

THE PUBLIC'S RIGHT TO PARTICIPATE IN REGIONAL LAWMAKING: LESSONS FROM INDONESIA'S DECENTRALIZED GOVERNANCE

Rozi Beni*, Akmal Malik

Directorate General of Regional Autonomy, Ministry of Home Affairs of the
Republic of Indonesia
* rozibeni@gmail.com

Abstract

This paper examines public participation in regional legislation within Indonesia's decentralization framework, focusing on regulatory provisions, practical challenges, and strategies to enhance citizen engagement. While the 1945 Constitution and supporting laws, including Law No. 23 of 2014 on Regional Government and Law No. 12 of 2011 on Lawmaking, formally guarantee public involvement, implementation remains uneven. Structural and institutional barriers, limited legal literacy, transparency deficits, and elite-dominated practices often restrict meaningful engagement, resulting in a gap between normative provisions and practical realities. To address these challenges, the study highlights a range of strategies, including regulatory refinement to institutionalize accountability, capacity-building within regional legislatures and executives, utilization of digital platforms to broaden access, and civic education initiatives to empower citizens. Embedding participatory monitoring mechanisms throughout the legislative process is also essential to ensure sustained and substantive engagement. The findings underscore that effective public participation is not merely a procedural formality but a democratic imperative. Enhancing citizen involvement strengthens the legitimacy of regional legislation, reinforces accountability, and aligns Indonesia's decentralization system with principles of inclusivity, transparency, and responsive governance.

Keywords: Public Participation, Regional Legislation, Regional Autonomy, Democratic Governance.

I. INTRODUCTION

A. Background

The exercise of power by the sovereign people (i.e., society) in a democratic state is not only possible through elections every 4 or 5 years.¹ Within a democratic and decentralized state governed by the rule of law, public participation becomes a fundamental principle in the lawmaking process. The voice of the people and public participation must not be sought or valued only during general elections or regional elections (*Pilkada*), but must also be recognized and upheld in the post-election

¹ Kilberg, A. G. I, "We The People: The Original Meaning Of Popular Sovereignty", *Va. Law Rev.* 5, 1061-1109, 2014.



period—particularly in the formulation of public interests during the law-making process. Unfortunately, meaningful public participation often remains merely a rhetorical ideal. The sovereignty of the people frequently encounters barriers that prevent it from being genuinely expressed in the process of formulating legal instruments.

Recently, the public witnessed widespread demonstrations in response to the increase in land and building taxes across several regions in Indonesia, including Pati, Jombang, Banyuwangi, Cirebon, and Bone.² This controversy was further exacerbated by the reactions of local officials, which were perceived as counterproductive and insensitive to the economic burdens and concerns of the affected citizens. In this context, although, from a normative perspective, such a tax increase may be legally permissible, the widespread public opposition clearly highlights a disconnect between local policymakers and the citizens affected by the regulation, reflecting a gap in both understanding and alignment of interests. Despite the legal provisions mandating public participation, meaningful engagement of citizens appears to have been insufficiently implemented in the formulation of regional legal instruments, particularly regarding the recent increase in land and building taxes. This situation underscores the democratic and procedural challenges in local governance, emphasizing the need for more inclusive and structured mechanisms to ensure that citizen engagement is substantive rather than merely formalistic.

Within the framework of regional autonomy, public participation in the formulation of regional regulations is essential to ensure that local governance is carried out democratically, reflecting the ideas, interests, and aspirations of the local community.³ Law No. 23 of 2014 on Regional Government explicitly dedicates a separate chapter to the regulation of public participation. This is further regulated in Government Regulation No. 45 of 2017 on Public Participation, which provides detailed provisions on how public participation should be implemented in the formulation of regional regulations and local policies. These legal provision highlights that, within Indonesia's regional autonomy framework, public participation is not merely a consultative process but constitutes a fundamental mechanism through which citizens can actively influence decision-making processes within local government institutions.

Public participation has become a central element of democratic governance, particularly in the development of legal frameworks that directly affect society. In many countries, meaningful involvement of citizens in law-making processes is considered essential for ensuring legitimacy, accountability, and effectiveness of legislation. Indonesia, as one of the largest democracies in the world, has formally embraced this principle by integrating participatory mechanisms into its legal and

² Ilham Oktafian (jakartaglobe.id, August 26, 2025), "Gov't Orders Regional Leaders to Scrap Soaring Property Tax Hikes After Protests". Retrieved September 9, 2025 from [<https://jakartaglobe.id/news/govt-orders-regional-leaders-to-scrap-soaring-property-tax-hikes-after-protests>]; and Darul Amri (bbc.com, August 15, 2025), "Pajak Bumi dan Bangunan naik drastis, aksi protes merembet ke sejumlah daerah". Retrieved September 9, 2025 from [<https://www.bbc.com/indonesia/articles/cjr10j5j70qo>].

