

# MEANINGFUL PARTICIPATION IN RELATION TO THE LADDER OF CITIZEN PARTICIPATION IN THE FORMATION OF LAWS

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## ABSTRACT

A good legislative process provides space for public participation in policy-making. The persistence of legal products that ignore public participation in their formation poses a problem for better legal development. The neglect of public participation in the legislative process certainly raises questions regarding the extent to which the government provides space for public participation. This study used a normative research method, with a statute approach and a comparative approach. The results indicate that there are eight levels to measure the extent of public participation in the legislative process. In Indonesia, public participation in the legislative process is expressly regulated in Article 96 of Law No. 13 of 2022. Not only Indonesia, but South Africa's constitution also provides space for public involvement in the legislative process. In the Indonesian context, the level of public participation in the legislative process is at the Delegated Power level. This is indicated by the existence of the House of Representatives (DPR) as the representative of the people. Therefore, policies created jointly by the DPR are, in principle, policies that fulfil the needs of public participation.

**Keywords: Meaningful, Participation, Ladder, Participation, Law.**

## I. INTRODUCTION

### A. Background

Following the amendment to the 1945 Constitution, norms regarding the rule of law have been added. This is in accordance with the provisions of Article 1 paragraph (3) of the Third Amendment to the 1945 Constitution, which states: "The State of Indonesia is a state based on law." This provision is a form of normativeization derived from the contents of the Explanation of the 1945 Constitution, which states that "The State of Indonesia is based on Law (*Rechtsstaat*), not based on mere power (*Machtsstaat*)."<sup>1</sup> The regulation of Indonesia as a state of law in the 1945 Constitution of the Unitary State of the Republic of Indonesia also emphasises that all actions of the ruler or government require a certain form of law and must be in accordance

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<sup>1</sup> Undang-Undang Dasar Republik Indonesia Tahun 1945



with applicable laws and regulations. This statement implies the existence of the supremacy of law and the constitution, the adoption of the principle of separation and limitation of powers according to the constitutional system regulated in the 1945 Constitution, the existence of the principle of free and impartial justice that ensures the equality of every citizen before the law and the guarantee of justice for everyone, including abuse of authority by those in power.<sup>2</sup>

In line with the above, Sri Hastuti Puspitasari, as quoted by Eka NAM Sihombing, stated that Indonesia's constitutional system also adopts the concept of sovereignty, which is a characteristic or attribute of state law. This concept embodies concepts related to the idea of supreme power associated with the state.<sup>3</sup> This is emphasised in Article 1, paragraph 2 of the 1945 Constitution, which states that "sovereignty rests with the people and is exercised according to the Constitution." Therefore, the consequence of recognising popular sovereignty in the constitution is that the government system must adhere to the principles of democracy as a manifestation of popular sovereignty. Democratic principles emphasise the importance of citizen participation, where individuals have the right to voice their opinions, participate in decision-making, and hold their representatives accountable. This participation is crucial in the process of formulating legislation.

The affirmation in the constitution as a democratic state based on the rule of law has significant implications for the state, as it is tasked with creating a sound legal system. Furthermore, a democratic state emphasises the importance of citizen participation, where individuals have the right to voice their opinions, participate in decision-making, and hold their representatives accountable. This participation is crucial in the process of formulating legislation.<sup>4</sup> Because, to achieve the main objective as a state of law that creates national welfare, a set of laws and regulations is needed that regulates the lives of the people in order to create legal order (*revhtsorde*, legal order) which is based on the philosophy of Pancasila and the 1945 Constitution. The purpose of establishing laws in a state of law is to create an atmosphere of public welfare.<sup>5</sup>

Historically, legislative power can be divided into two periods, namely before and after the amendment of the 1945 Constitution. Before the constitutional amendment, the power to form laws was exercised by the President as stated in Article 5, paragraph 1 of the 1945 Constitution, which states that "The President holds the power to form laws with the approval of the House of Representatives." However, there is no proportionality of checks and balances between the two institutions in the formation of laws. The President has greater authority from the

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<sup>2</sup> Jimly Assidiqie, *Konstitusi Dan Konstitusionalisme Indonesia* (Jakarta: Mahkamah Konstitusi RI, 2004).h, 55.

