

Meaningful Participation as People's Sovereignty Form in Democratic Rule of Law State

Fahmi Ramadhan Firdaus*

Department of Constitutional Law, Faculty of Law University of Jember, Jawa Timur, Indonesia, fahmirf@unej.ac.id, ORCID ID 0000-0003-4580-155X

Ratih Listyana Chandra

Department of Constitutional Law, Faculty of Law University of Jember, Jawa Timur, Indonesia, ratih.fh@unej.ac.id, ORCID ID 0000-0001-7435-3704

Christo Sumurung Tua Sagala

Department of Constitutional Law, Faculty of Law University of Jember, Jawa Timur, Indonesia, christosagala@unej.ac.id, ORCID ID 0000-0001-6539-7262

Abstract. The Democratic Rule of Law adopted by Indonesia manifests Article 1 paragraph (2) and Article 1 paragraph (3) of the 1945 Constitution. This requires the public's role as the holder of supreme sovereignty in national and state life in various fields. Public participation has been practically implemented and guaranteed in statutory regulations. However, public participation is still interpreted as just a formality by stakeholders, so this causes harm to the policies implemented for the public and weakens the legitimacy of the owner of the highest sovereignty, namely the people. Constitutional Court Decision Number 91/PUU-XVIII/2020 is considered a landmark decision in strengthening people's sovereignty by encouraging meaningful participation in forming statutory regulations. This decision also triggers meaningful public participation in various areas of national life and patriotism. Through a doctrinal approach, this study intends to elucidate the relationship between Meaningful Participation and the concept of a Democratic Rule of Law, as well as efforts to implement and protect meaningful public participation in state practice. The research results concludes that meaningful participation is a form of popular sovereignty to realize a substantive democratic rule of law. Public participation is important for formulating, implementing, and evaluating policies formed together with the state. Soon, Formal guidelines are needed to realize Meaningful Participation as a follow-up to Constitutional Court Decision No. 91/PUU-XVIII/2020.

Keywords: Democracy, People's Sovereignty, Public Participation, Rule of Law.

Abstrak. Negara Hukum berbasis Demokrasi yang dianut Indonesia terwujud dalam Pasal 1 ayat (2) dan Pasal 1 ayat (3) UUD 1945. Hal ini mensyaratkan peran serta masyarakat sebagai pemegang kedaulatan tertinggi dalam kehidupan berbangsa dan bernegara di berbagai bidang. Partisipasi masyarakat secara praktis telah terimplementasi dan terjamin dalam peraturan perundang-undangan. Akan tetapi, partisipasi masyarakat masih dimaknai hanya sebagai formalitas belaka oleh para pemangku kepentingan, sehingga hal ini menimbulkan kerugian bagi kebijakan yang dijalankan untuk masyarakat dan melemahkan legitimasi pemilik kedaulatan tertinggi, yaitu rakyat. Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020 dinilai sebagai keputusan penting dalam memperkuat kedaulatan rakyat dengan mendorong partisipasi yang bermakna dalam pembentukan peraturan perundang-undangan. Putusan ini juga memicu partisipasi masyarakat yang bermakna dalam berbagai bidang kehidupan berbangsa dan bernegara serta menumbuhkan rasa cinta tanah air. Dengan menggunakan pendekatan doktrinal, penelitian ini bermaksud menguraikan hubungan antara Partisipasi yang Bermakna dengan konsep Negara Hukum berbasis Demokrasi, serta upaya penerapan dan perlindungan partisipasi masyarakat yang bermakna dalam praktik bernegara. Hasil penelitian menyimpulkan bahwa partisipasi yang bermakna merupakan salah satu bentuk kedaulatan rakyat untuk mewujudkan negara hukum yang demokratis dan substantif. Partisipasi publik penting untuk merumuskan, melaksanakan, dan mengevaluasi kebijakan yang dibentuk bersama negara. Dalam waktu dekat, diperlukan pedoman formal untuk mewujudkan Partisipasi yang Bermakna sebagai tindak lanjut Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020.

Kata kunci: Demokrasi, Kedaulatan Rakyat, Negara Hukum, Partisipasi Masyarakat.

Submitted: 7 Februari 2024 | Reviewed: 26 Juni 2024 | Revised: 11 Juli 2024 | Accepted: 12 Juli 2024

INTRODUCTION

Around 500 BC, the history of democracy was written because a small group of people in Greece and Rome began to develop government systems that gave people more opportunities to participate in decision-making. The most important developments in the history of democracy, in various texts, occurred in Europe. The word democracy comes from the ancient Greek word democracy. Plato, whose real name was Aristotle (427 - 347 BC), is often said to be the first person to introduce the word democracy, *Demos* meaning people and *Kratos* meaning government. Democracy according to Plato at that time was the achievement of a system of government regulated by philosophers. Only philosophers can generate ideas and know the choice between what is good and bad for society.¹ The application of democracy in state life was first achieved in Athens's city-state (polis/civitas) in ancient Greece.² The democracy practiced then was direct democracy, namely civil rights politics, decisions made directly by all members of society, acting based on the majority process. Democratic norms apply only to legal citizens, who constitute a small percentage of the total population. Most of them were enslaved people, foreign traders, women and children who could not enjoy democratic rights. Today, democracy is no longer direct democracy but rather representative democracy.³

The idea of democracy itself cannot be separated from the state, because the instrument of democracy itself is the state. Socrates argued that the state is not just a necessity, but an outcome of human nature. The state must make laws, which must be done by leaders or officials elected by the people. Finally, Socrates' democratic spirit peaked. Socrates' theory of the state and democracy then continued to develop and became the basis for Plato (Socrates' student) and Aristotle (Plato's student). Plato and Aristotle themselves were not actually supporters or defenders of democracy, but instead were critics of Greek democratic practices. The ideas and concepts of these

¹ Sunarso, *Membedah Demokrasi: (Sejarah, Konsep, dan Implementasinya di Indonesia)*, Ed. 1 (UNY Press, 2015).