³ Article 1 (34) of Law No. 23 of 2014 defines *public participation* as the active involvement of citizens in articulating their aspirations, ideas, and interests in the administration of regional governance.

political systems. The enactment of regional autonomy has further strengthened this commitment by granting local governments significant authority to formulate regional legislation (*peraturan daerah*), which, in principle, should be shaped through public engagement.

Despite the strong normative basis, the practice of public participation in regional legislation often demonstrates significant limitations. While regulations formally mandate inclusivity, transparency, and consultation, the reality frequently shows participation that is fragmented, symbolic, or merely procedural. Limited access to information, bureaucratic rigidity, and low levels of civic awareness continue to hinder substantive involvement. This gap between theory and practice raises critical questions regarding the effectiveness of Indonesia's decentralization framework in promoting democratic participation.

This paper seeks to examine the challenges of public participation in regional legislation within the framework of Indonesia's regional autonomy. It aims to analyze the legal foundations, institutional mechanisms, and practical barriers that shape participatory processes at the regional level. By addressing these dimensions, the study highlights the need for reforms that transform public participation from a formal requirement into a meaningful democratic practice capable of enhancing the legitimacy and responsiveness of regional regulations.

B. Research Question

Based on the foregoing background of the problem, the research questions to be addressed in this paper are as follows:

1. How is public participation in regional legislation regulated within Indonesia's regional autonomy framework?
2. What challenges hinder meaningful public participation in regional legislative processes?
3. What strategies can be proposed to strengthen public participation in regional legislation under Indonesia's decentralization system?.

C. Research Method

A normative legal research method was applied to analyze the regulatory framework of public participation in regional legislation under Indonesia's regional autonomy system. Primary legal materials, namely the 1945 Constitution, Law No. 23 of 2014 on Regional Government, Law No. 12 of 2011 on Lawmaking (as amended), and relevant regional bylaws, were systematically examined. These were complemented by secondary sources, including scholarly literature and institutional reports, to strengthen the interpretation of statutory provisions. The materials were analyzed through a qualitative legal approach, whereby the consistency, limitations, and normative implications of the existing framework were identified to address the research questions.

II. DISCUSSION

A. Public Participation in Regional Legislation under Indonesia's Regional Autonomy Framework

The establishment of regional legal instruments represents a constitutional right conferred upon regional governments in the exercise of their autonomy. This mandate is expressly articulated in the Indonesian Constitution, which grants regional authorities the competence to promulgate regional regulations and other normative acts as instruments for the implementation of regional autonomy and the execution of co-administrative functions.⁴ From the perspective of regional autonomy as implemented within the unitary state system, "the local/regional (government)" holds the authority to regulate and administer governmental affairs and public interests on its own initiative, within the framework of the Unitary State of the Republic of Indonesia.⁵ Accordingly, the formulation of regional legal instruments, which serve as legal means for executing governmental functions, must be grounded in the aspirations and interests of the regional community. Normatively, such *public participation* is recognized and defined as the involvement of citizens in conveying (1) their aspirations, (2) their views, and (3) their interests in the administration of regional governance.

Within the constitutional framework, the implementation of regional autonomy and co-administrative functions delegated to regional governments, as stipulated in Article 18 paragraph (6) of the 1945 Constitution of the Republic of Indonesia, must be harmonized with the policies of the President as the holder of executive power under Article 4 paragraph (1) of the same Constitution. This implies that the formulation of regional legal instruments must align with the policies and statutory regulations established by the Central Government. Consequently, the meaningful presence of public participation is required not only in the formulation of regional legal instruments but also in the law-making process at the national level.

Meanwhile, Czapanskiy and Manjoo contend that, "public involvement in lawmaking creates public ownership and reduces the risk of authoritarian or biased regulation".⁶ In the Indonesian context, the adoption of decentralization policies embodied in the principle of regional autonomy represents a deliberate choice by the framers of the Constitution and legislators to prevent the concentration of power and the emergence of an authoritarian central government. Regional autonomy thus functions as a governmental instrument to promote self-reliance and to broaden

⁴ The 1945 Constitution of the Republic of Indonesia (Constitution of the Republic of Indonesia 1945), Article 18, Paragraph (6).