<sup>3</sup> Eka NAM Sihombing, "Ketetapan Majelis Permusyawaratan Rakyat Dan Pencabutannya," *Konferensi Nasional Asosiasi Pengajar Hukum Tata Negara dan Hukum Administrasi Negara* 2, no. 1 (2024). h, 22-25.

<sup>4</sup> Hermawan Prasojo, "Inovasi Kolaboratif Dalam Pembentukan Peraturan Perundang-Undangan: Optimalisasi Teknologi Untuk Meningkatkan Partisipasi Publik Dalam Legislasi," *Jurnal Hukum & Pembangunan* 54, no. 4 (2025).h 670.

<sup>5</sup> M. Solly Lubis, *Ilmu Pengetahuan Perundang-Undangan* (Bandung: Mandar Maju, 2009).h 27.

initial process, while the House of Representatives only approves the DPR's initiatives, which should be very minimal as a legislative institution, because the majority of proposed bills originate from the President's initiative.<sup>6</sup>

In the post-amendment period of the 1945 Constitution, there was a configuration of legislative functions between the DPR and the president. Based on Article 20, paragraph (1) of the 1945 Constitution, the DPR holds the power to form laws. According to this provision, there was a fundamental change in the legislative function, although it was not yet total, where the representative body returned to its former status as a legislative institution, although not yet total. This is marked by the existence of Article 5 paragraph (1) of the 1945 Constitution, after the amendment, which gives the President the authority to submit a Draft Law. In addition, the executive is involved in the process of forming laws, especially in discussions.<sup>7</sup>

In principle, in the formation of laws in general, there are several stages, including the following:<sup>8</sup> 1). Planning, 2). Drafting, 3). Discussion, 4). Promulgation. In addition to the stages above, several principles form the basis for the formation of legislation, namely: 1) Clarity of purpose; 2) Appropriate institution or official who forms it; 3) Conformity between type, hierarchy, and content; 4) Implementation; 5) Usefulness and effectiveness; 6) Clarity of formulation; and 7). Openness.<sup>9</sup>

The formation of good legislation should involve public participation. Normatively, public participation in the formation of legislation is comprehensively regulated in Article 96 of Law No. 13 of 2022 concerning the Second Amendment to Law No. 12 of 2011 concerning the Formation of Legislation. In principle, this amendment to the legislation is based on Constitutional Court Decision No. 91/PUU-XVIII/2020. This decision requires an expansion of the right to public participation in the formation of legislation. Therefore, meaningful participation must meet at least three requirements: 1) the right to be heard, 2) the right to be considered, and 3) the right to be explained.<sup>10</sup>

In line with the above provisions, there are two meanings in the formation of this aspirational and participatory law, namely: process and substance. The formation of the law through the process is a process of drafting a mechanism that is carried out openly (transparently) before the public, so that if there are public aspirations, they can be used as input in regulating the problem. Meanwhile, the formation of the law in substance is intended to form material that is then submitted

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<sup>6</sup> Fahmi Ramadhan Firdaus, "Pencegahan Korupsi Legislasi Melalui Penguatan Partisipasi Publik Dalam Proses Pembentukan Undang-Undang," *Jurnal Legislasi Indonesia* 17, no. 23 (2020): 282-293.

<sup>7</sup> Ibid

<sup>8</sup> Herawati dan Suwanto, "Pembentukan Peraturan Perundang-Undangan Yang Baik Bagi Indonesia," *Jurnal Demokrasi dan Ketahanan Nasional* 1, no. 2 (2022), h 355.

<sup>9</sup> Pasal 5 UU No 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan.

<sup>10</sup> Helmi Chandra SY dan Shelvin Putri Irawan., "Perluasan Makna Partisipasi Masyarakat Dalam Pembentukan Undang-Undang Pasca Putusan Mahkamah Konstitusi.," *Jurnal Konstitusi* 19, no. 4 (2022): 766-793.

for the public interest (society). This will ultimately produce laws that are democratic, aspirational, participatory, and responsive/populist in character.<sup>11</sup>

However, the reality is that legislation often neglects the principle of meaningful public participation. Concrete examples of this public participation crisis can be seen in the formation of Law Number 19 of 2019 concerning the Revision of the Corruption Eradication Commission Law (KPK Law), Law Number 11 of 2020 concerning Job Creation (Omnibus Law), Law Number 3 of 2020 concerning Mineral and Coal Mining (Minerba Law), the revision of the Constitutional Court Law, and most recently, the revision of the Indonesian Armed Forces Law. Throughout these various legislative processes, the public is not given adequate space for active involvement, public aspirations are often ignored, and many strategic policies are determined behind closed doors within the elite chambers of power.<sup>12</sup>