² Nadrilun, *Mengenal Lebih Dekat Demokrasi di Indonesia*, Balai Pustaka (Jakarta: Balai Pustaka, 2012), 6.

³ Mahfud MD, *Demokrasi dan Konstitusi di Indonesia* (Jakarta: Rineka Cipta, 2000), 21.

philosophers were widely used, utilized and developed by subsequent philosophers or intellectuals, both in Roman society and in Europe.⁴

Moreover, democracy, as a guiding principle for the state, significantly influences how society is organised at the highest levels of government. It's worth noting, however, that democracy can take many different forms. Thus, the idea of democracy in its implementation has a double meaning. This can be seen in how countries that both adhere to democratic principles actually implement them differently. This inequality is not only in the formation of democratic institutions or apparatus. However, it is also related to the balance of the division of roles between the state and the role of the people.⁵

The essence of democracy lies in recognizing "people's sovereignty" as the highest authority. It glorifies the right of each person to decide for themselves and participate in decisions that affect the entire society. This concept is then confirmed in a country's constitution.⁶ The idea of the rule of law developed rapidly in Western Europe during the late 19th and early 20th centuries, Friedrich Julius Stahl and Immanuel Kant denoted it as the legal state, whereas in Anglo-Saxon nations, A.V. Dicey introduced the term rule of law. Throughout its evolution, certain principles have been refined to form the basic tenets of the rule of law. One of these principles is its basis in popular sovereignty. Second, the government's duties and obligations must be based on laws or statutory regulations. Third, human rights are guaranteed. Fourth, there is a separation of powers within the state. Fifth, there is monitoring from judicial institutions (*rechterlijke* control) which are free and independent, meaning that these judicial institutions are genuinely impartial and not under the influence of the executive. Sixth, community members or citizens have a fundamental role in monitoring the actions and implementation of policies carried out by the government. Seventh, the existence of an economic system that can guarantee an equitable

⁴ Suhartini, "Demokrasi dan Negara Hukum (dalam Konteks Demokrasi dan Negara Hukum Indonesia)," *Journal de Jure* 11, no. 1 (2019): 62–78.

⁵ Sunarno, "Negara Hukum yang Demokratis," *Jurnal Wacana Hukum* 10, No. 01 (2011): 42.

⁶ Syamsuddin Radjab, "Negara Hukum Demokratis: Konstitusionalisme," *Wawasan Keislaman* 8 (2013): 93–101.

distribution of resources needed for the prosperity of citizens.⁷ The rule of law is one of the prerequisites for a country to be truly democratic. The power of “democratic legitimacy” is the only legitimate power. So power must be legitimized from the will of those who are controlled. From a political moral perspective, there are four reasons to demand that the state be organized and carry out its duties based on law: (1) legal certainty, (2) demands for equal treatment, the principle of equality before the law, (3) democratic legitimacy and (4) demands for reason.⁸

The evolution of modern democracy is closely linked to events that occurred in the 19th century in Europe and America. This period was marked by significant events such as the Declaration of Independence in 1776 in America and the events in France in 1789. These declarations were groundbreaking as they advanced human rights and equal standing before the law, concepts that had been recognized long before these revolutions. These significant events led to calls for a transfer of state power from the monarchy to the people.⁹ Democracy has the consequence that every government administration must involve the active participation of the community in state administration for example law-making, law-implementation, and law-evaluation. However, in practice, democracy constantly changes and morphoses according to the growth and development of the country concerned, so that its implementation varies from time to time. Democracy does not always grow and develop in the same and consistent form for every country at all times. In fact, the implementation of democracy can also be hampered because there are rulers who do not implement democracy. Likewise, if the people do not want to implement and support democracy.¹⁰

Similarly, Indonesia's democratic trajectory has experienced both successes and setbacks. According to The Economist Intelligence Unit's (EIU) 2022 Democracy Index, Indonesia ranks 54th globally with a score of 6.71.¹¹ The EIU categorises Indonesia as

⁷ HR Ridwan, *Hukum Administrasi Negara* (UII Press, 2002).

⁸ Radjab, “Negara Hukum Demokratis: Konstitusionalisme,”

⁹ Benny Bambang Irawan, “Perkembangan Demokrasi di Indonesia,” *Perspektif* 5, no. 3 (2006): 54–64.

¹⁰ Siti Hidayati, “Partisipasi Masyarakat dalam Pembentukan Undang-Undang (Studi Perbandingan Indonesia Dengan Afrika Selatan),” *Jurnal Bina Mulia Hukum* 3, no. 2 (2019): 224–41, <https://doi.org/10.23920/jbmh.v3n2.18>.

¹¹ EIU, “Frontline Democracy and The Battle for Ukraine,” 2022.

a nation with a flawed democracy. In this classification, countries with flawed democracies exhibit electoral systems characterised by fairness and freedom, along with respect for fundamental civil liberties. However, many countries still face significant challenges, including restricted press freedom, a political culture intolerant of criticism, limited citizen political engagement, and suboptimal government performance. Democracy Index published by The EIU evaluates countries based on five indicators: electoral process and pluralism, political culture, and civil liberties, government functionality, political participation.¹²

The EIU classifies countries into four regime categories: full democracy, flawed democracy, hybrid regime and authoritarian regime.¹³ This research focuses on efforts to encourage public participation in several aspects of state administration, which is interpreted formally as meaningful public participation. This concept has been ordered through Constitutional Court Decision No. 91/PUU-XVIII/2020 in the context of law-making. However, more broadly Meaningful Participation also needs to be applied to public participation in other state life to uphold democracy, for example in general elections. Based on the background described, the author formulates two problems as follows, *first*, how does Meaningful Participation correlate with the concept of a Democratic Rule of Law, and *second*, how are efforts to implement and protect meaningful public participation in state practice.