⁵ Law on Regional Government, Law Number 23 of 2014, State Gazette of 2014 No. 244, Supplement to State Gazette No. 5587, hereinafter referred to as Law 23/2014, Article 1, Point 12, stipulates that 'an Autonomous Region,' hereinafter referred to as 'Region,' is a legal community unit with defined territorial boundaries that has the authority to regulate and manage governmental affairs and local public interests on its own initiative, based on the aspirations of the community, within the framework of the Unitary State of the Republic of Indonesia

⁶ Karen Czapanskiy and Arashida Manjoo, "The Right of Public Participation in the Law-Making Process and the Role of the Legislature in the Promotion of this Right", *Duke Journal of Comparative & International Law* [Vol 19:1, October 20208.

channels of public participation within Indonesia's inherently diverse regional communities.

Amid the extensive implementation of governmental affairs and national strategic policies following Indonesia's recent leadership transition, the realization of public participation in the formulation of legal instruments at both the national and regional levels faces significant challenges. From the perspective of the regional autonomy era, which emphasizes the strengthening of local democracy, public participation serves as a safeguard to ensure that the will and interests of regional communities are effectively conveyed amidst the dynamic and often dominant policy-making processes of governmental authorities..

The acts of public authority in the exercise of public power must always be traceable to the will of the people, and **must ensure** that the people can participate equally in the formation of the will of the public authorities. The "will of the people" can be derived from the will of the individual through the legal process in accordance with the constitutional order. This process of will formation presupposes that all individuals can **participate freely and equally**.⁷

At the statutory level, the guarantee mandating *meaningful public participation* – not merely a procedural formality – in the formulation of policies and regional legal instruments is expressly provided in Chapter XIV on "Public Participation" of the Law on Regional Governance. This provision underscores the legislature's intent to institutionalize participatory governance as a substantive component of regional law-making processes.⁸ The statute stipulates that **regional governments** must take a proactive role in promoting public participation in the administration of regional governance. This obligation requires regional governments to:⁹

- 1) Disseminate information regarding the administration of regional governance to the public;
- 2) Encourage community groups and civil society organizations to actively participate in regional governance through capacity-building support;
- 3) Develop institutional frameworks and decision-making mechanisms that enable community groups and civil society organizations to participate effectively; and/or
- 4) Undertake other activities in accordance with the provisions of statutory regulations.

The statute requires that public participation not be treated merely as a formality or ceremonial procedure, but rather as an *effective* mechanism for genuinely capturing and integrating the aspirations and interests of the people in pursuit of their welfare.¹⁰ Public participation in the administration of regional governance encompasses the following aspects¹¹

- 1) The formulation of regional regulations and policies that govern or impose obligations upon the public;

⁷ Dieleman, S., "Epistemic Justice and Democratic Legitimacy", *Hypatia* 4:796, 205, 2015.

⁸ Law No. 23 of 2014.

⁹ Law No. 23 of 2014, Article 354, paragraph (2)..

¹⁰ Explanation of Article 354, paragraph (2), letter c of Law No. 23 of 2014.

¹¹ Law No. 23 of 2014, Article 354, paragraph (3).

- 2) The planning, budgeting, implementation, monitoring, and evaluation of regional development;
- 3) The management of regional assets and/or natural resources; and
- 4) The delivery of public services.

Under the provisions of the **Law on Regional Governance**, public participation in the formulation of regional legal instruments – such as regional regulations (*Perda*) and regional policies – constitutes one of the key dimensions of community involvement in the administration of regional governance. Such participation is not limited to the process of drafting and adopting regional regulations or policies, but must also extend to their implementation.

The forms of public participation in the administration of regional governance are carried out through the following means:¹²

1. Public consultation;
2. Deliberation;
3. Partnership;
4. Submission of aspirations;
5. Supervision or oversight; and/or
6. Other forms of involvement in accordance with the provisions of statutory regulations.

Further provisions regarding public participation are regulated under Government Regulation No. 45 of 2017.¹³

The Government Regulation reaffirms that the public has the right to participate in the drafting of Regional Regulations (*Perda*) and regional policies in the form of Head of Regional Regulations (*Perkada*) that govern and impose obligations upon the public, which include:

- a. Spatial planning;
- b. Regional taxation;
- c. Regional levies (retributions);
- d. Regional development planning and budgeting;
- e. Licensing and permits;
- f. Regulations that impose sanctions on the public; and
- g. Other regulatory matters that have social impacts.

