

## Public Participation Model in Policy Formulation: Case Study of Job Creation Act Number 11/2020

Rastri Paramita<sup>1</sup>, Aziz Sanapiah<sup>2</sup>, M. Taufik<sup>3</sup>, Hamkad<sup>4</sup>

### Abstract

*Constitutional Court Decision No. 91/PUU-XVIII/2020 demonstrates how politicians and the community define public involvement differently. These differences include disagreements on the types of public participation channels used, the meaning of openness in legal discussions, and public access limitations to Bill documents and Academic Papers on Job Creation in 2020. This article investigates the causes of disparities in understanding public engagement and potential solutions. Using normative legal research, we found that three factors influence differences in the meaning of public participation between policymakers and the community: differences in the need for forms of participation, a lack of agreement on the types of actors who can be involved, and weakness in parliament's representation system. The solution to this challenge is to create a framework for public engagement, particularly during the legislative process. This public engagement framework must be tailored to Indonesia's political culture. It must be diversified, conceptually broad, and flexible, allowing for critical thinking and revealing the aspects and factors that define this phenomenon. This framework may also handle the many configurations of elements in participatory processes.*

**Keywords:** *Public Participation, Job Creation Bill 2020, Framework.*

### Introduction

Public participation can be defined as the process through which citizens, civil society organizations, and governments are involved in policy-making before political decisions are taken. The International Association for Public Participation (IAP2) defines public participation as the involvement of those affected by a decision in the decision-making process. Public participation in democratic governance improves the quality of policy formulation and implementation and is an effective tool for people to express their opinions.

Public participation plays an important role in forming policies and laws by providing the government with information, increasing the public's willingness to accept decisions, supplementing judicial protection, and democratizing decision-making. A 2016 OECD study on open government in Indonesia identified public involvement as a key policy principle alongside transparency, accountability, and integrity. Public involvement in decision-making can also help overcome deficits in democracy, such as distrust of political leaders, declining trust in public institutions, and low voter participation.

Public participation has two interrelated elements: process and substance. Transparency is crucial to encouraging public participation in problem-solving. The substance is material that is regulated for the broad public interest in legal development.

The form of public participation varies depending on the type of law—repressive, autonomous, or responsive—a country adopts. Under repressive law, public participation takes the form of submissive obedience and views criticism as a sign of disloyalty. Participation in autonomous law involves restricted access and established procedures. This structure facilitates the emergence of legal criticism. Meanwhile,

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<sup>1</sup> Poltek STIA LAN Jakarta dan Pusat Analisis Anggaran dan Akuntabilitas Keuangan Negara DPR RI, Indonesia, Email: [rastri.26@gmail.com](mailto:rastri.26@gmail.com) / [rastri.paramita@dpr.go.id](mailto:rastri.paramita@dpr.go.id)

<sup>2</sup> Poltek STIA LAN Jakarta, Indonesia, Email: [azizsanapiah@yahoo.com](mailto:azizsanapiah@yahoo.com)

<sup>3</sup> Poltek STIA LAN Jakarta, Indonesia, Email: [taufiqi1711@gmail.com](mailto:taufiqi1711@gmail.com)

<sup>4</sup> Lembaga Administrasi Negara, Indonesia, Email: [laicahamka@gmail.com](mailto:laicahamka@gmail.com)

public participation in responsive law is characterized by a high degree of accessibility and the integration of law and social advocacy.

There is a link between public participation and legitimacy, a core principle of democratic theory. People generally view political outcomes that reflect the will of the people through fair, free, and open participation as more legitimate than those decided behind closed doors or imposed by sheer power with little or no public input.

Article 28 of the Constitution of the Republic of Indonesia of 1945 (UUD NRI 1945) regulates public participation in Indonesia. This article stipulates that the law establishes the freedom of association and assembly, the expression of thoughts through words and writing, among other things. It conveys the right to express opinions to participate in the formulation of legislative rules. Act No. 12 of 2011 on the Creation of the Regulations of the Legislature (the Act on PPP), Chapter XI, Article 96, further regulates public participation. Article 96 governs the types of oral or written public participation, the parties involved, and the requirement to have access to any draft legislation. In 2022, changes were made to Article 96 of the Act on PPP to establish meaningful participation, as evidenced by the Constitutional Decision (MK) No. 91/PUU-XVIII/2020, which resulted from the formal testing of Law No. 11 of the Year 2020 on the Creation of Work (UU Ciptaker).