METHODOLOGY

The research methodology used is Doctrinal Research which focuses on examining the implementation of regulations or norms within the applicable legal framework.¹⁴ Normative jurisprudence conducted through the examination of different types of formal legal rules, such as laws, and literature that are theoretical concepts that are

¹² “Skor Indeks Demokrasi Indonesia Membaik, Tetapi Tantangan Masih Besar - Kompas.Id,” accessed July 12, 2023, <https://www.kompas.id/baca/polhuk/2022/02/14/peningkatan-skor-indeks-demokrasi-2021-tak-serta-merta-tandai-perbaikan-kualitas-demokrasi-indonesia>.

¹³ “Indeks Demokrasi Dunia 2021, Indonesia Masih Dinilai Lemah,” accessed July 11, 2023, <https://databoks.katadata.co.id/datapublish/2022/02/14/indeks-demokrasi-dunia-2021-indonesia-masih-dinilai-lemah>.

¹⁴ Johnny Ibrahim, *Teori dan Metode Penelitian Hukum Normatif*, Bayu Media, Malang (Malang: Bayumedia Publishing, 2006).

then connected to the problem that is the topics of discussion. The approaches used in this research include the statutory, conceptual, and comparative approaches.¹⁵

Data collection was carried out using library research on primary legal materials including the 1945 Constitution of the Republic of Indonesia, Law Number 14 of 2008 concerning Public Information Disclosure, Law Number 12 of 2011 as amended by Law No. 13 of 2022 concerning the Second Amendment to Law No. 12 of 2011 concerning the Law-making, Law Number 7 of 2017 concerning General Elections, Presidential Regulation no. 87 of 2014 concerning Implementing Regulations of Law no. 12 of 2011 concerning the Law-making, Parliament Act no. 2 of 2019 concerning Procedures for Preparing *Prolegnas*, Parliament Act no. 8 of 2014 concerning Parliament Rules of Procedure, General Election Commission Regulation Number 9 of 2022 concerning Public Participation in General Elections and Elections of Governors and Vice Governors, Regents and Vice Regents, and/or Mayors and Vice Mayors. Secondary legal materials come from books, journals, reports, and electronic media related to democracy, law formation and public participation.

RESULT AND DISCUSSION

Correlation of Meaningful Participation in Law-Making with Democratic Rule of Law

People's sovereignty theory principally recognizes that people are the highest holders of the power in a nation. The emergence of this theory was a form of resistance to the blatant deviation of power from the king's sovereignty, resulting in the creation of tyranny and the suffering of the people. This theory of popular sovereignty later became a fundamental principle and finally gave birth to the concept of democracy.¹⁶

After the amendment to the 1945 Constitution, Indonesia has firmly embraced the principle of the rule of law, emphasizing the paramount authority of the people and

¹⁵ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2019).

¹⁶ Khairul Fahmi, "Prinsip Kedaulatan Rakyat dalam Penentuan Sistem Pemilihan Umum Anggota Legislatif," *Jurnal Konstitusi* 7, no. 3 (2016): 119, <https://doi.org/10.31078/jk735>.

democracy. This commitment is explicitly outlined in Article 1, paragraphs (2) and (3) of the 1945 Constitution, which state that 'Sovereignty is in the hands of the people and is implemented based on Constitution' and 'The Indonesian state is a state of law.' With this constitutional construction, Indonesia is a legal state that upholds the people as the supreme authority. Therefore, Indonesia is unequivocally a democratic legal nation, not an authoritarian.

The affirmation in the constitution as a democratic rule of law has significant implications for the state's duty to create an excellent legal system. In this system, laws or legal products have a strategic role as instruments in creating welfare and prosperity in society. As the historical approach illustrates the purpose of the rule of law presented in the present time, around the ninth century the existence of the state was forced to take part in the complexity of social interaction in society with the hope of being able to become an organizer in realizing the welfare and prosperity of society.¹⁷

The concept of democracy is related to participation, as stated by Philipus M. Hadjon, who stated that around the 1960s, a democratic concept called participatory democracy emerged. In this concept, public's have possessed the right to deciding in the process of making public policies. Apart from that, the concept of participation is also related to the concept of openness. This means that without openness, it is difficult for the public to participate in government activities. In a democratic system, ensuring the broadest possible open participation space for every level of society is the most important. However, this guarantee needs to be accompanied by consistent efforts to encourage the growth of public awareness so that they are involved in the government administration process.¹⁸

According to Philipus M. Hadjon, openness, both "*openheid*" and "*openbaar-heid*" are urgent for the administration of good and democratic government. In the concept of democracy, the principle of openness or participation is one of the minimum

¹⁷ Nur Aji Pratama, "Meaningful Participation Sebagai Upaya Kompromi Idee Des Recht Pasca Putusan MK No. 91/PUU-XVIII/2020," *Jurnal Crepido* 04, no. November (2022): 137–47.

¹⁸ Hidayati, "Partisipasi Masyarakat dalam Pembentukan Undang-Undang (Studi Perbandingan Indonesia Dengan Afrika Selatan)."

requirements as stated by Burkens in his book entitled "*Beginnselen van de democratische reschsstaat*" which is essentially:¹⁹

1. everyone has the same rights in free and secret elections;
2. everyone has the right to be elected;
3. everyone has the right to be elected;
4. the people's representative body influences decision-making through the means of "*mede beslissing-recht*" (the right to participate in decisions and/or through supervisory authority);
5. the principle of openness in decision-making and the open nature of decisions;
6. respect for the rights of minorities.