Public participation may be carried out through the following mechanisms:

- a. Public consultation;
- b. Submission of aspirations;
- c. Public hearings;
- d. Working visits;

¹² Law No. 23 of 2014, Article 354, paragraph (4).

¹³ Government Regulation on Public Participation in the Implementation of Regional Government, Government Regulation Number 45 of 2017, State Gazette of 2017 No. 225, Supplement to State Gazette No. 6133 (“PP 45/2017”).

- e. Public dissemination or outreach activities; and/or
- f. Seminars, workshops, and/or discussions

Given the series of legal foundations outlined above, there is, in principle, no justification for regional regulatory bodies to refrain from fully opening avenues for public participation in both the formulation and implementation of regional legal instruments. Accordingly, if such participation is ensured from the planning stage through to the enactment of the regulation, public resistance or rejection of regional legal products should no longer occur.

Public participation in regional legislation in Indonesia is formally regulated through a multilayered legal framework that reflects the principles of decentralization and democratic governance. At the constitutional level, the 1945 Constitution affirms popular sovereignty and mandates that citizens must be involved in governance processes. This normative foundation is operationalized through Law No. 23 of 2014 on Regional Government *jo.* and Law No. 12 of 2011 on the Establishment of Laws and Regulations, as amended by Law No. 13 of 2022. These laws explicitly provide the legal basis for public involvement in the formulation of regional regulations (“Perda”), requiring that community members, civil society organizations, and other stakeholders be given opportunities to submit opinions, attend hearings, and access draft regulations.

Procedurally, public participation is institutionalized through mechanisms such as public consultations, focus group discussions, and legislative hearings conducted both by regional government (“Pemda”) and regional parliaments (“DPRD”). These mechanisms are designed to ensure that draft regulations reflect local aspirations and are not solely the product of elite bargaining between regional executives and legislatures. Despite these normative provisions, implementation often remains uneven. In many regions, participatory practices are reduced to procedural formalities rather than substantive deliberation. Public input is frequently solicited but not systematically integrated into final legislative products, revealing a gap between legal guarantees and practical enforcement. This tension underscores the need for institutional strengthening to ensure that the participatory rights embedded in Indonesia’s decentralization framework translate into genuine democratic engagement at the regional level.

B. Challenges to Meaningful Public Participation in Regional Legislation

Public participation in the administration of regional governance – including, among other aspects, in the formulation of regional legal instruments – serves an essential function. It provides a means for individuals and community groups to express their needs and interests, thereby ensuring that the regional policy-making process becomes more responsive to public aspirations. Moreover, public participation plays a vital role in fostering community awareness and support for the successful implementation of regional development.¹⁴ However, the formulation of regional legal instruments is often undertaken merely to fulfill *administrative*

¹⁴ Second Paragraph of the General Explanation of Government Regulation No. 45 of 2017.

accountability requirements—for instance, serving as a formal legal basis for the administrative justification of program or activity implementation. The lack of public participation seldom becomes an obstacle to the issuance of such regional regulations.

Although Indonesia's legal framework formally guarantees opportunities for citizen engagement in regional lawmaking, several challenges hinder the realization of meaningful participation. *First*, structural and institutional constraints persist within regional governance. Regional parliaments ("DPRD") and local executives often prioritize political negotiation and elite interests over inclusive deliberation, thereby limiting the space for ordinary citizens and marginalized groups to influence substantive policy outcomes. Moreover, public consultation forums are frequently organized merely to satisfy procedural requirements rather than to integrate societal perspectives into final legislation.

Second, limited public awareness and weak legal literacy present significant obstacles. Many citizens remain unaware of their participatory rights or lack the capacity to engage in technical discussions surrounding draft regulations. This problem is particularly acute in rural or peripheral regions where access to information is scarce and communication channels between government and community members remain underdeveloped. As a result, participation tends to be dominated by better-organized groups or those with closer ties to local elites.