This decision is the first time the MK has stated that the 2020 Ciptaker Act does not comply with the principles of openness. Meaningful participation must meet three conditions: the right to be heard, the right to be considered, and the right to obtain an explanation or an answer to a given opinion. However, the amendment to Article 96 of the Act on PPP No. 13 2022 does not describe the form of meaningful participation as the MK ruled; it lacks meaningful inclusion of words in the arrangement of participation in the article and does not guarantee explicit participation for the public who have an interest in a draft law.

MK Decision No. 91/Law-XVIII/2020, which pertains to public participation in the Act on Creators 2020, prioritizes clarity of purpose, disclosure and usability, formula clarity, and openness. Openness is the basis for public participation and can be understood as a series of legislative regulations ranging from planning, preparation, discussion, validation, or establishment to open and transparent legislation. Providing ample opportunities for the public to participate in the creation of legislative regulations is a crucial aspect of public participation.

Today, differences remain in the understanding between policymakers and the public. Society refers to forms of public involvement in the formulation of laws. Policymakers view public participation as merely the fulfillment of a formal foundation. The public believes their participation plays a crucial role in shaping public policies that align with their needs and preferences.

Constitutional Court Decision No. 91 of 2020 contains different opinions about how to apply the principle of openness to the discussion of the 2020 Ciptaker Law. The applicant's request for a judicial review of the law and the DPR's interpretation of the principle reflect these opinions. Table 1 illustrates these differences.

**Table 1. Differences in the Meaning of Implementation of the Principle of Openness in the Form of Community Participation in the Discussion of the 2020 Ciptaker Act**

Principle	Applicant	Explanation from the Parliament
Openness (Public Participation)	a. All levels of society have ample opportunities to contribute to the creation of reports and legislation.	a. Through technological advancements, the DPR has conducted open discussions on the Job Creation Bill of 2020, in the form of live broadcasts from Parliament TV and live streaming on YouTube of the meeting processes.
	b. MK understands that not all conversations take place in an open manner. The openness and involvement of community elements reflected in the mass media during the discussion of the Job Creation Law in 2020 were only evident among the labour sector, overlooking many elements of labour organizations that felt excluded.	b. The DPR has implemented the provisions of Article 96 in the PPP Law by holding public hearings to gather community aspirations.
	c. The failure to meet the provisions of the 1945 Constitution of the Republic of Indonesia in the Job Creation Law of 2020 regarding the amendments to five articles in Law Number 18 of 2017 on the Protection of Indonesian Migrant Workers (PPMI Law), including Article 1 number 16, Article 51, Article 53, Article 57, and Article 89A, violates the principle of transparency because the discussions did not involve groups representing Indonesian migrant workers and other stakeholders.	c. The DPR regularly uploads brief reports or meeting notes on its website, accessible to the public, detailing the outcomes of each discussion process for the Job Creation Bill in 2020.
	d. The public is struggling to obtain the draft of the Job Creation Bill. Even when available, there are five different drafts of the Job Creation Bill with varying content, along with numerous sheets that tend to confuse the public in providing feedback.	d. In the Baleg meeting, there was an agreement to approve the opening of broad public participation by inviting stakeholders and relevant speakers to provide suggestions and input on this bill. Please consider the perspectives of the factions in the DPR when creating the Inventory of Issues List (DIM).
	e. If we fail to implement the principle of openness, it will lead to a low level of public awareness regarding the application of the law. The numerous protests the Job Creation Law of 2020 reflect a lack of careful consideration in its drafting.	e. The DPR and the government have engaged numerous stakeholders in the process of gathering public aspirations for the 2020 Job Creation Law. The legislation does not establish minimum or maximum limits for this aspiration gathering. This allows every element of society to contribute their aspirations and oversee the discussion process of the Job Creation Bill in 2020.