According to J.B.J.M ten Berge, as quoted by Ridwan HR, he mentioned the principles of the rule of law and the principles of democracy. The principles of the rule of law are legal principle, safeguarding human rights, government is bound by the law, government holds a monopoly on coercion for law enforcement, and oversight by impartial judges.²⁰ Meanwhile, the principles of democracy are political representation, political accountability, radiation of authority, supervision and control, honesty and openness of government to the public, and people are given the right to raise objections.

Philosophers from ancient Greece always emphasized that the true rulers in a democracy are the people or demos, populus. Therefore, the fundamental role of the demos in the ongoing political process is always emphasized. There are at least two main stages, first, agenda setting, namely the stage for choosing what issues to discuss and decide; second, deciding on the outcome, namely the decision-making stage. Thus, in a democratic rule of law, the role of the people, especially those affected is essential in determining what issues will be discussed and decided and playing a role in decision-making.²¹

Active participation is an integral aspect of democratic principles. Transparency is a key prerequisite for achieving this participation. The principle of transparency

¹⁹ Ida Rahma, "Partisipasi Publik dan Keterbukaan Informasi dalam Penyusunan Kebijakan," *Jurnal Hukum Samudra Keadilan* 14, no. 1 (2019): 81–96, <https://doi.org/10.33059/jhsk.v14i1.1101>.

²⁰ Ridwan, *Hukum Administrasi Negara*.

²¹ Praptanugraha, "Partisipasi Masyarakat dalam Pembentukan Peraturan Daerah," *Jurnal Hukum* 15, no. 3 (2008): 459–73.

encompasses two key elements that facilitate community participation. The first is the right to information (right to know, *meewten*), which is fundamental in a democracy. It implies that the public should be fully, accurately, and comprehensively informed about matters of public interest. Second, the right to contribute (right to think, *meedenken*). Once the public has access to information that falls under their right to know, the next step is their right to actively participate and contribute to government policy.²²

Meanwhile, the meaningful participation concept, also known as '*partisipasi bermakna*' in Indonesia, is a doctrine that originated in the Constitutional Court of South Africa in the Doctors for Life case. Later known as the Meaningful Participation Test, it was introduced to examine the procedural aspects of legislative rule-making to ensure compliance by legislative bodies. This test is designed to provide opportunities for citizens to be more involved in the making of legislative policy.²³

The meaningful participation concept has been recognised in Indonesia since Constitutional Court Decision No. 91/PUU-XVIII/2020, which was a formal review case of Law No. 11 of 2020 on Job Creation. The case was brought by various petitioners, including private sector workers, students, lecturers, Migrant CARE, the Coordinating Body for Customary Village Adat Nagari in West Sumatra, and the Customary Court of Minangkabau Nature. In their lawsuit, the petitioners contended that the law-making process of the Job Creation Law violated Article 22A of the 1945 Constitution and the provisions of Article 5 (a), (e), (f) and (g) of the Law on Law-Making Process regarding the principle of openness.

The petitioners provided evidence of a violation in the enactment of the Job Creation Law, specifically the amendments to Article 1 number 16, Article 51, Article 53, Article 57 and Article 89A in Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers (UU PPMI). The changes introduced by the Job Creation Law has violated the principle of transparency and ignored public participation. This allegation stems

²² YLBHI dan PSHK, *Panduan Bantuan Hukum di Indonesia: Pedoman Anda Memahami dan Menyelesaikan Hukum, Cetakan Kedua* (Jakarta: YLBHI, 2007), 218.

²³ Pratama, "Meaningful Participation Sebagai Upaya Kompromi Idee Des Recht Pasca Putusan MK No. 91/PUU-XVIII/2020."

from the legislative process, which lacked the direct participation of public's directly affected by the amendments to the relevant articles. These affected community groups include the Indonesian Migrant Workers Union (SBMI), Migrant CARE and various other migrant worker organisations.²⁴

Because its making-process was deemed to violate formal provisions, several communities and institutions submitted a formal petition for review to the Constitutional Court, of the 12 petitions which included both formal and/or substantive assessments, only one petition was partially granted. This was Constitutional Court Decision No. 91/PUU-XVIII/2020, which conditionally declared the unconstitutional unless amendments were enacted within two years of the decision's publication on 25 November 2021. The judgment emphasises the importance of meaningful public participation in the legislative process. This meaningful participation requires three essential conditions: first, the right to express one's opinion (right to be heard); second, the right to have one's opinion taken into account (right to be considered); and third, the right to receive an explanation or response to the opinion expressed (right to be explained).²⁵

According to Constitutional Court Decision No. 91/PUU-XVIII/2020, there are seven objectives for public participation in the law-making process. First, fostering a robust collective intelligence that improves the analysis of possible effects and wider considerations, leading to higher quality legislative outcomes. Second, to create more inclusive and representative legislative institutions in policy-making. Third, to increase institutions trust. Fourth, to strengthen legitimacy and shared responsibility for all decisions and actions. Fifth, to enhance citizens' understanding of the role of parliament and its members. Sixth, to give public's the opportunity to express their interests. And seventh, to create transparent and accountable parliamentary system.²⁶

Implementation and Protection of Meaningful Public Participation in Political Arena

²⁴ Mahkamah Konstitusi, "Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020," Jakarta § (2021), 61.

²⁵ Mahkamah Konstitusi, 392–393.

²⁶ Mahkamah Konstitusi, 392–393.

