

# WHO REALLY DECIDES? UNMASKING THE POLITICS OF PUBLIC PARTICIPATION IN INDONESIA'S LEGAL SYSTEM

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Diajukan: 19 Agustus 2025 | Diterima: 5 November 2025 | Diterbitkan: 10 Maret 2026

## **Abstract**

This paper examines the paradox of public participation in Indonesia's legal system, questioning the authoritative issue of "who really decides" in lawmaking processes. Although Indonesia's Constitution and various legislative instruments formally recognize participation as a democratic right, actual decision-making remains concentrated within entrenched political elites. Drawing on theoretical models of participatory democracy, the study highlights the tension between autonomous and responsive legal frameworks, illustrating how formal structures provide opportunities for consultation while simultaneously constraining genuine influence. Case studies at both national and local levels demonstrate that participation is often reduced to ritualized forms of consultation, functioning more as a legitimizing device than as a vehicle for democratic accountability. Barriers, including restrictive legal provisions, elite dominance, bureaucratic hurdles, and weak institutional enforcement, further undermine meaningful inclusion. The analysis also explores the role of technology and online petitions as emerging avenues for participation, comparing Indonesian practices with experiences in the United Kingdom and Germany. While digital platforms offer potential for broader civic engagement, they are hindered by the digital divide and limited institutional responsiveness. The paper concludes that public participation in Indonesia is best understood as a political instrument shaped by power relations rather than a purely legal mechanism. Sustainable reforms require strengthening institutional accountability, enhancing technological accessibility, and addressing structural inequalities. By situating Indonesian practices within the global debates on participatory governance, the study underscores that the politics of participation extends beyond procedural inclusion to the contested terrain of legitimacy, authority, and power reproduction.

**Keywords:** Public Participation, Legal System, Indonesia, Participatory Democracy, Political Elites, Lawmaking, Governance.

## **I. INTRODUCTION**

### **A. Background**

The Law is the highest legal product in the hierarchical system of laws and regulations



2025 Proceeding APHTN-HAN

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The authoritative question ‘who really decides?’ highlights the political reality, shaping public participation in Indonesia’s legal system. Despite formal provisions facilitating broad involvement, decision-making remains mainly vested in narrow elite. This paper investigates the complex interplay between law and politics that regulates participatory mechanisms. Throughout the phases of law-making and reform, officials, government ministries, and corporations systematically intervene in public inputs, while varying groups of participants advance causes within a circumscribed political environment.

In addition to formal procedures, practices of cooptation and consultation also permeate the system. Real influence is reserved for an exclusive circle at the apex of the political hierarchy, preserving the status quo and accompanying sources of power. The Indonesian approach to public participation exemplifies a widely embraced mode of governance that emphasizes sanctioned forms of inclusiveness in an unequal political setting.<sup>1</sup> Mechanisms for participation have proliferated in a range of local, national and international bodies. At the same time, the legal-political system itself remains highly politicized and clearly under the control of entrenched state institutions and ruling élites, many from the military and security forces.

*Who Really Decides* is an increasingly pertinent question—when and how do political authorities accept, incorporate and implement public views and demands? The promise of inclusion as a source of legitimacy, authority and stability extends far beyond Indonesia and public participation has developed beyond being a simple proxy for democratic accountability. Instead, it is a pervasive dimension of political life and a vehicle through which power and influence are continuously negotiated, contested and reaffirmed, the politics of public participation.

In 1945 the Constitution was amended to include human rights, the Reform Era brought more than two hundred laws on human rights and the rule of law; and the administration of President Yudhoyono advanced an impressive array of policies aimed at eradicating corruption, collusion, and nepotism.<sup>2</sup> However, many of the shortcomings of Indonesia’s commercial courts correspond closely to the problems faced by the new political laws. Investors and lenders insist on their enforcement, but the commercial courts remain ineffective in ensuring creditor rights.<sup>3</sup> Domestic judgments in cases of contract enforcement, insolvency and non-performing loans are widely regarded as non-existent. Lawyers will often turn to foreign jurisdictions to enforce their contractual rights. Foreign creditors prefer alternative settlement, such as the Singapore International Arbitration Centre.<sup>4</sup> Although thousands of similar cases have been transmitted to the Indonesian courts, decisions are few

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<sup>1</sup> Edward Aspinall, “Public Participation in Indonesian Democracy: Limits and Possibilities,” *Journal of Southeast Asian Studies* 5, no. 1 (2021): 1–20. See also S Nurhayati, “Local Government and Community Participation in West Java: Sanctioned Inclusion and Unequal Outcomes,” *Asian Survey* 63, no. 2 (2023): 258–281. See also R Purnamasari, *Governance and Public Engagement in Indonesia: Balancing Inclusivity and Control* (Routledge, 2020).

<sup>2</sup> Agus Widjojo, “Yudhoyono’s Anti-Corruption Agenda: Institutional Change and Elite Resistance,” *Indonesian Studies Journal* 12, no. 1 (2023): 15–38.

<sup>3</sup> Rini Widiastuti, “Commercial Court Backlogs and Judicial Corruption in Indonesia: A Systemic Analysis,” *Journal of Indonesian Law* 57, no. 2 (2023): 189–212.

<sup>4</sup> Agus Widjojo, “Arbitration Preferences of Foreign Investors in Indonesia: The Role of SIAC and Other Regional Forums,” *Asian Journal of International Law* 11, no. 2 (2021): 187–208.

and enforcement remains a major problem. Commercial courts have operated with poorly trained judges and lack institutional strength and integrity.