From the above polemics, it is clear that meaningful participation in the formation of legislation in Indonesia has not been optimally implemented by lawmakers. However, normatively, regulations regarding participation have been expressly stipulated in the law. This phenomenon raises the question of the actual ladder of citizen participation in the formation of legislation in Indonesia. When linked to the concept of levels of participation presented by Sherry Arnstein in what is known as Arnstein's Ladder of Citizen Participation, there are eight ladders of citizen participation:<sup>13</sup> 1). Manipulation 2). Therapy (healing) 3). Informing 4). Consultation 5). Placement 6). Partnership 7). Delegated Power 8). Citizen Control Based on the arguments and phenomena above, it is necessary and important to study further how meaningful participation actually is in relation to the level of public participation in the formation of laws.

## B. Research Questions

Based on this background, several research questions can be formulated to be addressed in this study, including the following:

1. What is the ladder of citizen participation in the formation of laws?
2. How is meaningful participation regulated in the formation of laws in Indonesia and South Africa?
3. How is meaningful participation related to the ladder of citizen participation in the formation of laws in Indonesia?

## C. Research Method

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<sup>11</sup> Mahfud MD., *Perkembangan Politik Hukum: Studi Tentang Pengaruh Konfigurasi Politik Terhadap Produk Hukum Di Indonesia* (Jakarta: Penerbit Raja Grafindo, 2010).h 363

<sup>12</sup> Eko Rinaldo Damanik, Thea Farina, and Satriya Nugraha, "Krisis Partisipasi Publik Dalam Pembentukan Undang-Undang Di Indonesia: Problematikan Hak Konstitusional Dan Pengabdian Aspirasi Rakyat," *Innovative: Journal Of Social Science Research* 5, no. 2 (2025): 2518–2540, <https://j-innovative.org/index.php/Innovative/article/view/18664/12669>.

<sup>13</sup> Siti Arbayah dan Heni Suparti, "Tingkatan Partisipasi Masyarakat Dalam Musyawarah Perencanaan Pembangunan Di Desa Maburai Kecamatan Muring Pudak Kabupaten Tabolang," *PubBIS Juranl Pemikiran dan Penelitian Administrasi Publik dan Administrasi Bisnis* 6, no. 1 (2022) h, 41.

This study uses normative legal research/ qualitative research. This involves identifying legal problems, analyzing them, conducting legal reasoning, analyzing the problems encountered, and then providing solutions to them. The problems studied in normative legal research are caused by problematic norms or rules, whether due to conflict within the norms, unclear meaning within the norms, contradictions within the norms, or legal gaps.<sup>14</sup> The characteristics of normative or doctrinal legal research tend to be conceptualized as everything written in statutory regulations (law in a book) or law as a guideline, a reference for humans in behaving appropriately.<sup>15</sup>

In addition to using normative legal research, this study employs a statute approach and a comparative approach. The statute approach examines all laws and regulations relevant to the legal issue at hand. The comparative approach, on the other hand, compares the legal system or laws of one country with those of one or more other countries on the same issue, including court decisions. This comparison aims to identify similarities and differences between the two.<sup>16</sup> This study employs descriptive analysis.

## II. DISCUSSION

### A. Ladder of Citizen Participation in the Formation of Laws.

Public participation is defined as the active involvement of the public, both individually and in groups, in determining public policy or legislation.<sup>17</sup> In the context of Indonesian constitutional law, the term "meaningful participation" is used to describe public participation. Meaningful participation, or "meaningful community participation," is a doctrine developed by the South African Constitutional Court in the *Doctors for Life* case. It is known as the "Meaningful Participation Test," which aims to assess whether legislative institutions adhere to procedural aspects of the drafting of laws and regulations, thereby providing citizens with the opportunity to participate more effectively in determining legal policy.<sup>18</sup>

Meaningful participation is a concept of participation that supports the formation of relationships through community involvement, collaboration, and empowerment in such a way that the community can contribute its knowledge in the planning and design of legislation.<sup>19</sup> Public involvement in the process of

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<sup>14</sup> Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta Timur: Prenadamedia Group, 2019)., h 47

<sup>15</sup> Eka NAM Sihombing dan Cynthia Hadita, *Penelitian Hukum* (Malang: Setara Press, 2022).h 40.