Public political participation is a manifestation of a country's democratic system. Countries that do not involve public political participation tend to be authoritarian centralized in power. The political situation in the Soeharto's era indicate that political decision-makers had excessive power in formulating policies and programs. As a result, the decisions taken often do not meet community needs. Community political participation is a form of giving themselves through various means, such as participating, providing input, being involved in policy formation, and monitoring the implementation of these policies.²⁷

Entering the reform era, Indonesia's constitutional structure underwent drastic changes. The concept of checks and balances makes the executive, legislative, and judiciary positions equal and supervise each other. At the same time, the tap of open democracy is getting stronger, making people's sovereignty not only one element of the political superstructure but also all state institutions representing people's sovereignty. Community participation in politics is increasingly visible with the people's direct election of the President and Vice President. This shows a shift to democracy where community political participation is increasingly coming to the surface.

To accommodate community participation, Article 28 of the 1945 Indonesia Constitution also emphasizes that the right to freedom of assembly, association and expression, whether verbal or written, is regulated by law. This means that the current constitution guarantees that the public can participate in law-making by protecting the expression of thoughts in oral and written form besides that there is a guarantee of public participation in general elections.

Democracy at its definitive conceptual level, as a process for electing a government, so that it becomes a political decision-making is a process where individuals gain the authority to make decisions through competitive contests for the votes of the people., so it is about organized competition through regular elections free and fair. The

²⁷ Daud M Liando, "Pemilu dan Partisipasi Politik Masyarakat (Studi Pada Pemilihan Anggota Legislatif dan Pemilihan Presiden dan Calon Wakil Presiden di Kabupaten Minahasa Tahun 2014)," *Jurnal LPPM Bidang Eko.SosBudKum* 3, no. 2 (2016): 14–28.

academic approach has formulated the core of democracy which is linked to one another and cannot be separated only through open, accessible, and honest general elections. Huntington has systematically emphasized the importance of competitive elections as the essence of democracy, and that democracy is the only and best form of government, even though it is a poor choice from the worst system of government that has ever existed in this part of the world. Thus, the form of democracy is very varied in terms of terminology, as well as the emphasis on conceptual implementation, mainly because it is a political system where the government must be made accountable to the people, and where there must be a mechanism to make it responsive to the desires and system preferences of the people's interests.²⁸

One form of implementing public participation in the state is taking part in the General Election, a state event that is routinely held every five years as a concrete manifestation of the implementation of people's sovereignty as implied in the constitutional mandate of the 1945 Constitution that supreme sovereignty is in the hands of the people. General elections are believed to be a process of peaceful transfer of power in a modern country that adheres to democracy. In every election in Indonesia, voter participation is an issue that attracts attention, because it is related to the enthusiasm and concern of citizens in voting at polling stations (TPS). Community involvement in providing their voting rights will determine the people who will occupy political office. Not only that, but voter participation is also closely related to individuals's trust in the political and democratic system and election organizers.²⁹

General elections are reflection of a democratic state. Based on Article 22 paragraph (2) of the 1945 Indonesia Constitution, general elections are conducted to choose representatives for the People's Representative Council, Regional Representative Council, President and Vice President, and Regional People's Representative Council. General elections are a system widely used by countries with democratic governments worldwide. Elections are considered a symbol and benchmark of democracy. Through

²⁸ Radjab, "Negara Hukum Demokratis: Konstitusionalisme,."

²⁹ Muhammad Awaluddin Iqbal, "Partisipasi Politik Masyarakat dalam Pemilihan Umum Tahun 2019 di Kecamatan Tahuna Kabupaten Kepulauan Sangihe," *Jurnal Eksekutif* 1, no. 4 (2020): 827–36.

general elections, democracy is considered a system that guarantees the realization of citizen freedom through broad public participation through voting.³⁰

There are at least ten activities that fall under the category of community involvement in the election process. Initially, collaborate with the General Election Commission to conduct election outreach. Subsequently, conduct voter education on the purpose and significance of voter registration, the vision, mission, and programs of Election Participants/Candidates, as well as the voting and vote-counting processes. Third, the involvement of political party members in the process of selecting political party administrators at various levels of management, the process of selecting candidates or pairs of candidates who will be proposed for the general election for DPR and DPRD members, The presidential and vice-presidential general election, the general election for regional heads and deputy regional heads, and the crafting of the vision, mission, and political parties program in the general elections for parliament and regional parliament members, the presidential and vice-presidential general election, and the general election for regional heads and deputy regional heads.³¹

Fourth, voter participation in voting (casting vote) in the election. Fifth, coverage of all activities related to the process of holding general elections carried out by journalists and other media officials is conveyed through reporting or broadcasting various types of mass media about the stages of the election. Sixth, provide active support to specific Election Participants/Candidates. Seventh, invite other voters to support or express objections to policy alternatives offered by Election Organizers or by specific Election Participants/Candidates. Eighth, submit complaints to the authorized institutions regarding alleged violations of Election Administration Provisions, Election Criminal Provisions, and the Election Organizer Code of Ethics. Ninth, survey voters' perceptions or opinions regarding Election Contestants/Candidates and disseminate the results to the general public. Tenth, take

³⁰ S Raden, I Kurnia, and R Massi, *Partisipasi Politik dan Perilaku Pemilih (Dinamika Partisipasi Pemilih Pada Pemilihan Serentak 2020 di Sulawesi Tengah)*, Cakrawala Jogjakarta, 2019.

³¹ Ramlan Surbakti and Didik Supriyanto, *Partisipasi Warga Masyarakat dalam Proses Penyelenggaraan Pemilihan Umum, Seri Buku Demokrasi Elektoral*, 2013.

a quick count of the vote count results at the sample polling stations to estimate the trend in election results (Quick Count).³²

In the 2019 General Election, the General Election Commission reported a voter turnout of 81 percent, which was a significant increase compared to the preceding election, with nearly a 10 percent rise from 2014. Viryan mentioned that the 81 percent participation rate surpassed the KPU's national target of 77.5 percent. According to KPU data, a total of 199,987,870 voters participated in the 2019 election, both domestically and internationally, with 158,012,506 exercising their right to vote.³³ Demographically, Indonesian voters are currently dominated by young people aged 17-39 years. The Center for Strategic and International Studies (CSIS) survey results show an increase in the percentage of young voters who participated in the Indonesian elections from 2014 to 2019. In 2014, 85.9% of respondents reported casting their votes, while 11.8% chose not to vote. Another 2.3% chose not to answer.