Source: Constitutional Court Decision No. 91/PUU-XVIII/2020, processed (2024)

Given the disparities in the interpretation of participation forms between the community and policymakers during the discussion of the 2020 Job Creation Law, it would be interesting for us to explore these gaps and determine the most suitable public participation model that aligns with Indonesia's unique characteristics.

#### *Legal Material and Methods*

This study employs statutory, factual, and case approaches to conduct normative legal research, as well as in-depth interviews with Badan Legislasi (Baleg) and Kemenko Perekonomian. We use a statutory system to understand concepts relating to the legislative process and meaningful public participation. Simultaneously, we employ the case study method to explore and address issues in the first deliberation stage of the Job Creation Bill 2020. Our findings are descriptive in nature. A literature review serves as the secondary data source, while in-depth interviews serve as the primary data source. We then subject the collected data to a descriptive-qualitative analysis. This research investigates the public's role in the deliberation of the Job Creation Bill 2020 and the development of a meaningful model for public participation in this process. The authors selected the Job Creation Bill 2020 for its deliberation, as it introduces a breakthrough never seen in the bill's initial stages in the DPR RI.

## Results and Discussion

What determines the gaps in the meaning of participation forms?

Based on the 2020 Ciptaker Bill discussion, the authors discovered a gap in the meaning of forms of participation between the community and policymakers, which gave birth to Constitutional Court Decision No. 91 of 2020. The absence of participation led to this gap in meaning, allowing a wider range of diverse groups to participate and provide input on a bill under discussion. The absence of a guarantee that all citizens have equal opportunities to participate is the basis for not achieving inclusiveness.

Differences in opinions regarding the form of participation also directly affect its design and application. For example, society will be disappointed if policymakers only focus on achieving consensus while the public focuses more on articulating conflicting perspectives to increase learning and develop original approaches and policy options. This is because policymakers are more interested in legitimizing their actions than in getting innovative ideas to overcome crucial problems.

Several factors contribute to the disparities in defining public participation in the 2020 Ciptaker Bill discussion:

- Different forms of participation between policymakers and the community are necessary.

Article 96 of PPP Law No. 12 of 2011 regulates the ways in which the public can participate in the formation of statutory regulations, the limits of the public who can participate, and the requirement to facilitate access to draft statutory regulations. This article indicates that participation is limited to community participation and does not yet encompass the public participation that the community requires. There is a difference in meaning between community participation and public participation. The OECD links public participation with open government, necessitating the fulfillment of three fundamental principles :

- Transparency. This implies the public must oversee government operations.
- Accessibility. Citizens must have responsibility for accessing and using public information anytime and anywhere.
- Responsive. The government must be able to respond effectively to citizens' requests and needs.

A comprehensive public participation strategy covering all government activities must support the open government concept. Article 96 of PPP Law No. 12 of 2011, which links these three basic principles, does not regulate the responsive principle. Article 96 restricts the type of participation to citizens. This responsive principle aligns with Constitutional Court Decision No. 91/2020, which mandates building meaningful participation. One of the reasons to support this participation is that it must fulfill the right to be considered an element. According to Constitutional Court Decision No. 91/2020, the future development of meaningful forms of participation should focus more on public participation than citizen participation.

Previous studies show differences in meaning between citizen participation and public participation. Public participation entails incorporating interests, needs, and values into government and company decision-making objectives, resulting in better decisions that garner public support. Smith argues that public participation is a policy framework, principles, and techniques that ensure that citizens, communities, individuals, groups, and organizations can be involved in a meaningful way in making decisions that will affect them or their interests. We can interpret public participation as the broadest concept, encompassing activities involving the public, media, and other non-governmental social groups. Meanwhile, citizen participation is only a form of public involvement in administrative decision-making.

Baba, Cherecheş Mora, and Țiclău identify the characteristics of public participation :

- A decision-making process, established by public institutions, in which the public participates in one way or another.
- An institution plans and incorporates the formed process into its routine procedures rather than relying on spontaneous actions.
- Participants have a certain influence on the final decision.
- The goal is to improve public policy by making it more responsive to citizens' actual needs and garnering more public support.
- There is no agreement on the types of actors involved in forming legislative regulations.