In relation to enhancing public awareness and legal literacy to encourage participation in the formulation and implementation of regional laws and policies, **regional governments** are entrusted with the responsibility to strengthen community capacity through three main agenda activities, namely:¹⁵

- a. *Outreach and dissemination*, namely activities aimed at providing information and knowledge on economic, social, cultural, environmental, and other relevant aspects to community groups and/or civil society organizations concerning the administration of regional governance.
- b. *Education and training*, namely structured, systematic, and continuous learning activities for community groups and/or civil society organizations, encompassing the enhancement of knowledge and skills related to public participation in regional governance, as well as the transfer of science and technology to improve the quality of such participation.
- c. *Assistance and facilitation*, namely the provision of guidance, direction, and facilitation for community groups and/or civil society organizations to enable their active participation in the administration of regional governance.

Third, transparency deficits further weaken participatory practices. Although Regional Governance Law obliges governments to provide accessible legislative documents, draft regulations are not always disseminated widely or in user-friendly formats. The absence of effective digital platforms in many regions exacerbates this issue, leaving large segments of the population excluded from deliberative processes.

Finally, socio-political dynamics such as patronage politics, bureaucratic inertia, and uneven capacity among civil society organizations often compromise the quality

¹⁵ According to Article 18 and its Explanation of Government Regulation No. 45 of 2017.

of engagement. Instead of functioning as a democratic instrument, participation risks being co-opted into symbolic or instrumental exercises that merely legitimize predetermined policy choices. These challenges collectively reveal the gap between normative guarantees and the practice of participatory governance within Indonesia's decentralized legislative system.

If the formulation of regional legal instruments fails to guarantee meaningful public participation, several **juridical implications** may arise, including the following::

First, there is the potential violation of constitutional principles and procedural requirements in the law-making process, which may result in the annulment of a regional legal instrument. Pursuant to Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, every individual has the right to participate in governance. Moreover, Law No. 23 of 2014 in conjunction with Law No. 12 of 2011 on the Formulation of Laws and Regulations mandates public participation in the drafting of legislation, including regional regulations (Perda) and regulations of regional heads. In the absence of transparency and public participation, the law-making process becomes less legitimate and accountable, thereby eroding public trust in regional governments.

Second, the absence of meaningful participation creates the risk of producing discriminatory regional legal instruments or policies that may harm certain communities and exacerbate socio-economic inequalities.

Third, it may reduce the level of compliance and effectiveness of implementation. Regional regulations or policies formulated without community involvement tend to be poorly understood and less accepted by the public. Consequently, compliance levels decline, and the overall effectiveness of implementation becomes impaired.

Meanwhile, various studies have shown that the lack of public participation in the law-making process can lead to ineffective policies and a decline in public trust toward the government. Limited public involvement in regulatory formulation reduces the effectiveness and responsiveness of the resulting policies, as they often fail to reflect the actual needs, aspirations, and conditions of the community.¹⁶ Therefore, despite the remaining challenges, compliance with the public's right to be heard, considered, and informed in the process of lawmaking – both in the formulation of *hard law* and *soft law*¹⁷ – is crucial for achieving the legal ideals underlying the formation of regulatory instruments in the field of regional governance

Previously, under the Law on Regional Governance, the Central Government held the authority to annul regional legal products. If a regional regulation was found to be inconsistent with higher laws and regulations – including the failure to uphold the principles of transparency and public participation in its formulation – the Central

¹⁶ Fabrizio De Francesco, "The Enactment Of Public Participation In Rulemaking: A Comparative Analysis", *Swiss Political Science Review (SPSR)*, Volume 29, Issue 1, March 2023, p. 23

¹⁷ Peter Cane, 2011, *Administrative Law*, Clarendon Law Series, Fifth Edition, (Oxford University Press Inc., New York, 2011), p. 12. *Hard law*, or primary legislation, refers to statutory regulations enacted by the legislature or parliament. In contrast, *soft law*, also known as secondary legislation, consists of regulations issued by the executive (administrator) to implement hard law.

Government could revoke it. However, this authority was later annulled by the Constitutional Court Decisions No. 137/PUU-XIII/2015 and No. 56/PUU-XIV/2016, which invalidated the Central Government's power to cancel regional regulations (*Perda*). Similarly, the authority to revoke regional head regulations (*Perkada*), which was previously stipulated under the Law on Regional Governance, was also removed by the enactment of the Job Creation Law (*Omnibus Law*). Consequently, the Central Government no longer possesses the authority to annul regional legal products, whether in the form of *Perda* or *Perkada*.

In this context, the lack of meaningful public participation and the overreliance on the decisions made solely by the drafters often result in the neglect of community aspirations and interests. Consequently, many crucial aspects tend to be overlooked, assumed, or disregarded¹⁸ in the formulation of regional legal products, potentially generating adverse social impacts¹⁹ and weakening public compliance. Instead of providing solutions, such regional regulations may ultimately impose additional burdens on society.