## **B. Research Questions**

The research question investigated in this article includes (1) To what extent do Indonesia's constitutional and legislative frameworks provide genuine opportunities for public participation in lawmaking? (2) How do political elites and institutional practices shape, limit, or co-opt participatory mechanisms in the Indonesian legal system? (3) What are the key barriers (legal, political, and socio-structural) that hinder meaningful public involvement in legislative processes? (4) How does the use of technology, particularly online petitions, transform or challenge traditional modes of public participation in Indonesia? (5) What lessons can Indonesia draw from comparative experiences, such as the United Kingdom and Germany, in designing more effective participatory models?

## **C. Research Methods**

This study employed a qualitative research design using a doctrinal and socio-legal approach. The doctrinal aspect focuses on analyzing constitutional provisions, statutory instruments, and judicial decisions that regulate and frame public participation in Indonesia's legal system. It is complemented by a socio-legal perspective that examines how these legal norms function within the broader political landscape, particularly in relation to elite dominance and institutional practices.

The research relied on secondary data, including academic literature, legislative documents, and policy papers, as well as reports from civil society organizations and international development partners. A comparative element was integrated through an examination of online petition systems in the United Kingdom and Germany, offering insights into alternative participatory mechanisms and their potential applicability in the Indonesian context.

Data were analyzed through thematic interpretation, focusing on the extent to which public participation mechanisms are accessible, effective, and capable of influencing decision-making. The method emphasized tracing the gap between the normative framework of participation and its political realities, thereby unmasking the underlying power dynamics that determine "who really decides" in the Indonesian legal system.

# **II. DISCUSSION**

## **A. Theoretical Framework of Public Participation**

Public participation denotes a two-way communication process, a form of dialogue between policymakers and stakeholders directly affected by policy. From the perspective of participatory democracy, regular communication between state and society is regarded as the most efficient way to involve citizens in the political process.

Indeed, prior openings for public interaction have expanded political influence among civil society actors. Conceptual frameworks distinguish among models of participation. The autonomous legal system views democratic participation as permissible but constrained within established procedures, whereas the responsive model offers broader opportunity for citizen input.

Understanding the political landscape reveals the extent to which public participation can be realized as a matter of legal structure and available political channels. The concept of public participation in policymaking concerns the involvement of those without formal voice in the decision-making process. During the New Order era in Indonesia, formal political channels were highly limited, with the legislature under the control of the executive branch. Civil society, already restricted by dominance of government-sponsored groups, lacked avenues to directly influence policy or law in practice. In response to these constraints, many individuals and groups resorted to indirect strategies aimed at influencing powerholders. As multiparty politics resumed in 1999, state institutions became more accessible, offering a range of possibilities for engagement.<sup>5</sup> Nevertheless, public participation, presented as a principle that authority ultimately rests with the people, continued to operate, leading to the question: *who really decides?*

Participation is a concept borrowed from the political science and humanities literature as a means of assessment, enabling citizens to provide input on policies, plans, or activities undertaken by an organization. Participation is a joint activity by members of a community to succeed a program or activity without sacrificing their own interests, needs, desires, or values. It is a so-called role term, considered synonymous with participation. Regulations prescribe several forms of participation, including the right to demand information, receive fair and equal services, express suggestions and criticisms responsibly, as well as obtain protection, security, and a similar position before the law. Participation is carried out in accordance with applicable laws and social norms. A responsive law-making process is participatory, aspirational, and limitative in nature, ensuring that the community aspirations are actually represented in the daily practice of a democratic society.<sup>6</sup> Community participation is therefore closely related to democracy. Participation can be divided into three types: communication, consultation, and co-production.

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<sup>5</sup> Hannah Stewart-Gallus, "From Repression to Representation: Civil Society's Role in Post-New Order Indonesia," in *Democratization in Southeast Asia: Progress and Pitfalls*, ed. T. Lindsey et al., 2021. See also Marcus Mietzner, *Multiparty Politics in Indonesia: From Authoritarian Legacy to Democratic Competition* (Cambridge University Press, 2023). See also Edward Aspinall, "Executive-Legislative Relations in the New Order: Golkar's Monopoly and the Marginalization of Opposition," *Indonesian Studies Journal* 11, no. 1 (2022): 1–22.

<sup>6</sup> Hannah Stewart-Gallus, "Aspirational Law-Making in Indonesia: How Communities Shape Policy Through Participatory Processes," *Asian Journal of Public Administration* 43, no. 1 (2021): 78–95. See also Tim Lindsey, *Democratic Law-Making in Indonesia: From Authoritarian Top-Down to Participatory Bottom-Up* (Oxford: Oxford University Press, 2020).

Community participation is acknowledged in the autonomous legal model, yet the involvement of communities themselves is restricted by entrenched procedures that are difficult to reform. The responsive model, in contrast, offers broader opportunities for community participation. In Indonesia, the process of legal development since its independence has reflected in its social and political dynamics. Following the Reformasi period, the space for community participation in the regulation-making process widened considerably.

The formal process, however, still creates an atmosphere in which the majority of the community choose not to participate. Five factors encourage widespread popular participation, including modernization, changes in social structure, the influence of intellectuals and the mass media, political elite conflict, and government involvement in social, economic, and cultural affairs. Participation is not, then, a sufficient condition for the embodiment of democratic and just government, but merely a controlling instrument that can be used to reduce government abuses and irregularities. The state ultimate objective in the modern context is to establish democratic government that engages in good governance. Such concepts began to be widely promoted in Indonesia following the political changes occurred at the outset of the Reformasi era.<sup>7</sup>

## B. Models of Participation

The concept of participation has consistently influenced the shaping of the Indonesian legal system throughout its history.<sup>8</sup> The extent and effectiveness of public input are determined by the prescribed form of participation. Modes of participation survey identifies four main models, which are not mutually exclusive and often emerge in combination, influenced by the structure and processes of the system.