According to Article 96 of PPP Law No. 12 of 2011, the scope of public participation in bill discussions is limited to individuals or groups with a personal stake in the bill's content. This article does not regulate the indirectly affected communities. The scope of community involvement has also not changed in Law No. 13 of 2022. The OECD asserts that we must distinguish community involvement from stakeholders, or those affected or interested, due to their distinct characteristics. Table 2 illustrates these differences.

The boundaries between these groups are not always neat. Citizens and stakeholders receive no value or preference despite their potential to enhance public decisions, projects, policies, and services. However, public authorities must decide who will participate at what stages of decision-making and then tailor the participatory process's design and expectations to those participants. Citizens and stakeholders do not require the same conditions to participate and will not generate the same types of input. Stakeholders can provide expertise and more specific input from the community through mechanisms such as advisory bodies or expert panels, whereas community participation requires methods that provide time, information, and resources for communities to generate quality input and develop individual or collective recommendations. Policymakers must adjust their participation patterns, communication styles, and educational methods when they interact with both.

**Table 2. Differences Between Public and Stakeholder Involvement**

	Public Participation	Stakeholder Participation
<b>Definition</b>	A citizen is an individual who, regardless of age, gender, sexual orientation, religion and political affiliation, or any other condition, is defined as "inhabitant of a particular place," which can refer to a village, town, city, region, state, or country depending on the context.	Stakeholders interested and/or affected parties, including institutions and organizations, whether governmental or non-governmental, from civil society, academia, the media, or the private sector.
<b>Potential Benefits of Engagement</b>	<ul style="list-style-type: none"> <li>- Presenting public opinion or public consideration.</li> <li>- They could showcase a variety of perspectives and incorporate seldom heard voices.</li> <li>- If there are representative groups that have collaborated or established connections, they could represent the broader public.</li> <li>- It aids in raising awareness and promoting community education about a problem.</li> <li>- Help identify potential impacts, provide tailored solutions, and ensure their effectiveness.</li> <li>- Encourage social cohesion and a greater sense of community.</li> <li>- Strengthening democratic institutions.</li> </ul>	<ul style="list-style-type: none"> <li>- Bring in the perspective of official stakeholders.</li> <li>- The individual generates expert opinion and knowledge and can point to relevant evidence and studies.</li> <li>- Makes sure key actors are represented. Depending on the type of stakeholder, it can help raise awareness and facilitate society learning about a problem.</li> <li>- Help identify potential impacts and realize them.</li> <li>- tailor-made solutions, ensuring their effectiveness.</li> <li>- Depending on the type of stakeholder, it can help mobilize the support and resources needed to implement a policy or initiative.</li> <li>- Building on existing networks in partnerships.</li> </ul>
<b>Considerations When Preparing to Engage</b>	<ul style="list-style-type: none"> <li>- The threshold for participation is high.</li> <li>- There is a shortage of time and resources to gather information about the issue and engage in the process. The design of the participation process must take these conditions into account.</li> <li>- They frequently lack a personal interest or motivation to engage. Their motivation to participate should be ignited (for example, by designing a process design to invite participation).</li> <li>- People frequently lack a strong belief in their ability to shape decisions. Establishing clear links to decision-making and extending assurances from high-level figures should sustain this feeling.</li> </ul>	<ul style="list-style-type: none"> <li>- The threshold for participation is low.</li> <li>- Have dedicated time and resources to become informed about these issues and to participate.</li> <li>- Often have a clear interest and incentive to participate.</li> <li>- Often has experience interacting with public authorities and playing a role in the decision-making process.</li> <li>- It is important to avoid making certain policies that are influenced by group or individual interests.</li> </ul>

Source: OECD, 2022, processed (2024)

A case study of community participation in the discussion of the 2020 Job Creation Law shows that when there are no clear technical regulations regarding mechanisms for building meaningful participation, this results in a low level of public trust in policymakers. At the very least, these technical rules should include the following: the scope of the actors involved, the scope of the object, the tools used for participation, the mechanism, the time for implementation, the transparency and accountability of the process, and the evaluation model, along with benchmarks and implementation. Building trust is not an effortless thing, but it is the fundamental basis for whether participation will be more meaningful in the future. According to research conducted by ECNL in collaboration with Society Inside, the three key elements that make participation meaningful are a common goal, a trustworthy process, and a visible impact. Building meaningful participation and regularly involving the public will allow citizens to experience and comprehend the process of making policy decisions. Improved public understanding will lead to increased confidence in final decisions.