C. Strategies to Strengthen Public Participation in Regional Legislation

In the administration of government within the framework of regional autonomy, meaningful public participation is not merely a normative alignment but serves as a fundamental pillar of respect for and recognition of local community autonomy and interests. Even in times of crisis, when regional decision-making and policymaking are at stake, public participation strengthens both legitimacy and legal certainty. This notion is affirmed by Kurunczi, "In crises or special legal orders, maintaining public consultation safeguards legal certainty and democratic legitimacy."²⁰

Public participation must be embedded within an effective and implementable system and procedure, rather than being merely ceremonial or symbolic. Designing effective participation mechanisms is urgent: without clear procedures, consultations risk being symbolic rather than substantive.²¹ Several studies have identified different levels within models of public participation. In *Arnstein's Ladder of Citizen Participation*, for instance, public involvement is categorized into three main levels, namely: (1) Non-Participation, (2) Tokenism, dan (3) Citizen Power.²²

¹⁸ Lawrence Friedman, *The Legal System: A Social Science Perspective*, translated as *Sistem Hukum: Perspektif Ilmu Sosial*, translated by M. Khozim, 7th edition (Bandung: Nusa Media, 2015), pp. 3–4.

¹⁹ Soerjono Soekanto, *Fundamentals of the Sociology of Law (Pokok-Pokok Sosiologi Hukum)*, 23rd edition (Jakarta: Rajawali Pers, PT. RajaGrafindo Persada, May 2014), p. 21.

²⁰ Gábor Kurunczi, "The Role Of Public Participation and Legal Certainty In Lawmaking In A Special Legal Order – With Particular Reference To Central European Practice", *Frontier, Political Science*, 7:1568066, 2025.

²¹ Luigi Bobbio, "Designing Effective Public Participation", *Policy and Society* 2019, Vol. 38, No. 1, 41–57.

²² Arnstein, S. R., "A Ladder of Citizen Participation", *Journal of the American Institute of Planners*, 35 (4), 216–224, 1969.

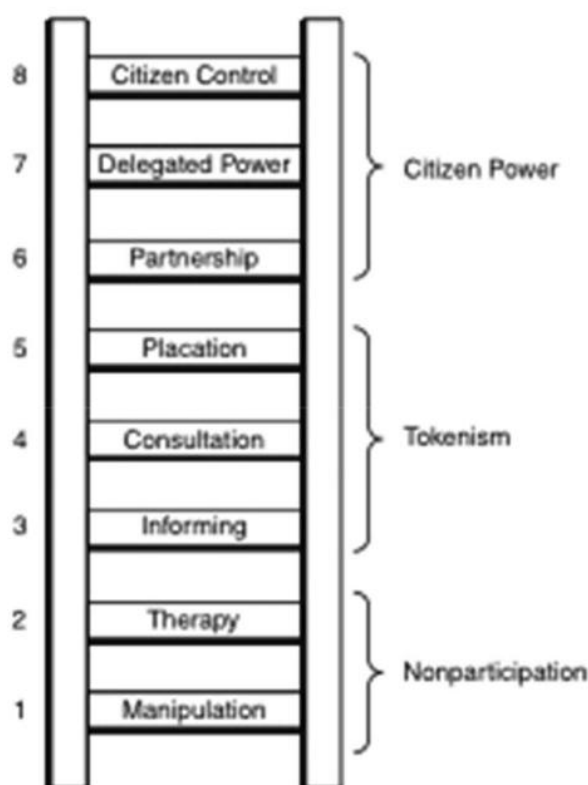


Figure 1. Arnstein's ladder of citizen participation

Meanwhile, Fung classifies public participation into three dimensions within his model of participatory governance. His third dimension, extent of authority and power, is similar to that employed by Arnstein. But the other two dimensions highlight further aspects: the degree of inclusivity and the intensity of communicative exchange among participants. What emerges is a three-dimensional space, the 'democracy cube', in which different arrangements – such as public hearings, deliberative polls, participatory budgets – are positioned. Fung menjelaskan:

I have argued that participation serves three particularly important democratic values: legitimacy, justice, and the effectiveness of public action. Furthermore, no single participatory design is suited to serving all three values simultaneously; particular designs are suited to specific objectives.²³

Addressing the persistent gap between formal guarantees and practical realities of public participation in Indonesia's regional legislation requires multidimensional strategies that combine: (1) legal, (2) institutional, and (3) societal approaches. *First*, at the **regulatory** level, clearer procedural standards are needed to ensure that consultations are not merely symbolic but substantively influence legislative outcomes. The regulation in question does not only refer to those enacted at the regional level, but more importantly, to those established at the national level. Within a unitary state system, national regulations are binding upon regional governments.