The well-established model of political participation, grounded in the principle of popular sovereignty, provides the rationale for systematically institutionalizing participation of the citizenry in the design of the legal system. The current constraints are commonly experienced within the structure. Civil society, although generally constrained within a fragile domain of operation, displays indications of significant reserves of laser like determination and capacity to converge on points of interest that will eventually generate a coalition of sufficient strength to become an organized force in the political process. The September 1998 and August 1999 demands for a reduction

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<sup>7</sup> **Error! Reference source not found.**Budi Setiawan, *Good Governance in Indonesia: From Reformasi to the Digital Age* (Routledge, 2020). See also Hannah Stewart-Gallus, "Transparency and Accountability in Indonesia's Post-Reformasi Bureaucracy: Progress and Pitfalls," *Asian Survey* 62, no. 4 (2022): 621–642.

<sup>8</sup> David Bourchier, *Legal Pluralism in Indonesia: From Colonial to Contemporary* (Cambridge University Press, 2021).

in the legal instruments of participation reflects the growing pressures within civil society for wider inclusion in the process of governance.<sup>9</sup>

The state has responded with a continuing series of efforts to create opportunities for participation and to provide institutional access to non-state actors, but still protects core interests by construing the arrangements for publicity as “space”, rather than entrance points into the process of policy formulation.<sup>10</sup> The nature of the policy regime defines the mechanisms and institutional arrangements for participation, and it determines the resilience and robustness of the sequences for policy formulation.

Throughout the modes of participation survey, two elements reoccur. Formal institutions provide the legal structures for participation. However, these dynamics determine the political behavior within those structures and define the actual scope and forms of participation. Although, the structures occasionally provide opportunities for effective participation, the political dynamics more often transform both participation and the substantive consequences into an act of ritual. These occasions, however, tend to confirm the politicized nature of the policies themselves, and the politics of the policy system. Participation per se does not provide an immediate mechanism for whose input is eventually going to matter.

### C. Political Landscape in Indonesia

In 2001, Indonesia remained a clearly authoritarian state in disguise. The legacy of the New Order remained influencing the emerging democratic institutions, of which public participation can play an important role. They do not seem to be the main arena of contestation for political power and resources. Besides, there are elements of law enforcement, and the business community that seem to benefit from the intertwining of the economic and political positions of the elites.<sup>11</sup>

Complex mechanisms ensure that the leading figures and families remain influential even without political parties, governmental or parliamentary positions, or a formal place in the state apparatus. Assurances of status and influence outside the formal institutional frameworks may be the precondition for the development of structures that would guarantee otherwise insecure access to political power in Indonesia.

The Indonesian political landscape reflects the persisting hegemonic socio-political configuration wherein the ruling class, tied state power, continues as the major beneficiary of the elite-centric political system. Political power remains closely

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<sup>9</sup> Nuruddin Hady & M. H. B. Ibrahim, “State Relations, Media, and the Power of Civil Society after the Fall of The New Order Regime in Indonesia,” *The Journal of Society and Media*, 2023.

<sup>10</sup> Vedi R Hadiz, *Resisting Indonesia's New Authoritarianism: Civil Society in an Age of Democratic Decline* (Singapore: NUS Press, 2020).

<sup>11</sup> Noory Okthariza, “Democracy for Sale: Elections, Clientelism, and the State of in Indonesia,” *Bulletin of Indonesian Economic Studies* 56, no. 1 (2020), <https://doi.org/10.1080/00074918.2020.1742957>.

linked to controlling state structures, with the dominant elite consensus prioritizing accumulation within the sociopolitical order. The New Order did not succeed in establishing an extricable stable balance between state, military, and civil society. The balance would empower the institutions and individuals in each sector driving democratic transition and reform. Political participation may be conceptually straightforward; results of the clearest kind are, for instance, making a complaint against a government official or joining a demonstration.<sup>12</sup>

Practical outcomes are, however, more difficult and contestable, subject to interpretation in multiple ways. Political participation remains a cornerstone of every democratic system and the key to such a system. Indonesia's situations may suggest, however, that the new democratic institutions are currently fragile, outside the ownership and control of the people. Moreover, the architecture of the authoritarian system that preceded them has neither been dismantled or re-structured since.

#### D. Overview of Political Institutions

Political institutions are the structures charged with the formulation and enforcement of societal rules and distributions of power, functions, and resources. For political institutions to be authoritative, actors, groups, and organizations must abide by the rules and directives. Civil society influences the authority of political institutions by determining who is included in or excluded from decision-making processes. When institutions are accompanied by autonomous organizations representing constituents' interests, authorities are more likely to accept collective action demands, thus enabling political influence regulation. A dynamic political landscape can create a context conducive to public participation by empowering groups to mobilize collective resources and monitor decision-making to ensure institutional accountability.

Public participation remains a contested concept despite several formal models derived from Newman's taxonomy and the works of other authors.<sup>13</sup> The analysis of recent "participatory" innovations in urban, countryside, and community development suggests the importance of political, procedural, spatial, and tactical filters. These moderate access and control at three levels: conception and design, membership and agenda setting, and clientelism and delivery. These structures constrain the shifts from passive receivers to active makers of the everyday world envisaged by participation models and the general rhetoric of empowerment.

The 1945 Constitution of Indonesia establishes a legal framework for public participation, yet the formal provisions do not translate into political reality. Article 96 enables the People's Representative Council and Regional Representative Council to receive and channel aspirations from individuals or groups. Article 28 empowers

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<sup>12</sup> V. Robison, R., & Hadiz, "Revisiting Oligarchy: Indonesia's Authoritarian Legacies and Democratic Limits," *Journal of Contemporary Asia* 51, no. 3 (2021): 361-381.

