a democratic country, meaningful participation means that citizens are not only allowed to participate but also have a real influence on the outcome of the decisions taken. This creates closer ties between government and society, which in turn strengthens government legitimacy and accountability (A. Z. Dkk, 2021).

One of the main aspects of meaningful participation is accessibility. In many cases, barriers faced by communities in participating can include a lack of information, education, or support from government agencies. Healthy democracies must provide clear and accessible channels for their citizens to participate in the legislative process, including public consultations, discussion forums, and feedback mechanisms (M. A.-C. Dkk, 2021). By providing an inclusive platform, people can voice their opinions and contribute to the development of policies that are more responsive to their needs.

Apart from that, the quality of participation is also very important. Meaningful participation does not only involve physical presence in public forums but also requires active and constructive involvement. This means that citizens must feel that their voices are heard and taken into account in the decision-making process. Therefore, state institutions need to adopt an approach that encourages two-way dialogue, where the government not only informs the public about the policies it is taking but also listens to their input. This creates a sense of belonging among citizens and increases their trust in the democratic system (Sonia Royo, Vicente Pina, 2020).

In the context of a democratic country, meaningful participation can also be seen through the lens of representation. Fair representation in legislative and government institutions is essential to ensure that all groups in society, including minorities and vulnerable groups, have a balanced voice in the decision-making process (Catherine Owen, 2020). Therefore, measures such as quotas for women, affirmative policies, and inclusion programs must be implemented to ensure that participation is not only quantitative but also qualitative .

The importance of meaningful participation in the concept of a democratic state is also reflected in its impact on better decision-making (Kearnes, 2020). When citizens are involved in the legislative process, they bring diverse experiences and perspectives, which can enrich public policy. Research shows that policies produced

through community participation tend to be more relevant, effective, and accepted by the public. This not only strengthens the democratic process but also increases the effectiveness of government in meeting the needs and expectations of society.

Meaningful participation is a fundamental pillar in a democratic country. It creates strong ties between government and society, allows citizens to play an active role in policy development, and ensures that decisions taken reflect the interests and needs of all levels of society. By understanding and implementing the concept of meaningful participation, democratic countries can develop systems that are more inclusive, transparent, and responsive to the demands of the times.

Implementation of Meaningful Participation in Indonesia

Implementing meaningful participation in Indonesia is an important part of efforts to strengthen the democratic system in this country. In the context of the constitution, the 1945 Constitution provides a strong foundation for public participation in the decision-making process (Pratama, 2022). Articles 28A to 28J clearly emphasize human rights, including the right to participate in political and governmental life. In this framework, public participation is a key element that underlies government legitimacy and public policy-making.

Meaningful public participation in the formation of laws and regulations is a crucial aspect of democracy which aims to ensure that the resulting policies truly represent the interests of the wider community (Fajri, 2023). In Indonesia, public participation is guaranteed through various legal instruments that provide opportunities for the public to be involved in all stages of law formation, from planning, and discussion, to ratification. It is hoped that this process can prevent policies that only benefit certain groups, and instead encourage the creation of policies that are fair and inclusive.

The legal basis for public participation in the legislative process in Indonesia has been contained in various laws and regulations. One of the main foundations is the 1945 Constitution, especially Article 28F which guarantees everyone's right to seek, obtain and provide information. This article is the basis for community involvement in the formation of public policies, including laws. In addition, Law Number 12 of 2011 concerning the Formation of Legislative Regulations specifically regulates public participation in the law formation process, where the public is given the right to provide input both verbally and in writing. This process is carried out through various mechanisms, such as public consultations, seminars, or discussion forums involving community groups, academics, and other stakeholders (Dondokambey, 2023).

In more detail, Article 96 of Law No. 12 of 2011 states that the public can provide input during the process of forming legislative regulations. This input can be conveyed directly or through the media, and the process must be carried out transparently

(Wasti, 2023). The government or DPR as lawmakers are obliged to provide information to the public regarding the draft regulations being discussed, and open space for dialogue with the public.