²³ Fung, A., "Varieties of Participation in Complex Governance", *Public Administration Review*, 66(1), 2006. p.74

In this context, it is relevant to refer to Hagopian's view, which emphasizes that in a unitary state there is no division or separation of sovereignty (*undivided sovereignty*). Consequently, national policies serve as the primary reference for regional policies. This means that regional legal instruments—such as regional regulations (*Perda*), head of region regulations (*Perkada*), or other local rules—must not contradict and are subordinate to national policies.

Furthermore, the relationship between national policies formulated by the central government and their implications for regional governance can be illustrated through the following diagram:²⁴

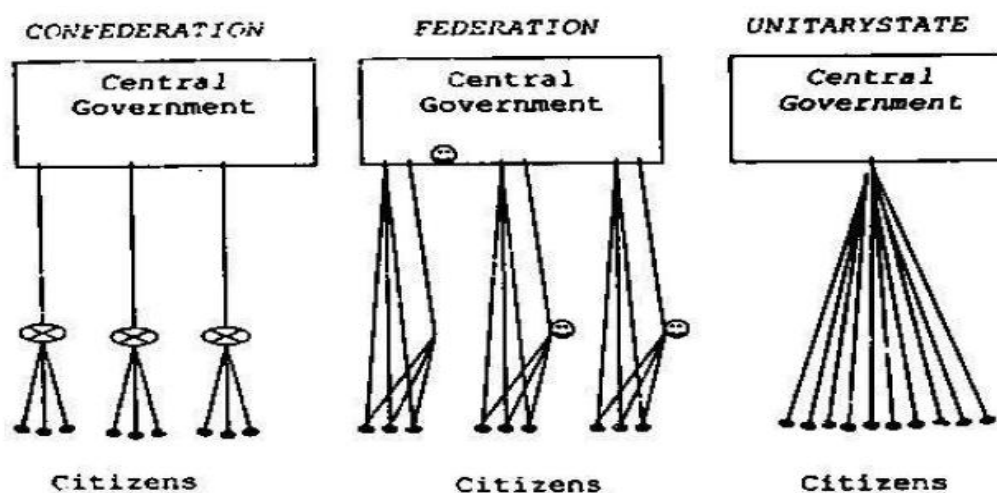


Figure 2 A Comparative Analysis of the Binding Force of Central Government Regulations on Citizens in Federal, Unitary, and Confederal States

Based on the diagram and table above, Hagopian distinguishes the characteristics of confederal, federal, and unitary states in terms of the binding force and applicability of central government regulations on citizens, as follows:

- 1) **In a confederal state**, citizens are not directly bound by regulations issued by the central government. Such regulations are directly binding only at the level of the constituent states (regional governments). Citizens have substantial influence over policy decisions made by their government, typically exercised through mechanisms such as referenda.
- 2) **In a federal state**, citizens are bound not only by regulations issued by the central government but also by regulations enacted by the governments of the constituent states (regional governments).
- 3) **In a unitary state**, all citizens are directly bound by regulations issued by the central government without exception. Moreover, regulations formulated by subordinate governments (regional authorities) must not contradict the regulations issued by the central government.

²⁴ Mark N. Hagopian, cited in Dwi Andayani Budi Setyowati, *The Existence of Regional Autonomy in the Unitary State of the Republic of Indonesia*, Doctoral Dissertation, Postgraduate Program, Faculty of Law, University of Indonesia, Jakarta, 2004, pp. 90, 111-112.

Therefore, the expansion of public participation must be institutionalized in the formulation of national regulations and policies to serve as a “model” for regional regulatory development. At the regional level, local government actors – namely the Regional House of Representatives (*DPRD*) and the regional executive (*Pemda*) – should be required to systematically document public inputs and provide written justifications when such inputs are not incorporated into the final draft, thereby enhancing accountability and transparency.