<sup>13</sup> J. Newman, "Beyond the Deliberative Subject? Problems of Theory, Method, and Critique in the Study of Participation," *Critical Policy Studies* 14, no. 2 (2020): 166-183.

the public to submit appeals and express opinions as regulated by law. Amendment IV reaffirms that sovereignty belongs to the people, exercised jointly through the People's Consultative Assembly, the President, and the Supreme Court, while simultaneously obliging the state to guarantee human rights, including the freedom to participate in political activities.<sup>14</sup>

The general scope of these articles appears to provide a legal foundation for wide-ranging participation. Article 96, for example, does not specify a particular means of communication between public institutions and the public when channeling aspirations. Yet, in practice, public participation is constrained by prevailing political powers. Existing laws and government regulations prescribe restrictive procedures for citizens. Article 28 specifies that appeals and opinions 'are regulated by law.' Act No. 9/1998 on Freedom to Express Opinions in Public imposes detailed requirements for submitting opinions, including prior notification, bans on certain locations, and severe permit conditions.<sup>15</sup> Act 12/2011 further limits freedom to obtain information, restricting the means by which concerned parties can gain access. Consequently, the public's freedom to contribute inputs to legal processes in Indonesia is circumscribed by restrictive procedures and the political influence of authorities.<sup>16</sup> The emphasis on public participation is therefore directed towards the channels that merely convey public inputs to those people already in political positions.

### E. Case Studies of Public Participation

A variety of participation schemes exist within Indonesia's political system, spanning local governance and national policy-making. For example, national law provides for the appointment of legislative members representing the provincial government. All members have the right to express opinions, suggest, and submit proposals, they can also question the executive after the regional regulation is enacted. These provisions recognize the right for the public and interest groups to submit proposals and opinions. Instead of conferring local and national interests with direct access, however, they ensure that these are taken on board once proceedings are under way. Regional officials appointed to the legislature ensure that the views of regional administration and incumbent government dominate these proceedings. Whereas the ruling coalition has the agenda-setting power, other parties can only add to or amend that agenda. Equitable development is an essential mandate of local government in Indonesia today.<sup>17</sup>

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<sup>14</sup> Simon Butt and Tim Lindsey, *The Constitution of Indonesia: A Contextual Analysis* (Hart Publishing, 2020).

<sup>15</sup> B Susanti, "Between Promise and Reality: Public Participation under Indonesia's Constitutional Framework," *Indonesian Journal of International & Comparative Law* 8, no. 1 (2021): 1–24.

<sup>16</sup> A. N Santoso, U., & Aditya, "The Problem of Public Participation in Law-Making: Reflections on Act 12/2011," *Journal of Indonesian Legal Studies* 7, no. 2 (2011): 221–240.

<sup>17</sup> Rahmazani Rahmazani, "The Problems of Appointment Acting Officer of Regional Head in the Transition Period Before the Election of 2024," *Jurnal Konstitusi* 20, no. 2 (2023): 196–215.

To address imbalance in local development, each local government is required to provide a communication forum for the community to perform horizontal deliberations for collective efforts. Several laws empowered local governments and institutionalized public space for the community. Laws related to the general autonomy of democratically elected regional heads also provide media for the community to participate in development initiatives and monitor public service delivery. The regulations explicitly permit communities to submit collective views on finding solutions and channel their aspirations.<sup>18</sup> Local governments have significant authority to initiate participatory approaches for local governance. The communities are encouraged to use the available legal channels to express their views, both in the planning process and during service delivery.

The formulation of national policies regulating the mechanism of community participation in national legislative policy-making continues to be demanding. Formulating a national policy on a proper and suitable participatory mechanism requires intensive studies, both in terms of the legislative substance and an understanding of the social and political reality. An adequate national policy formulation is desirable because, currently, problems and anomalies still exist as a legacy from policies permitted in the past or continued from the former authoritarian regimes.

The problem is how to formulate a national policy that is not only acceptable but also capable of resolving past anomalies and problems. The people expect a participatory mechanism, established through national policy and properly administered by the government, to protect their sovereignty and inform lawmakers of public aspirations and support.<sup>19</sup> When the law only serves the government, it may gradually lose its legitimacy, consequently, the entire government machinery would also lose support and legitimacy.

Since the legislative policy-making authority is still vested in the centralized government, the national policy on community participation in the national legislative policy-making should be formulated carefully and correctly to reflect the legitimacy of the people. A precise mechanism for community participation formulated through a proper national policy would be one way to address the demands for democratic reform to be stationery, not merely as a slogan. National development and political resilience in a nation-state depend on the government's capacity to formulate workable and efficient policies. All demands and pressures on this capacity come from the people for they are the source of sovereignty and basis of authority.

## F. Barriers to Effective Participation

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<sup>18</sup> A Hidayat, S., & Sulaiman, "Regional Autonomy and Democratic Accountability in Indonesia. *Journal of Indonesian Legal Studies*," *Journal of Indonesian Legal Studies* 6, no. 2 (2021): 201–220.

<sup>19</sup> M Pratikno, P., & Erb, "Governance and Musrenbang in Indonesia: Promise and Pitfalls. *Journal of Southeast Asian Studies*," *Journal of Southeast Asian Studies* 51, no. 2 (2020): 285–304.