In the 2019 election, the voter turnout increased. 91.3% of respondents confirmed their participation in the election, while 8% abstained from voting and 0.7% chose not to answer.³⁴ The 2019 election was successful with one indicator being the voter participation rate which reached 81 percent. This figure has also exceeded the National Medium Term Development Plan (RPJMN) target of 77.5 percent. Facing the 2024 elections, the General Election Commission hopes that the level of participation will increase again. To achieve this, the participation of many parties is needed to make it happen.³⁵

Increasing public participation is crucial to electing legislative and executive members when holding general elections. The reason is that the public significantly contributes to the general election process because the voters determine the election results. Therefore, the government is responsible for involving the various parties involved to increase the community's role in elections, which is part of the democratization

³² Surbakti and Supriyanto.

³³ Fitria Chusna Farisa, "KPU Sebut Partisipasi Pemilih Pada Pemilu 2019 Capai 81 Persen," n.d.

³⁴ Cindy Mutia Annur, "Survei: Partisipasi Pemilih Muda Meningkat Pada Pemilu 2019," n.d.

³⁵ Humas KPU, "Tingkatkan Kesadaran dan Partisipasi Masyarakat Pada Pemilu - KPU," n.d.

process in Indonesia. Apart from the KPU, political parties also play a significant role in increasing public participation in elections, together with other related parties.³⁶

The first way to increase election participation is through People's Political Education. Factors influencing motivation for voting or not voting tend to focus solely on political interests, excluding aspects of political education for society. "Political education" is often equated with "political socialization," which means the process of socialization in political terms. In this context, there are two types of political socialization, namely "political education" and "political indoctrination".³⁷ Political education operates as an interactive exchange between those conveying messages and those receiving them. This dialogue-oriented process exposes community members to and imparts knowledge about the nation's values, norms, and political symbols through diverse political entities, including, government, political parties, and schools.³⁸

The second approach to achieving the desired goals involves optimizing the role of political parties. Political parties are primarily focused on attaining and retaining power to implement programs that align with an ideology based on Pancasila. To achieve these objectives, political parties serve specific functions. According to Law No. 2 of 2008 on Political Parties, political parties serve as the primary means of political education, promoting awareness of rights and responsibilities among members and the wider community in social, national, and state matters. Furthermore, political parties contribute to creating a conducive atmosphere for national unity and societal well-being. Political parties serve to collect and channel the political aspirations of the public's in formulating and establishing state policies. Additionally, they facilitate the participation of Indonesian citizens and engage in political recruitment, ensuring the democratic filling of political positions while upholding gender equality and justice.

Upholding the understanding of democracy must mean that Indonesia will maintain orderly national and state life by using democratic legal rules. Indonesia will realize a

³⁶ KPU Jember, "KPU Kabupaten Jember," n.d.

³⁷ Nufaris Elisa, "Hubungan antara Pendidikan Politik Dengan Generasi Muda," *Kalam Keadilan* 4, No. 1 (2016): 91.

³⁸ KPU Jember, "KPU Kabupaten Jember."

democratic order of living together based on law. In Indonesia, democratic and legal principles should be considered mutually enhancing components within the framework of symbiotic mutualism to establish a democratic national legal system. The legal system, as a subsystem of the national legal structure, plays a crucial role in shaping Indonesia's democratic legal system. One of the instruments within the national legal system is democratically formed legislation.³⁹

Increasing public participation in elections must be followed by increasing public participation in making public policies, one of which is by law-making. However, it is also important to monitor the implementation of policies and laws. This ensures that legal products produced by officials elected by the people are relevant, inclusive, transparent, and accountable.⁴⁰

This concept is a manifestation of what is called Meaningful Participation which is more profound, where the public is not only needed or even sought after during the general election, but even after the general election, the public still has political ties to their representatives as lawmakers in parliament to remain involve the public. Law-making process is not solely the domain and responsibility of law-making institutions. However, as the ultimate holders of legitimacy and sovereignty, the public should be aware of the potential impact that the proposed law might have on them.

Even though the laws made by legislators have positive intentions, this does not automatically reduce the importance of community participation. This is because the role of society as a balancing force is still needed, especially in monitoring "blind spots" that may occur in the law formation process. It cannot be denied that many political interests can divert the initial goal of forming laws that should benefit society.

Normatively in Indonesia, public participation in the law-making is regulated in Article 96 of Law no. 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Law-making. This article grants the public the privilege to submit feedback verbally or in written form during the formulation of Legislative

³⁹ Dodi Jaya Wardana and Hasnan Bachtiar, "Public Participation in the Law-Making in the Digitalization Era," *Indonesia Law Reform Journal* 2, no. 3 (2022): 289–98, <https://doi.org/10.22219/ilrej.v2i3.23764>.

⁴⁰ Arfianto Purbolaksono, "Meningkatnya Partisipasi Pemilih dalam Pemilu 2019 | The Indonesian Institute," n.d.

Regulations. This feedback may be expressed through various channels, both online and offline, such as public hearings, field visits, outreach programs, seminars, discussion workshops, and other forms of public consultation activities. The community mentioned in this article encompasses individuals or groups directly impacted and/or with a vested interest in the content of the Bill.