Apart from Law No. 12 of 2011, Law Number 25 of 2009 concerning Public Services also emphasizes the importance of community participation in the public policy process, including the formation of laws (Saputra, 2021). This law emphasizes that good public services must involve the community at every stage, including in making decisions involving the public interest.

In the regional context, Minister of Home Affairs Regulation Number 80 of 2015 concerning the Formation of Regional Legal Products also encourages community participation in the formation of regional regulations (Perda) (Y. P. A. Dkk, 2023). This regulation mandates that regional governments must involve the community in every stage of drafting regional regulations, either through public consultation or other participatory mechanisms.

However, even though the legal basis is quite strong, the implementation of meaningful participation in Indonesia still faces several challenges (Fikry, 2022). One of the main obstacles is the lack of public access to information regarding the draft law being discussed. This is especially experienced by people in remote areas, where access to media and the internet is limited. In addition, public participation in the legislative process is often a formality, where input provided by the public is not always taken seriously by policymakers. This phenomenon creates a gap between people's aspirations and the resulting policies.

However, if implemented well, meaningful participation can provide many benefits for the legislative process in Indonesia. Broad community involvement in the formation of laws can produce policies that are more responsive to community needs. This process can also increase government transparency and accountability because the public has the opportunity to monitor and supervise the process of forming laws. Apart from that, meaningful participation can also increase the legitimacy of the laws produced, because the public feels involved in the decision-making process.

Overall, implementing meaningful participation in Indonesia is an integral part of a healthy democratic process. Even though there are still challenges in implementation, efforts to improve public participation in the formation of laws must continue, both through improving access to information, increasing public awareness of their rights, and increasing transparency in the legislative process.

Implementation of Meaningful Participation in South Africa

South Africa places public participation as a key component in modern democracy, especially in the process of forming laws (UU) (Wasserman, 2020). This is by the principles of the country's constitution which emphasizes openness, transparency, and public participation as an integral part of government governance. Meaningful public participation is essential in ensuring that the policies made truly

reflect the needs and desires of the wider community, as well as supporting the creation of an accountable government.

The legal basis that guarantees public participation in South Africa is contained in several constitutional provisions. Article 59, Article 72, and Article 118 of the 1996 Constitution of the Republic of South Africa emphasize the obligation of national and provincial legislatures to encourage community involvement in the lawmaking process (Lange, n.d.). Article 59 states that the National Assembly must facilitate public involvement in the legislative process and other matters related to its committees. The same also applies to the National Council of Provinces in Article 72. This provision shows the commitment of the South African constitution to real public involvement in decision-making (Umoh, 2022).

Additionally, laws such as the Promotion of Administrative Justice Act (PAJA) 200 also provide a legal basis for public participation in administrative processes (Eloff, 2021). PAJA ensures that government decisions, both at national and regional levels, are made by considering the views of the community and providing opportunities for participation before decisions are taken. This aims to ensure fairness in the legislative process and avoid abuse of administrative power.

The application of meaningful participation in lawmaking in South Africa can be seen in various cases, one of which is the National Water Act 1998 (Baloyi, 2023). This law was drafted through a public consultation process involving various community groups throughout the country. In the process, the government held a series of meetings and discussions with residents, which were then used as the basis for formulating policies related to water resources management.

Another prominent case is the Protection of State Information Bill legislative process (Bailey, 2021). When this law was proposed, many civil society groups, media organizations, and academics engaged in heated public debate. They raised objections to several provisions in the law, which they considered could threaten press freedom and government transparency. Thanks to strong public participation, the government ultimately reconsidered several provisions of the law, demonstrating that the public's voice has a significant influence on the policy formation process in South Africa.