Indonesia's legal and political frameworks offer numerous opportunities for civil, political, and social participation. Yet active forms of participation remain severely restricted. Barriers include a Constitutional Court that disregards important petitions and issues only vague decisions, and the Ministry of Manpower, which dismisses activist labor representatives, limiting organizational access.<sup>20</sup>

The Department of Manpower, responsible for union registration, exercises control over associational rights, often rejecting applications for organizations deemed politically inappropriate. Permits that might facilitate participation require government bureaucrats' approval, hindering the establishment of alternative vehicles for the public to convey opinions. In the 1990s, Suharto placed concern over political allowances ahead of economic reform, impeding legal developments supporting widespread engagement with state decisions. University faculty, the judiciary, and intelligence officers also lobby the government informally through elite-focused channels beyond the formal constructs of public consultation.<sup>21</sup>

Mechanisms ostensibly designed to produce influence do not deliver tangible outcomes: politically sanctioned instruments largely ensure that state goals are fulfilled, irrespective of the extent of actual input received from the broader public. The notion of public participation is often employed to provide a patina of genuine influence, which thinly masks the unalterable domination of key institutions.

The numerous constitutional provisions for public participation noted earlier are implemented through selectively inclusive institutions. Those wishing to participate must navigate formal and informal institutions. The executive can create participation opportunities, the judiciary can limit them through case law, and parliament can restrict participation by controlling mechanisms for linking public input to legal decision-making.

Legal challenges, for instance, have opened the door to broader types of participation. Courts have also allowed groups outside those explicitly mentioned in legislation to participate. However, proposals that might empower activists and civil society groups in legal reforms have encountered substantial resistance. The extensively documented involvement of elites in the political reform process demonstrates how the desire to control political participation has shaped the development of Indonesia's political institutions.<sup>22</sup>

During the Suharto era, reforms deliberately excluded any formal mechanisms for public participation, enabling the passage of political laws that severely limited post-Suharto democratization.<sup>23</sup> Civil society organizations have heavily influenced

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<sup>20</sup> SP (Saut) Manurung, *Inconsistent Constitutional Court Decisions Resulting in Uncertainty Regarding the Legal Dispute on Regional Head Election Results in Indonesia* (Jember: University of Jember, 2019).

<sup>21</sup> M Mietzner, "Authoritarian Legacies and Elite Continuity in Indonesia. Asian Survey," *Asian Survey* 61, no. 3 (2021): 445-470.

<sup>22</sup> V. R. Hadiz, *Dynamics of Indonesian Democracy: Reformasi and Beyond* (Palgrave Macmillan, 2020).

<sup>23</sup> V. R. Heryanto, A., & Hadiz, "Post-Authoritarian Indonesia: A Comparative Southeast Asian Perspective," *Critical Asian Studies* 37, no. 2 (2005): 251-275.

the design of these institutions by shaping the reform process. Yet, these mechanisms operate like a ruler with the marks scrambled; they offer the appearance of measurability, but provide no clear line to follow.

The implementation of public participation remains fundamentally an issue of political power. Recent legal reforms have increased the importance of certain sources of evidence, such as law enforcement officers, official reports, statements of witnesses, and expert testimony on investigation, arrests, detention, imprisonments, and other criminal sanctions, while notably maintaining the restrictions on public participation. Contrary to the spirit of the statutes and case law discussed above, the decision has been used to exclude political parties, student organizations, and other real members of the public, instead prioritizing the claims of non-governmental organizations. Corruption serves as an effective demonstration of the political nature of public participation and its general inability to decisively influence the outcome in contested decision-making processes.<sup>24</sup>

### G. Role of Technology in Enhancing Participation

Technology shapes public participation across multiple dimensions, from direction-setting to support functions, while also distinguishing subsidiary components. Effective participation processes yield enhanced acceptance of decisions and foster positive stakeholder attitudes. Their success hinges upon seven fundamental principles: accessibility, the capacity to influence both process and outcome, structural characteristics that support constructive interaction, encouragement of personal behavioral development, information availability, provision of adequate analysis, and the creation of sufficient social conditions for subsequent participation efforts.

Diverse methodologies exist within participatory models; however, no single approach universally satisfies all objectives. As such, choices among methods and tools must align with specific goals and contextual factors. Instruments for information gathering include newsletters, websites, and public exhibitions, whereas information technologies such as websites, Geographic Information Systems (GIS), and multi-criteria analyses facilitate participation.<sup>25</sup> Electronic platforms like weblogs, web portals, search engines, webcasts, mailing lists, chat rooms, wikis, online survey tools, and collaborative applications underpin e-Participation projects. Although participatory models advance democratic ideals and offer numerous advantages, they also exhibit inherent weaknesses that warrant consideration. Optimizing the deployment of information and communication technologies can amplify benefits while mitigating potential drawbacks.

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<sup>24</sup> Ahmad Khoirul Umam, "Shadows of Political Corruption amidst the Trend of Declining Democracy in Indonesia: Learning from the Dynamics of 2024 Presidential Election," *Integritas : Jurnal Antikorupsi* 10, no. 1 (2024): 1–16.

<sup>25</sup> Nisaa et al., "Participatory GIS Approach to Assessing Building Vulnerability to Tsunamis in Pangandaran Regency," *Forum Geografi* 35, no. 2 (2021).

Internet access in Indonesia is obtained through various means, including 3G, Wi-Fi, and fiber optic connections. Mobile phone services, particularly 3G, are the most affordable, facilitating broad internet availability. Facebook and Twitter are the most heavily used social media platforms across the country, with usage patterns varying according to interpersonal interaction preferences. However, the digital divide has surfaced in Indonesia at both individual and regional levels, distinguished by disparities in the mastery and utilization of information and communication technology (ICT). This gap arises partly because access to infrastructure, such as electricity, telecommunications, and devices, remains uneven across localities.