The active participation of society at large is essential in minimize the risk of institutional and group interests influencing law-making, community engagement serves as a safeguard against the exclusive drafting of laws by political elite groups. Although parliament, as the legislative body, has a better chance of gaining robust legitimacy compared to an expert commission, it is also susceptible to the influence of political parties and internal parliamentary interests.⁴¹

According to Sirajuddin, the urgency of public participation in discussing laws and regulations includes capturing the community's knowledge, expertise, or experience so that the laws made meet the requirements of good laws. Second, guaranteeing that laws and regulations correspond to the realities that exist in society, fostering a sense of belonging, a sense of responsibility and accountability for these laws. Third, foster public trust, respect and recognition of the parliament and the government.⁴²

Apart from the community itself, the community's involvement in law-making will benefit the legislators. First, legislators will gain an understanding of society's needs and appropriate ways to meet them. Second, a sense of mutual trust is built between lawmakers and the public's, fostering balanced and cooperative connection. Additionally, community involvement increases awareness and promotes active participation in law implementation.⁴³

Increasing public participation will balancing the task for legislators, because it can serve as a more accurate comparison for determining the substance of draft laws the public needs. So it is hoped that high-quality legislation will be formed and able to

⁴¹ Riza Multazam Luthfy, "Hubungan antara Partisipasi Masyarakat, Pembentukan Undang-Undang dan Judicial Review," *Jurnal al-Daulah* 5, no. 117 (2015): 168.

⁴² Sirajuddin, *Hak Rakyat Mengontrol Negara* (Jakarta: YAPPIKA, 2006), 119.

⁴³ Muhammadiyah Muhammadiyah, "Partisipasi Publik Sebagai Strategi Mewujudkan Good Governance Otonomi Daerah," *Otoritas: Jurnal Ilmu Pemerintahan* 3, no. 1 (2013): 57–66, <https://doi.org/10.26618/ojip.v3i1.61>.

reflect the community's aspirations. With this participation, implementing laws that are oriented towards community aspirations can run smoothly without causing chaos, and can be implemented effectively in the community.⁴⁴

From the beginning of the law formation process, it is essential to increasing the public in a bottom-up manner to produce laws that support justice and democracy. By implementing a democratic approach, legislators offer and emphasize the importance of openness and public's participation in influence legal policies. Through this participatory process, there is a high possibility of forming a fair consensus for the country and its people, increasing public trust in the government. By realizing synergy between society and government, it is hoped that mutual support will emerge to benefit all people.

CONCLUSION

Democracy is a legacy of ancient Greek civilization which inspired many people to organize their lives by upholding popular sovereignty. Today, democracy is widely accepted as a suitable model in Indonesia. The course of democracy in Indonesia experienced ups and downs, starting from rejection to becoming a saviour to escape authoritarian power. The existence of democracy needs to be regulated by law so that freedom does not become excessive, likewise the law must be democratic so that the law does not become authoritarian and arbitrary, this gives rise to the concept of the democratic rule of law. Democracy brings about positive changes in the life of the nation and the state, safeguarding human rights such as freedom of expression, press freedom and the right of association. It also encourages equality where all people have equal access to developing the country. The most significant is the role of active public participation in the policy-making process in various fields, including general elections and the law-making. Public participation has an essential role in ensuring that their representatives are fair and in creating a government that is responsive to the needs and aspirations of the people.

⁴⁴ Maria Farida Indrati, *Ilmu Perundang-Undangan Proses dan Teknik Pembentukannya* (Yogyakarta: Kanisius, 2007), 295.

The current opportunities and challenges for democracy are the disruption of information technology, on the one hand opening space for transparency and accountability, but on the other hand opening up space for division such as the spread of Hoaxes, political polarization and foreign intervention in the national political process. In fact, building democracy is a long and continuous process, each country certainly has its challenges, but with a comprehensive approach, eradicating corruption, strengthening democratic institutions, establishing responsive legal rules and involving meaningful public participation from citizens can create a healthy democracy and inclusive.

ACKNOWLEDGMENTS

This research is supported by the Institute for Research and Community Service (LP2M), University of Jember.

COMPETING INTEREST

The authors of this research declare that there is no conflict of interest.

REFERENCES

- Arfianto Purbolaksono. "Meningkatnya Partisipasi Pemilih dalam Pemilu 2019 | The Indonesian Institute," n.d.
- Cindy Mutia Annur. "Survei: Partisipasi Pemilih Muda Meningkatkan Pada Pemilu 2019," n.d.
- EIU. "Frontline Democracy and The Battle for Ukraine," 2022.
- Elisa, Nufaris. "Hubungan antara Pendidikan Politik Dengan Generasi Muda." *Kalam Keadilan* 4, no. 1 (2016): 87-101.
- Fahmi, Khairul. "Prinsip Kedaulatan Rakyat dalam Penentuan Sistem Pemilihan Umum Anggota Legislatif." *Jurnal Konstitusi* 7, no. 3 (2016): 119. <https://doi.org/10.31078/jk735>.
- Fitria Chusna Farisa. "KPU Sebut Partisipasi Pemilih Pada Pemilu 2019 Capai 81 Persen," n.d.