<sup>16</sup> Ibid

<sup>17</sup> Siti Hidayati, "Partisipasi Masyarakat Dalam Pembentukan Undang-Undang (Studi Perbandingan Indonesia Dengan Afrika Selatan)," *Jurnal Bina Mulia Hukum* 3, no. 2 (2019). h 224-241.

<sup>18</sup> Susi Dwi Harijanti. Lailani Sungkar dan Wicaksana Dramanda, *Laporan Hasil Penelitian "Pengujian Formil Undang-Undang Oleh Mahkamah Konstitusi: Urgensi Dan Batu Uji"* (Bandung: Fakultas Hukum Universitas Padjajaran, 2020).h 77

<sup>19</sup> Ratna Ayu Damayanti. Syarifuddin dan Haerial, "Meningkatkan Partisipasi Masyarakat Dalam Perencanaan Pembangunan Guna Mengurangi Kemiskinan Di Desa Je'netallasa Kabupaten Gowa," *Jurnal Terapan Abdimas Universitas Hasanuddin* Vol. 5, no. 2 (2022): 155-162.

formulating legislation is an absolute necessity. This is due to the application of the principle of popular sovereignty adopted by the Indonesian state.

According to Satjipto Raharjo,<sup>20</sup> Legislation is considered aspirational and participatory if it produces regulations that possess the following characteristics:

1. It is general and comprehensive, thus representing specific and limited benefits and characteristics;
2. It is universal because laws are created to address future events. Therefore, laws cannot be formulated to address specific events only, and
3. It has the power to correct and improve itself. Is it common for a regulation to include a clause that allows for judicial review?

The explanation above, in principle, emphasizes that public involvement in the legislative process is fundamental. Over time, public involvement/participation in the legislative process can be seen and measured by the ladders of citizen participation proposed by Sherry Arnstein in her concept, The Ladder of Citizen Participation. This concept requires eight levels of public participation:<sup>21</sup>

- a. Manipulation: This is the lowest level of participation, where the public is used only nominally. This involves manipulating information to gain public support and promising better conditions that will never materialize.
- b. Therapy, Power holders justify proposals under the pretense of public involvement. Although they are involved in the activity, the goal is more to change public mindsets than to obtain input from the public.
- c. Informing, Power holders only provide information to the public regarding proposed activities; the public is not empowered to influence the outcome. Information can include rights, responsibilities, and various options, but there is no feedback or negotiating power from the public. Information is provided at the final planning stage, and the public has little opportunity to influence the plans that have been developed.
- d. Consultation, The public is not only informed but also invited to share their opinions, although there is no guarantee that the opinions expressed will be taken into account in decision-making. Common methods include community surveys, community meetings, and public hearings.
- e. Placation, Power holders (the government) need to appoint several individuals from the affected community to serve as members of a public body, where they have access to certain aspects of the decision-making process. Although community proposals are still considered in practice, due to their relatively low status and smaller numbers compared to government members, they are unable to make decisions.
- f. Partnership, The community has the right to negotiate with decision-makers or the government. By mutual agreement, power is shared between the community

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<sup>20</sup> Satjipto Rahardjo, *Sosiologi Hukum: Perkembangan Metode Dan Pilihan Masalah* (Surakarta: Muhammadiyah University Press, 1998).h 114.

<sup>21</sup> Siti Hidayati, *Op Cit*,h. 234-235

- and the government. Therefore, an agreement is reached to share responsibility for planning, controlling decisions, formulating policies, and resolving problems.
- g. *Delegated Power*, At this level, the community is given the authority to make decisions on specific plans. To resolve problems, the government must negotiate with the community without pressure from above, allowing the community to have a degree of control over government decisions.
  - h. *Citizen Control*: The community can participate in and control the entire decision-making process. At this level, the community has the power to regulate programs or institutions related to its interests. The community has the authority and can negotiate with external parties seeking change. This collaborative citizen effort directly connects with funding sources to obtain assistance without going through third parties.