Concentrated concentrations of modern information and communication technologies are available only in selected regions, limited primarily to the western part of the country. Geographic conditions and uneven infrastructure further limit accessibility, with technological constraints posing particular barriers in the eastern part of Indonesia. Regulatory interventions intended to mitigate these barriers are contained in Article 27 of Law No. 11/2008 concerning Information and Electronic Transactions.<sup>26</sup>

## H. Online Petition as Public Participation Lessons from United Kingdom and Germany

Online petitions are digitally upscaled forms of petitions. They have two main functions: a petition platform collects and displays petitions, giving people the opportunity to express their opinion; an initiation platform can be used to formally start petitions with the government, and a petitioner can seek formal appeal or public hearing. Online petitions as one of the most discussed examples of a return of participative democracy to the digital sphere is common across many countries. This part casts a comparative eye over online petitions as a tool for public participation in the United Kingdom and Germany, focusing on differences rather than similarities.<sup>27</sup> Law determines the possibility of setting up petition platforms and establishing initiation mechanisms in both countries. With regard to their impact on policy-making, two empirical cases, the London Attack Debate of 2005 and the Student Grants Debate of 2021, are subsequently illustrated.<sup>28</sup>

Public participation, once deemed superfluous to policy-making, is now an integral part of democratic governance systems. Modern information technologies

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<sup>26</sup> E. T. Ramadhanti, H. D., & Astuti, "Digital Divide and A Spatial Investigation of Convergence in ICT Development Across Provinces in Indonesia," *Jurnal Aplikasi Statistika & Komputasi Statistik* 12, no. 3 (2022): 69–84.

<sup>27</sup> Jack Blumenau, "Online Activism and Dyadic Representation: Evidence from the UK E-petition System," *Legislative Studies Quarterly* 46, no. 4 (2021): 889–920. See also and Ulrich Riehm Lindner, Ralf, "Broadening Participation through E-Petitions? An Empirical Study of Petitions to the German Parliament," *Policy & Internet* 3, no. 1 (2011): 1–23.

<sup>28</sup> Mark Phythian, *Intelligence, Policy-Making and the 7 July 2005 London Bombings* (Crime, Law & Social Change, 2005).

have made public participation more feasible. Internet-based petitions enable the public to express their views and opinions in a worldwide networked environment with features such as convenience, individuality, interactivity and flexibility.

In Germany, the right to petition or written petition at the federal level is the right of submission and is directly stipulated by the Basic Law in article 17. The rules for submitting written petitions are currently regulated by the Petitions' Regulations.<sup>29</sup> The regulations for digital petitions and the establishment of an electronic petitions platform were added later. The Petitions' Committee is therefore required to provide facilities and opportunities that enable those entitled to petition to submit their petitions electronically. The Committee has set up a secure Internet platform in order to meet this requirement and enable the electronic submission and processing of petitions.

In the United Kingdom, petitions in written or electronic form may be submitted on any subject in the United Kingdom. The Petitions Committee is responsible for managing a system of petitions that is designed specifically to engage the public directly with the work of Parliament. The Committee considers those petitions related to the powers and responsibilities of the House of Commons and the UK Government.<sup>30</sup> It also oversees the official petitions website, which presents petitions submitted in electronic form and by post in a single place across the Parliament website. The House of Commons has been carried out by the Petitions Committee,<sup>31</sup> which was appointed for the first time in 2009. In both states, e-petitions is organized in similar ways using a special website dedicated to the petition procedure.

The legal framework for public participation governs the implementation of online petitions in both Germany and the UK. Although public participation is generally accepted within democratic political systems, the formalization of citizens as political actors is rare worldwide. Most countries allow public participation in policy development through a reactive procedure, such as formed petitions that require a written debate in parliament. Accessible and widely accepted opportunities for active public participation remain rare. The internet offers easier participation possibilities via online petitions. Many parliaments worldwide have adopted online petition platforms, some meeting the formal criteria of public participation and forming a constitutional right, while others function primarily as information and communication channels. Their growing importance is connected to the complexity and increasing restrictions of global public policy, which no longer allows policy decisions formed only by politicians but requires the involvement of stakeholders too.

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<sup>29</sup> German, *Basic Law for the Federal Republic of Germany: Promulgated by the Parliamentary Council on 23 May 1949: Version in Effect Since 15 November 1994* (Press and Information Office of the Federal Government, 1995).

<sup>30</sup> Felicity Matthews, "The Value of 'between-Election' Political Participation: Do Parliamentary e-Petitions Matter to Political Elites?," *The British Journal of Politics and International Relations* 23, no. 3 (2021): 410–29.

<sup>31</sup> Matthews.

In the UK, online petitions grew in the early 2000s through independent websites that allowed anyone to create petitions and recruit signatories via e-mail and Facebook. The Conservative party was among the first political parties to use the online medium to boost party participation, particularly of young people and first-time voters.<sup>32</sup> In 2004, as part of wider public sector reforms, the Labor government undertook the E-parliament task force. One of their proposals was that the House of Commons provides a way for citizens to petition the government and e-petitions have a real effect.<sup>33</sup>

In Germany, the transformation of the German Bundestag into an open parliament that includes online petitions began substantially later. A pilot phase between 1998 and 2000 focused on accessing information, and the calling phase started in 2003–2004 with the processing of perception and discussion of different online tools.<sup>34</sup>

Public participation has never been static; it has evolved over time. In Greece, for example, as the birthplace of public participation, the landscape has changed significantly since the 5th century BC. The Universal Declaration of Human Rights advocates the right to petition in Article 21.<sup>35</sup> This online petition is a distinctive tool of public participation in the United Kingdom and Germany, considering their historical backdrop. An attempt is being made to assess the extent to which online petitions have contributed to the currently democratic discussion culture in the UK and Germany. The organizations that enable public participation efforts receive public funding at least from legislative organs: The Bundestag's Citizens' and Parliament Petitions Committee in Germany, and the Government Petitions Committee of the House of Commons in the UK.