Although South Africa has a robust legal framework to ensure public participation, implementation on the ground has not always been smooth. One of the main challenges is the gap in access to information between rural and urban communities. In some remote areas, communities often do not have adequate access to information related to the ongoing legislative process. In addition, technical and resource constraints also limit the extent to which the public can be effectively involved in the legislative process.

Lack of adequate understanding of the legislative process is also an inhibiting factor. Many South Africans do not fully understand their right to participate in the lawmaking process or do not know how to get involved. Therefore, greater efforts are

needed to provide legal education and clear information to the public so they can participate effectively.

Below is the legal basis for public participation as stated in the Constitution of the Republic of South Africa in Zulu:

Article 59 of the Constitution:

*"INational Assembly kufanele impulse ukubamba iqhaza komphakathi ezinqubweni loatheth nakwezinye permittedqubo zeSishayamthetho neKhomishana so."

This law emphasizes that public participation must be prioritized by legislative institutions at all levels of government.

South Africa provides a strong example of the importance of meaningful participation in the formation of laws. Although there are challenges in implementation, the existing legal framework shows the government's commitment to ensuring that the public can participate in the legislative process in an open and transparent manner. As public awareness of their rights increases, it is hoped that the legislative process in South Africa will become more inclusive and reflect the needs of all levels of society.

Implementation of Meaningful Participation in the United States

Meaningful public participation in the lawmaking process in the United States is a central element of the democratic principles that apply in that country (Henny Andriani, 2023). Public participation reflects the government's openness and inclusiveness in policymaking, ensuring that various societal perspectives participate in making important decisions that affect public life. The United States political system, which adheres to a system of checks and balances between the legislative, executive, and judicial branches, also provides ample space for public participation in various aspects of government.

The legal basis for public participation in the United States is reflected in several important laws. One of the most prominent is the Administrative Procedure Act (APA) of 1946, which provided a procedural framework for federal government agencies to invite public participation in the rulemaking process. This law requires notification of the public about draft regulations under consideration, provides an opportunity for the public to provide comments and input, and requires serious consideration of the public's views before a final rule is enacted.

Apart from the APA, there is also the Freedom of Information Act (FOIA) 1966 which ensures transparency in government by giving the public the right to request and access documents and information held by the federal government (Sheffner, 2020). With access to this information, the public can better understand the ongoing policy process and provide relevant and fact-based input.

In the original language, Article 553 APA reads:

"General notice of proposed rulemaking shall be published in the Federal

Register unless persons subject thereto are named and either personally served or otherwise have actual notice thereof by law."

In the United States, public participation is implemented at various levels of government, both at the federal level and at the state level. At the federal level, agencies such as the Environmental Protection Agency (EPA) or the Federal Communications Commission (FCC) routinely open public participation forums before passing new regulations. For example, the EPA often opens a public consultation process regarding environmental regulations, such as policies regarding air and water pollution, where the public can submit opinions, data, or recommendations.

At the state level, open meeting laws are also widely implemented. For example, California's Bagley-Keene Open Meetings Act requires that government meetings be open to the public, where anyone can attend and provide input (James Lanham, Bridget Fogarty Gramme, 2021). This is a concrete step to ensure the legislative and government processes are more transparent and accountable. This policy strengthens public oversight of policies made at the local and regional levels.

Although the legal framework for public participation in the United States is well established, challenges to its implementation remain. One of the main problems is the low level of public participation in many legislative processes due to the knowledge gap between the general public and government officials. The policy-making process is often technical, which makes some members of the public feel alienated or have difficulty providing relevant input. Additionally, the complexity of federal regulations and the time required to participate are also obstacles for some communities.

Community involvement in technical policies requires education and good communication between the government and the public. Government agencies are now trying to leverage digital technology to expand participation, such as by using online platforms to collect comments from the public or holding webinars as a means of educating about proposed new policies.