The eight ladders of citizen participation mentioned above, Sherry Arnstein further divides them into three categories: Non-Participation, Tokenism, and Citizen Power. The non-participation category means there is no public participation, and the government also eliminates all forms of public participation. This category consists of levels of participation, such as manipulation and therapy. The tokenism category means the government attempts to create a positive image in the community by opening up forms of public participation, but public input is ignored and continues to follow government plans. This category includes stages of participation such as informing, consultation, and placement. Meanwhile, in the citizen power category, the government prioritizes the role of the community in various matters. This category includes partnership, delegated power, and citizen power. Therefore, the concept of the levels of participation above can certainly be a benchmark to see the extent to which the government has involved the community in participating, especially in policy-making and the formation of laws.

## **B. Regulations on Meaningful Participation in Lawmaking in Indonesia and South Africa: Regulations on Meaningful Participation in Lawmaking in Indonesia**

Constitutionally, public participation is guaranteed as a constitutional right based on Article 27 paragraph (1) and Article 28C paragraph (2) of the 1945 Constitution, which provides opportunities for citizens to participate in government and build society, nation, and state. If the formation of laws is carried out through processes and mechanisms that actually close or distance the involvement of public participation to participate in discussing and debating their contents, then it can be said that the formation of these laws violates the principle of people's sovereignty. Therefore, in addition to using formal legal rules in the form of statutory regulations, public participation needs to be carried out in a meaningful way (Meaningful Participation) so that genuine public participation and involvement are created/realized.<sup>22</sup>

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<sup>22</sup> Henny Andriani, "Partisipasi Bermakna Sebagai Wujud Asas Keterbukaan Dalam Pembentukan Undang-Undang," *UUNES Journal Of Swara Justisia* 7, no. 1 (2023), h, 312.

Since the enactment of Constitutional Court Decision Number 91/PUU-XVIII/2020, specifically as outlined in its legal considerations, it has explicitly called for expanding the right to public participation in the formation of legislation. In principle, the Constitutional Court decision emphasizes that public participation in the formation of laws must be meaningful. Meaningful participation has three essential prerequisites: first, the right to be heard; second, the right to be considered; and third, the right to receive an explanation or response to opinions expressed (the right to be explained).

The *a quo* decision represents a significant change in the regulation of meaningful public participation. Law No. 12 of 2011 stipulates that public participation is regulated by Article 96, which consists of four paragraphs. However, following the Constitutional Court's ruling, to accommodate the concept of Meaningful Participation outlined in its deliberations, Law No. 13 of 2022 concerning the Second Amendment to Law No. 12 of 2011 concerning the Formation of Legislation was enacted. In this law, the provisions regarding public participation remain contained in Article 96, but with the addition of nine additional paragraphs. This demonstrates the critical urgency of the principle of Meaningful Participation in the formation of legislation.

Normatively, comprehensive provisions relating to meaningful participation are stipulated in Article 96 of Law No. 13 of 2022 concerning the Formation of Legislation, as follows:

1. The public has the right to provide input verbally and/or in writing at every stage of the Drafting of Legislation.
2. Public input as referred to in paragraph (1) shall be provided online and/or offline.
3. The public, as referred to in paragraph (1), shall be individuals or groups directly impacted and/or have an interest in the content of the Draft Legislation.
4. To facilitate the public's input as referred to in paragraph (1), each Academic Paper and/or Draft Legislation shall be easily accessible to the public.
5. In exercising the rights referred to in paragraph (1), the drafters of Legislation shall inform the public about the Drafting of Legislation.
6. To fulfill the rights referred to in paragraph (1), the drafters of Legislation may conduct public consultation activities through: a. public hearings; b. working visits; c. seminars, workshops, discussions; and/or d. other public consultation activities.
7. The results of the public consultation activities as referred to in paragraph (6) shall be used as consideration in the planning, preparation, and discussion of Draft Legislation.
8. The Legislative Regulation Maker may explain to the public the results of the discussion of public input as referred to in paragraph (1).
9. Further provisions regarding public participation as referred to in paragraphs (1) through (8) shall be regulated in DPR Regulations, DPD Regulations, and Presidential Regulations.