In the context of public participation in the formulation of regional legal instruments concerning budget planning and regional development, participating members of the public may be individuals or community representatives who meet the following criteria:²⁵

- a. Possess expertise or familiarity with the issues to be discussed;
- b. Have an academic or professional background relevant to the subject matter;
- c. Possess practical experience in the field under discussion; and/or
- d. Are directly affected by the substance of the issues being deliberated.

Second, institutional reforms are equally critical. Regional legislatures and executives must invest in capacity-building to facilitate inclusive deliberative processes, including training officials in participatory methods and allocating adequate resources for community outreach. The use of digital platforms – ranging from open legislative portals to mobile-based applications – can expand access to information and enable broader citizen involvement, particularly for communities that face geographical and logistical barriers. On the societal side, civic education and legal literacy programs are essential to empower citizens to participate meaningfully in legislative discussions. Collaboration between local governments, universities, and civil society organizations can foster knowledge-sharing and generate evidence-based policy inputs. Strengthening grassroots organizations and encouraging coalition-building among civil society actors can also help ensure that participation reflects diverse community interests rather than being dominated by elite groups.

Finally, embedding participatory monitoring and evaluation mechanisms throughout the legislative cycle can institutionalize accountability. By involving citizens not only in drafting but also in the implementation and review of regional regulations, public participation can evolve from a procedural formality into a continuous democratic practice. Such strategies, if effectively pursued, would not only enhance the legitimacy of regional legislation but also strengthen Indonesia’s decentralization system by aligning local governance with the principles of inclusivity and democratic responsiveness.

Based on the explanation above and by considering various statutory regulations, several efforts can be undertaken to enhance **public participation** in the formulation of **Regional Regulations (Perda)** and other regional policies, including:

First, Enhancing the Capacity of Regional Governments²⁶, his involves providing training and capacity-building for regional government officials to effectively facilitate public participation.

²⁵ Article 6 of Government Regulation No. 45 of 2017

²⁶ Article 18 of Government Regulation No. 45 of 2017.

Second, Utilization of Information Technology. Digital platforms should be leveraged to facilitate public access for providing input on draft regional regulations (*Perda*). This aligns with provisions in the Law on Regional Governance and the Government Regulation on Public Participation, which stipulate that the public must have access to information on regional governance, which may be provided through: (a) information systems, print/electronic media, and/or notice boards provided by the regional government; and/or (b) direct requests submitted to the regional government according to public needs.²⁷ To enhance public participation in the formulation of regional legal instruments, regional governments are required to:

1. Proactively disseminate regional legal products through information technology platforms; and
2. Develop an information system for the preparation of regional regulations (*Perda*) and regional head regulations (*Perkada*) in the form of online services, taking into account local conditions and readiness.

Furthermore, the Law on Regional Governance emphasizes that regional governments are obligated to provide information on regional administration, consisting of:

1. Regional development information; and
2. Regional financial information, both managed within a regional governance information system.²⁸

Third, Formulating an Inclusive Participation Mechanism. This involves designing participation mechanisms that ensure the involvement of all community groups, including marginalized populations.

Finally, Evaluation and Monitoring. Regional governments must conduct evaluation and monitoring of *Perda* implementation to ensure that policies are effective and align with community aspirations.

III. CONCLUSION

The analysis demonstrates that while Indonesia's legal framework under the decentralization system formally guarantees public participation in regional legislation, the effectiveness of such participation remains constrained by institutional, social, and procedural challenges. Normative provisions enshrined in the Constitution and supporting laws provide a solid foundation for participatory governance; however, their implementation frequently falls short of ensuring meaningful deliberation. Limited public awareness, weak legal literacy, transparency deficits, and the persistence of elite-dominated practices undermine the transformative potential of public involvement in legislative processes.

To bridge the gap between legal guarantees and empirical practice, comprehensive strategies are required. These include regulatory refinement to institutionalize accountability, capacity-building within regional legislatures and

²⁷ Article 17 of Government Regulation No. 45 of 2017.

²⁸ Article 391 of Law No. 23 of 2014.

executives, the deployment of digital platforms to broaden access, and civic education initiatives to enhance citizen empowerment. Equally important is the establishment of participatory monitoring mechanisms to ensure that engagement extends beyond drafting to encompass the entire legislative cycle.

Ultimately, strengthening public participation in regional lawmaking is not merely a procedural necessity but a democratic imperative. Effective participation enhances the legitimacy of regional regulations, reinforces the accountability of local governance, and aligns Indonesia's decentralization project with its constitutional commitment to democratic inclusion and responsive policymaking.

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