Even though there are challenges, implementing meaningful participation in the lawmaking process in the United States still provides significant benefits (Androniceanu, 2021). This encourages the creation of better policies because they are based on input from various community groups. Through this participation process, the public can voice concerns or support policies they feel are beneficial. Apart from that, this participation also strengthens people's trust in the government and the democratic process, because they feel they have a role and responsibility in the legislative process.

In conclusion, meaningful participation in the lawmaking process in the United States has a strong legal framework and provides space for society to be

actively involved. Although challenges such as low participation and information gaps remain, advances in technology and the government's commitment to open access to information continue to encourage broader and more effective public participation. Laws such as the APA and FOIA ensure that the policymaking process in the United States occurs with a high degree of transparency, accountability, and inclusivity, all of which are the essence of a healthy democratic system.

Comparison of the Implementation of Meaningful Participation in Indonesia, South Africa, and the United States

A comparison of the application of meaningful participation in the formation of laws in Indonesia, South Africa, and the United States shows that there are similarities in the basic principles of democracy, but there are differences in implementation caused by the social, political, and historical context of each country.

The similarities between the three countries lie in the recognition that meaningful participation is an important aspect of democracy that allows citizens to participate actively in the policy formation process. These three countries recognize that public involvement in lawmaking is not only consultative but is also important to ensure the legitimacy of the law and fulfill the principles of justice. In Indonesia, South Africa, and the United States, there are laws and mechanisms that regulate community involvement at various stages of the legislative process, including in the form of public consultations, hearings, or formal submission of proposals.

However, the main differences in the implementation of meaningful participation in the three countries arise from constitutional conditions, democratic history, and the level of development of participatory institutions.

1. Indonesia

Based on Law No. 12 of 2011, the Indonesian people have the right to be involved in the process of forming regulations. However, implementation is often limited to formalities, where public participation tends to be less effective due to lack of access to timely information, as well as a lack of transparency in the policy formation process.

2. South Africa

As a country that has just emerged from the apartheid system, South Africa has a constitution that places great emphasis on people's rights to participate in the legislative process. South Africa is often cited as an example because of their constitution, which requires the active involvement of society, especially marginalized communities, in decision-making processes. The participatory system in South Africa is more structured and inclusive than in Indonesia, especially with the constitutional obligation to ensure that the legislative

process must go through a substantive public consultation stage.

3. United States

In the US, public participation in lawmaking is structured through various formal forums such as public hearings and petitions. The federal system allows for public involvement from local to national levels. Additionally, the involvement of interest groups and political lobbying is a recognized part of the American democratic system. However, general public involvement is often more formal through representatives, and direct participation usually occurs on specific topics that have a broad impact.

Another prominent difference is how society in the three countries can influence policy. In South Africa, participation processes focus more on the inclusion of marginalized groups, while in the United States, these processes often involve powerful and organized political lobbies. In Indonesia, the biggest challenge is limited access and transparency, which causes public participation to not run optimally.

4. Conclusion

Based on the discussion in this research, there are several conclusions, namely as follows:

- a. Indonesia, South Africa, and the United States show that while all three countries recognize the importance of public engagement as a vital aspect of democracy, implementation varies based on each country's unique legal, social, and political context.
- b. In Indonesia, although there is a legal basis governing public participation, practice is often hampered by a lack of transparency and access to information, resulting in suboptimal public participation. Meanwhile, South Africa has a more inclusive approach thanks to a constitution that emphasizes active involvement, especially of marginalized groups, in the legislative process, thereby creating a more effective participatory system. On the other hand, the United States offers a broad participation structure with many formal forums, but often that participation is dominated by the interests of more organized groups, making the voice of the general public sometimes less heard.
- c. This comparison shows that to increase **meaningful participation** in Indonesia, we can learn from South Africa's experience in building a more inclusive system, as well as from the participatory structures that exist in the United States, with an emphasis on accessibility and transparency. Through

this analysis, it is important to create a framework that allows more substantial community involvement in policymaking, thereby creating policies that are more legitimate and responsive to public needs.

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