The above provisions indicate that in the formation of laws, public participation is a crucial and guaranteed aspect of the constitution. These legal provisions should serve as a foundation for lawmakers to accommodate public aspirations and create quality legal products that meet the needs of the people. This aligns with Zainal Arifin Mochtar's assertion that the essence of legislation is participation, not merely a formality. Therefore, it is crucial to make meaningful participation a fundamental principle in legislation.<sup>23</sup>

### C. Public Participation in Lawmaking in South Africa

The 1996 South African Constitution marked the beginning of South Africa's governance, based on the principles of accountability, transparency, and openness. Some sections of the Constitution directly address public participation, while others indirectly support public interaction with the government.<sup>24</sup> Legislative power in South Africa is held by the National Assembly and the National Council of Provinces. A bill can only be introduced into Parliament by a Minister, Deputy Minister, Parliamentary Committee, or Member of Parliament. However, the majority of bills are proposed by the executive branch.<sup>25</sup>

The National Assembly is responsible for electing the President, providing a national forum for public consultation on issues, enacting laws, overseeing executive actions, and amending the Constitution. Furthermore, the National Council of Provinces is responsible for drafting bills, which participates in the national legislative process and provides a national forum for public consultation on issues affecting the provinces.

The drafting of laws is regulated by Articles 73-82 of the 1996 Constitution. Generally, bills proposed by the executive branch must first be approved by the cabinet before being submitted to the House of Representatives. Bills proposed by individual members of Parliament are referred to as special member bills. Before becoming law, a bill must be debated by both parties in Parliament. Certain bills affecting provincial areas must first be presented to the National Council of Provinces. Other bills are first presented to the National Assembly. Once discussed, they are referred to the relevant committee.<sup>26</sup>

Bills are then published in the Government Gazette for public comment unless the bill is urgent. Once the bill's content has been decided, a committee meets in Parliament to further discuss it and vote. The bill can be withdrawn from the committee for review before a vote is held. The bill is then submitted to the National Council of Provinces for input or consideration. If the bill is approved by both the

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<sup>23</sup> Zainal Arifin Mochtar, *Politik Hukum Pembentuk Undang-Undang* (Yogyakarta: EA Books, 2022).h 176

<sup>24</sup> Saifudin, *Partisipasi Publik Dalam Pembentukan Peraturan Perundang-Undangan* (Yogyakarta: FH UII Press, 2009). h 114

<sup>25</sup> Fahmi Ramadhan Firdaus, *Loc.Cit*, h. 213

<sup>26</sup> Siti Hiidayati, *Loc.Cit*, h 231.

National Assembly and the National Council of Provinces, it is submitted to the President for ratification.<sup>27</sup>

Public participation is regulated in the 1996 South African Constitution. Sections directly related to public participation in the formation of laws include a bill of rights, public participation in the legislature, institutions supporting democracy, and parliamentary committees. Since the advent of democracy in 1994, all citizens have been able to participate in what happens in Parliament. Article 59 of the 1996 South African Constitution states that Parliament must facilitate public involvement in the legislative process and other processes in the National Assembly and the National Council of Provinces.<sup>28</sup>

Public participation in the formation of laws in South Africa is guaranteed and protected, and even laws passed without participation are automatically considered null and void. One example is when the Veterinary Medical Association successfully removed the word “veterinarian” from the revised Medicine and Related Substances Act due to a lack of consultation regarding the material revisions that would negatively impact the entire profession. The problem began when Parliament passed the Medicine and Related Substances Act, which included a requirement that veterinarians be licensed to dispense and distribute medicines. The addition of the provisions was introduced after the revised draft law had been published twice in the Government Gazette for input. Parliament was deemed to have failed to notify the Veterinary Medical Association and similar organizations, thus preventing maximum participation, even though the profession could have been identified as potentially affected.<sup>29</sup> So from the above, it can be seen that South Africa places a very important role on community involvement in the legislative process and cannot be ignored.

#### **D. Meaningful Participation in Relation to the Ladders of citizen Participation in The Formation of Laws in Indonesia**

Indonesia is a democratic country, meaning that supreme power rests with the people. A democratic country consistently upholds the principle of openness and transparency. As stated in the constitution, before the government enacts a law, numerous steps are taken, particularly in providing space for the public to learn about, understand, provide input, and even criticize the law. The government must, in principle, prioritize public participation to ensure a clear legal policy direction for the law, one of which is clearly providing benefits to the people. However, not all democratic countries adhere to democratic principles.<sup>30</sup>

Meaningful participation is not merely a tool for strengthening legitimacy, but also a mechanism for social control over state authority in an effort to create inclusive and equitable policies. Public participation not only provides a space for