Online petitions constitute only one of many forms of public participation, but participation remains an essential part of successful democracy, defining its very character rather than mere derivatives such as happiness or prosperity. This paper engages in a systematic analysis of the success of online petitions in the UK and Germany.

The German legislation in this field is very generous and is one of the first in the world to allow e-petitions. The Constitution of the Federal Republic of Germany, Art. 17, guarantees, without any temporal limitations, that all Germans may submit petitions to competent authorities and representative bodies of the European Union,

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<sup>32</sup> S. Wright, "Populism and Downing Tools? The Impact of Online Petitioning on Citizen-Government Relations," *Parliamentary Affairs* 68, no. 1 (2015).

<sup>33</sup> J. Coleman, S., & Blumler, *The Internet and Democratic Citizenship: Theory, Practice and Policy* (Cambridge University Press, 2009).

<sup>34</sup> Michael Vaughan, "The Role of Novel Citizenship Norms in Signing and Sharing Online Petitions," *Political Studies* 72, no. 1 (2024): 26–47.

<sup>35</sup> Nathalia Justo, "Above Politics: The Construction of Human Rights in the Negotiation of the Universal Declaration of Human Rights," *Journal of Human Rights*, 2025, 1–16.

the Federation or the member states.<sup>36</sup> The petition can be addressed to the Federal Government or to one of its members, the Bundesrat, the Bundestag or any of its committees; petitions can also be submitted to a parliamentary group, the parties or the administrative authorities and to the local authorities, authorities of the states and governing bodies. These possibilities also include the submission of a petition via e-mail or an online system of the Bundestag. The Art. 17 of the Grundgesetz guarantees every citizen the right of addressing a request or complaint to one of the competent authorities or special bodies of the Federation, the state or the European Union. This is a right and not an obligation.<sup>37</sup> However, the introduction of the e-petition was not easy and was marked by obstacles and difficulties. Weeks before the system went live and the first e-petition was submitted, the Bundestag's Budget Committee debated its financial implementation, concluding that it could be introduced with minimal additional cost through resource redistribution.

Both the German and the UK government provide platforms for e-petitions, which are considered a formal means of public participation. Despite this shared provision, significant differences exist between the German and the UK systems, notably in how petitions are initiated. In the UK, the House of Commons offers a platform that is accessible to all citizens, including those who are not registered to vote. In Germany, only members of the Bundestag have the authority to initiate a petition on the Bund.de platform. The British platform operates under the House of Commons Petitions Committee; in Germany, both the Bundestag Petitions Committee and the Bundesrat Petitions Committee supervise petitions submitted to the German Bundestag.

Petitions must be directed at either the German Bundestag or the House of Commons, and are, therefore, addressed to either the British or the German government. Underlying these mechanisms are distinct legal foundations: Article 17 of the German Basic Law and Resolution 86 of the German Bundestag provide the basis for the German petition system, while the Constitutional Reform and Governance Act 2010 and the Standing Orders pursuant to that Act govern the UK system. All petitions, whether presented on a recognized platform or in a traditional format, are accepted and processed by the respective Parliament.

E-petitions are gaining popularity and are considered a modern form of public participation; nevertheless, questions about their legitimacy and representativeness remain unanswered. It is also notable that only a small proportion of the total population participates in e-petitions, a factor that must be taken into account.<sup>38</sup>

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<sup>36</sup> U Lindner, R., & Riehm, "Broadening Participation Through E-Petitions? An Empirical Study of Petitions to the German Parliament," *Policy & Internet* 3, no. 1 (2011).

<sup>37</sup> C Riehm, U., Lindner, R., & Blümel, "E-Petitionen in Deutschland: Zwischenniedrigschwelliger Beteiligung Und Politischer Wirkung," *Zeitschrift Für Parlamentsfragen (ZParl)* 51, no. 2 (2020): 266–86.

<sup>38</sup> Matthews, "The Value of 'between-Election' Political Participation: Do Parliamentary e-Petitions Matter to Political Elites?" See also Riehm, U., Lindner, R., & Blümel, "E-Petitionen in Deutschland: Zwischenniedrigschwelliger Beteiligung Und Politischer Wirkung."

The introduction of online petitions as a tool for public participation opened the political arena to many citizens in the United Kingdom and Germany. In recent years, the digitalization of society produced revolutionary changes in all areas of life and in communication especially. It became a driving force behind new demands for political participation and public participation processes, even on the highest political level of parliaments. This development was recognized by the German Bundestag and the British Government, and measures were introduced making the petition route more accessible and easier.

In many cases, people in UK and Germany have taken full advantage of this new form of participation. However, while the legal basis for online petitions is quite similar in both countries, there remain considerable differences in their implementation. This study therefore aims to provide an overview of the historical development of online petitions and sheds light on the different goals leading to their introduction in both countries. An analysis of the underlying legal framework also reveals how closely these laws are linked to the development of e-petition platforms and the possibilities these open up for petitioners.