- General Election Commission Regulation Number 9 of 2022 concerning Public Participation in General Elections and Elections of Governors and Vice Governors, Regents and Vice Regents, and/or Mayors and Vice Mayors
- Hidayati, Siti. "Partisipasi Masyarakat dalam Pembentukan Undang-Undang (Studi Perbandingan Indonesia Dengan Afrika Selatan)." *Jurnal Bina Mulia Hukum* 3, no. 2 (2019): 224–41. <https://doi.org/10.23920/jbmh.v3n2.18>.
- Humas KPU. "Tingkatkan Kesadaran dan Partisipasi Masyarakat Pada Pemilu - KPU," n.d.
- Ibrahim, Johnny. *Teori dan Metode Penelitian Hukum Normatif*. Bayu Media, Malang. Malang: Bayumedia Publishing, 2006.
- "Indeks Demokrasi Dunia 2021, Indonesia Masih Dinilai Lemah," n.d.
- Indrati, Maria Farida. *Ilmu Perundang-Undangan Proses dan Teknik Pembentukannya*. Yogyakarta: Kanisius, 2007.
- Iqbal, Muhammad Awaluddin. "Partisipasi Politik Masyarakat dalam Pemilihan Umum Tahun 2019 di Kecamatan Tahuna Kabupaten Kepulauan Sangihe." *Jurnal Eksekutif* 1, no. 4 (2020): 827–36.
- Irawan, Benny Bambang. "Perkembangan Demokrasi di Indonesia." *Perspektif* 5, no. 3 (2006): 54–64.
- KPU Jember. "KPU Kabupaten Jember," n.d.
- Law Number 14 of 2008 concerning Public Information Disclosure
- Law Number 12 of 2011 as amended by Law No. 13 of 2022 concerning the Second Amendment to Law No. 12 of 2011 concerning the Law-making
- Law Number 7 of 2017 concerning General Elections
- Liando, Daud M. "Pemilu dan Partisipasi Politik Masyarakat (Studi Pada Pemilihan Anggota Legislatif dan Pemilihan Presiden dan Calon Wakil Presiden di Kabupaten Minahasa Tahun 2014)." *Jurnal LPPM Bidang EkoSosBudKum* 3, no. 2 (2016): 14–28.
- Luthfy, Riza Multazam. "Hubungan antara Partisipasi Masyarakat, Pembentukan Undang-Undang dan Judicial Review." *Jurnal Al-Daulah* 5, no. 117 (2015): 168–93.
- Mahkamah Konstitusi. Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020, Jakarta § (2021).
- Marzuki, Peter Mahmud. *Penelitian Hukum*. Jakarta: Kencana, 2019.
- MD, Mahfud. *Demokrasi dan Konstitusi Di Indonesia*. Jakarta: Rineka Cipta, 2000.
- Muhammadiyah, Muhammadiyah. "Partisipasi Publik Sebagai Strategi Mewujudkan Good Governance Otonomi Daerah." *Otoritas : Jurnal Ilmu Pemerintahan* 3, no. 1 (2013): 57–66. <https://doi.org/10.26618/ojip.v3i1.61>.
- Nadrilun. *Mengenal Lebih Dekat Demokrasi di Indonesia*. Balai Pustaka. Jakarta: Balai

- Pustaka, 2012.
- Parliament Act no. 2 of 2019 concerning Procedures for Preparing Prolegnas
- Parliament Act no. 8 of 2014 concerning Parliament Rules of Procedure
- Praptanugraha. "Partisipasi Masyarakat dalam Pembentukan Peraturan Daerah." *Jurnal Hukum* 15, no. 3 (2008): 459-73.
- Pratama, Nur Aji. "Meaningful Participation Sebagai Upaya Kompromi Idee Des Recht Pasca Putusan MK No. 91/PUU-XVIII/2020." *Jurnal Crepido* 04, no. November (2022): 137-47.
- Presidential Regulation no. 87 of 2014 concerning Implementing Regulations of Law no. 12 of 2011 concerning the Law-making
- Raden, S, I Kurnia, and R Massi. *Partisipasi Politik dan Perilaku Pemilih (Dinamika Partisipasi Pemilih Pada Pemilihan Serentak 2020 Di Sulawesi Tengah)*. Cakrawala Jogjakarta, 2019.
- Radjab, Syamsuddin. "Negara Hukum Demokratis: Konstitusionalisme." *Wawasan Keislaman* 8 (2013): 93-101.
- Rahma, Ida. "Partisipasi Publik dan Keterbukaan Informasi dalam Penyusunan Kebijakan." *Jurnal Hukum Samudra Keadilan* 14, no. 1 (2019): 81-96. <https://doi.org/10.33059/jhsk.v14i1.1101>.
- Ridwan, HR. *Hukum Administrasi Negara*. UII Press, 2002.
- Sirajuddin. *Hak Rakyat Mengontrol Negara*. Jakarta: YAPPIKA, 2006.
- "Skor Indeks Demokrasi Indonesia Membaik, Tetapi Tantangan Masih Besar - Kompas.Id," n.d.
- Suhartini. "Demokrasi dan Negara Hukum (dalam Konteks Demokrasi dan Negara Hukum Indonesia)." *Journal de Jure* 11, no. 1 (2019): 62-78.
- Sunarno. "Negara Hukum yang Demokratis." *Jurnal Wacana Hukum* 10, no. No. 01 (2011): hlm. 42.
- Sunarso. *Membedah Demokrasi : (Sejarah, Konsep, dan Implementasinya di Indonesia)*. Ed. 1. UNY Press, 2015.
- Surbakti, Ramlan, and Didik Supriyanto. *Partisipasi Warga Masyarakat dalam Proses Penyelenggaraan Pemilihan Umum. Seri Buku Demokrasi Elektoral*, 2013.
- The 1945 Constitution of the Republic of Indonesia
- Wardana, Dodi Jaya, and Hasnan Bachtiar. "Public Participation in the Law-Making in the Digitalization Era." *Indonesia Law Reform Journal* 2, no. 3 (2022): 289-98. <https://doi.org/10.22219/ilrej.v2i3.23764>.
- YLBHI dan PSHK. *Panduan Bantuan Hukum di Indonesia: Pedoman Anda Memahami dan Menyelesaikan Hukum, Cetakan Kedua*. Jakarta: YLBHI, 2007.