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<sup>27</sup> Ibid

<sup>28</sup> Fahmi Ramadhan Firdaus, *Op.Cit.* 214

<sup>29</sup> Ibid

<sup>30</sup> Ranny Apriani Nusa and Firda Annisa, “Analisis Konsep Arnstein ‘ s Ladder of Citizen Participation Dalam Mega Proyek Ibu Kota Nusantara” 3, no. 3 (2025): 5048–5057.

citizens to express their opinions but also enables dialogue between the government and the public in formulating effective policies. Furthermore, meaningful public participation can improve policy quality by providing diverse input and enriching the perspectives of policymakers.<sup>31</sup>

Jimly Asshidiqie<sup>32</sup> Argues that, in essence, all parties, both within and outside the state structure, can initiate the idea of forming legislation. In the context of the Indonesian state, in addition to the authority to form laws resting with the President, the authority to form laws also rests with the House of Representatives (DPR). In fact, under the provisions of Law No. 13 of 2022 in conjunction with Law No. 12 of 2011 concerning the Formation of Legislation, the DPR, through its supporting bodies currently drafting laws, typically conducts activities to obtain input from the public in the form of Public Hearings (RDPU), seminars, similar activities, and visits. The most frequently used method of gathering aspirations is visiting regions or local governments, DPRD's, and universities. The formation of laws is considered aspirational if the process takes into account public aspirations.

The DPR's authority to create legal products in the form of laws is also clearly stipulated in the constitution. This means that, consciously or not, the DPR institution in the Indonesian state system represents the people through their participation in every policy-making process. From a democratic perspective, the Parliament, consisting of the DPR and the DPD, embodies representative democracy. Theoretically, the DPR embodies a system of political representation, while the DPD embodies a system of territorial or regional representation.

Based on the above provisions, the DPR constitutionally has authority in the legislative process. This means that the DPR, as the representative of the people in the national legislative process, must be able to optimally capture the aspirations of the people. Although some legal products tend not to reflect public participation, in principle, in a representative democracy, the House of Representatives (DPR), as the institution that represents the people, is consciously or unconsciously involved in government decision-making.

If we relate this to the ladders of citizen participation outlined by Sherry Arnstein, with the DPR as a representative institution, then the level of public participation in Indonesia essentially falls within the realm of delegated power. At this level, the public is given the authority to make decisions on specific plans. To resolve problems, the government must negotiate with the public, without resorting to pressure from above, allowing the public to have a degree of control over government decisions.

Therefore, in the formulation of laws in Indonesia, public participation is essentially placed at the level of delegated power. The existence of the House of Representatives (DPR) as representatives of the Indonesian people reflects that the Indonesian governance system has provided substantial public participation. However, a frequent issue is that the DPR, as the people's representative, should

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<sup>31</sup> Hermawan Prasojo, *Loc.Cit*, h.672-673

<sup>32</sup> Jimly Assiddiqie, *Perkembangan Dan Konsolidasi Lembaga Negara Pasca Reformasi* (Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi RI, 2005).h 315.

prioritize the interests of the wider community. In principle, the DPR is directly elected by the people, which implies that it must be able to capture the aspirations and needs of the wider community.

### III. CONCLUSION

Public participation in the legislative process is a fundamental aspect that must be considered. Good laws involve the public in their formation. Sherry Arnstein in her concept In the legislative process, public participation has eight levels: 1) Manipulation, 2) Therapy, 3) Informing, 4) Consultation, 5) Placation, 6) Partnership, 7) Delegated Power, 8) Citizen Control. These levels can serve as benchmarks to determine the extent to which the government provides space for public participation in the legislative process.

Indonesia and South Africa also require public participation in their legislative processes. Furthermore, regulations regarding public participation in the legislative process are also strictly regulated. In the Indonesian context, Article 96 of Law No. 13 of 2022, in conjunction with Law No. 12 of 2011, provides comprehensive regulations regarding public participation. Meanwhile, in South Africa, the legislative process provides space for the public to assess draft laws. This is also stipulated in the South African constitution, which mandates that Parliament must provide space for public participation in the legislative process.

Public participation in Indonesia is meaningful. In terms of level of participation, Indonesia essentially operates at the delegated power level. The House of Representatives (DPR), as the people's representatives, has received power delegated by the people through general elections; therefore, the people's interests are represented by the DPR. Therefore, all policies jointly decided by the DPR indirectly reflect public participation.

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