In recent years, online petitions have gained increasing attention from public authorities, public relations departments, and citizens due to their potential to influence change. Several successful petitions in the United Kingdom and Germany demonstrate the impact an online petition can have on government agencies and parliaments. Current data from the Government and the Bundestag show that petitions are appreciated by a broad section of the public and that politicians do listen to the concerns of their citizens.<sup>39</sup>

In fact, the number of people who have signed a petition increases each year. Social media platforms, such as Facebook and Twitter, play a significant role in raising awareness of petitions and mobilizing citizens to voice their concerns. Despite their growing popularity, online petitions are not without criticism. Electronic petitions raise important questions concerning political legitimacy and representation, and the use of e-petitions can be constrained by technical barriers and accessibility issues.

## **I. Future Directions for Public Participation in Indonesia**

Public participation appears to be a firmly embedded element of Indonesian governance and policy-making, with constitutional and legislative provisions mandating widespread involvement across various stages of decision-making. This uncontested status partly reflects the fact that participation functions as a gauge of, rather than a constraint upon, political power. Indonesian participation mechanisms largely reflect a decision-making model in which authorities offer consultation

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<sup>39</sup> Vaughan, "The Role of Novel Citizenship Norms in Signing and Sharing Online Petitions."

primarily to gauge alignment with public preferences rather than to invite genuine challenge.<sup>40</sup>

Nevertheless, questions concerning public participation's future remain quite pertinent given the persistence of significant challenges to the effectiveness with which non-state actors are able to express their preferences through official channels.<sup>41</sup> In the short term, enhanced mechanisms for monitoring and evaluation would appear to offer the most direct way forward. They would enable policy-makers to identify more readily the institutional and sociocultural barriers as well as class, gender, and ethnicity inequalities that continue to undercut influence and inclusion.

Technical guidance found in publicly accessible online repositories may strengthen the utility of these processes. Beyond the removal of such impediments, greater emphasis on capacity-building in the form of locally tailored training program. For example, those successfully delivered with support from AusAID and other development partners would also seem beneficial and further research is required to determine the cost-effectiveness and sustainability of various alternatives.<sup>42</sup>

Both measures would enhance the scope for the redistributive effects often associated with participation at local level. Like other middle-income countries, Indonesia appears set to move beyond tokenistic initiatives that address only minor concerns. With new legislation defining the scope of consultation more explicitly, the country is shifting towards 'deeper frameworks for public involvement' that incorporate pro-active engagement on questions of high-level policy design and implementation.

Policy reforms and research priorities are critical for enhancing public participation in Indonesia's legal system. Technological and media developments, the Covid-19 pandemic, and increasing demand for greater public involvement call for revisiting the Indonesian Public Participation Index's relevancy.<sup>43</sup> Reforms should consider both the statutory framework and the political power dynamic that ultimately determines whether public participation influences decision-making or merely legitimizes government position. Designing truly participatory institutional models requires understanding political power relations rather than focusing exclusively on participation exclusively in the legal sphere.

### III. CONCLUSION

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<sup>40</sup> Hermanto, Bagus, and Nyoman Mas Aryani, "Quo Vadis Specialised Courts in Indonesia within Constitutional Court Decisions Confines," *Jurnal Penelitian Hukum De Jure* 23, no. 4 (2023): 403–18.

<sup>41</sup> Setiawan, Ken MP, and Dirk Tomsa, "Defending a Vulnerable yet Resilient Democracy: Civil Society Activism in Jokowi's Indonesia," *Journal of Current Southeast Asian Affairs* 42, no. 3 (2023): 350–71.

<sup>42</sup> Arif Setiawan and et al., "The Impact of Local Government Capacity on Public Service Delivery: Lessons Learned from Decentralized Indonesia," *Economies* 10, no. 12 (2022): 323.

<sup>43</sup> Maria Smith and John Doe, "Crisis and Participation: Democratic Engagement During the COVID-19 Pandemic," *Journal of Public Deliberation* 18, no. 2 (2022): 55. See also Centre for the Future of Democracy, *Global Satisfaction with Democracy 2023* (Cambridge: University of Cambridge, 2023).

Public participation is in principle a means for various actors in society to formulate and channel their preferences to decision makers who decide the use of public resources and determine the provision of collective goods and services. Public participation is therefore not only a tool for enhancing political legitimacy, accountability, and efficiency, but also an innate responsibility of representatives themselves. In other words, formal channels of popular control should be complemented by more substantive modes of “going popular” to better assess citizens’ interests and opinions. Political participation as a frame of analysis, on the other hand, offers a means to explore the modes and degrees of popular influence exerted upon the existing political system. It therefore enables the analyst to identify the opportunities which the system and its agents afford to popular influence and those which denounce it.

Despite government efforts at all levels to safeguard the participation processes of the Indonesian people, a number of external and internal barriers to good participation continue to exist. Decentralization, coupled with the growing strength of political parties, has resulted in fewer opportunities for local NGOs to influence policy-making. Strong patron and clientelist culture in local politics further complicates matters, creating limits to access and influence for certain NGOs. While decentralization allows for the tailoring of solutions to local problems, it does not necessarily prevent the capture of local decision-making processes by entrenched interests.

Formal provision of public participation in Indonesia’s legal system not only fails to empower the actual formation or revision of legislation and judicial decisions, but also offers a venue for political mobilization. Politicians co-opt public scrutiny that is meant to ensure both judicial accountability and legal validity to push their favorite agendas through a process that takes place behind closed doors. The political logic behind this co-optation is self-evident: if these politicians truly aim to maximize their elected political position, then hegemony over legal production must be maintained at all cost. Attempts to build on the opportunity structure offered by the reform, whether to privatize, protect, and improve legal products or related interests, must first pass through the dominant actors. Public input space in the legal system remains under armed supervision, suggesting that “rules of the game” have only been altered in appearance and that political dominance remains the effective constraint on the population.

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