- *Weaknesses of the Representation System in Parliament*

Law and politics, separately and together, encourage and suppress the development of social relations as well as function to realize justice and order. The fundamental purpose of law and politics is to regulate each other's boundaries without being integral. This limitation can prevent excessive partisanship from a political or legal perspective, where the mechanism is like checks and balances. All legal institutions serve as reflections of political decisions made at specific times and in specific environments, which shape the form and nature of law. This mechanism applies to systems whose policymakers are bodies with the highest political legitimacy, such as the DPR RI, and to judicial-precedent legal systems, which wield strong influence because political influence always determines even the most autonomous judicial systems.

Maintaining a balance between politics and law requires community involvement. Legal institutions have the opposite effect on politics because they constrain and direct it as part of a broader legal consciousness or a specific legal ideology. In a democratic order, law and modern politics confront each other intensively in the legislature. Political influence on the law also tends to be strong. Therefore, the Constitutional Court's role is crucial in diminishing the dominance of political intervention. Political actors also need to develop legal awareness and direct it towards an internal commitment to observing the fundamentals of existing legal and legal values. In a democratic order, law and modern politics confront each other intensively in the legislature. Political influence on the law also tends to be strong. Therefore, the Constitutional Court's role is crucial in diminishing the dominance of political intervention. Political actors also need to develop legal awareness and direct it towards an internal commitment to observing the fundamentals of existing legal and legal values.

In the discussion of the 2020 Ciptaker Bill, political interests tend to have a high influence. Investment and economic progress became the foundation of this because they demonstrate more of an attachment to market liberalism than to the interests of the public. The president's interests are strong enough to simplify the legislative regulations relating to investments in the Omnibus Law Act, making this discussion possible in less than a year. The authors' interview with sources from the Ministry of Economic Coordination on February 14, 2023, confirms this:

“The president is very intentional [and] has a strong determination to execute this. So, the president is very keen to make this happen. So, he held many meetings with the ministers and with the heads of the districts, communicating on this matter. Well, here, it can't be forgotten politically, the role of the top level, the key is there. Well, from a political point of view, the coalition in the second term is more solid, so there's only two out there. Well, when the president has a strong will, he monitors it continuously, the president asks everyone to get in line or even until there is a threat to the officials who refuse, then will be dismissed, that, the message is repeatedly delivered.”

In addition to the president's direct interests, the composition of the government-supporting parties in the House of Representatives is also a key factor in drafting the 2020 Ciptaker Bill. Nine factions had seats in the parliament in 2019–2024, with seven factions proclaiming themselves as government supporters (PDIP, Golkar, Gerindra, PKB, PAN, PPP, and Nasdem), one neutral faction (Democrats), and one faction

declaring itself as opposition (PKS). This composition tends to complicate the growth of the ideal checks and balances in the legislative process.

Although the PKS faction disapproved of the concept of the Ciptaker Bill, they remained involved in the discussion. Mother Ledia Hanifa presented the reasons for the involvement of the PKS faction in an in-depth interview on August 10, 2023:

“At the time of our discussions with the party leaders, if we are not involved in the discussions and it turns out there are discussions that have even worse effects on the public, we’re not there, and we can't give input. Eee, that principle, the principle in the eee that we understand in that religion, is to reduce damage, not to take greater benefits, but to reduce harm. That evil must be minimized.”

In addition to the problem of the dominance of presidential intervention in the 2020 Ciptaker Act, there are weaknesses in the implementation of the people’s vote representation by members of the RI DPR. The representative system in Indonesia recognizes the term fraction, which refers to the length of a political party’s hand. Based on the findings of an internal interview conducted on August 21, 2023, with the representative of Panja RUU’s leadership regarding Ciptaker, the role of the faction is as follows:

“Don’t forget that those in power in this parliament are not, not individual members but factions. We are members of a political party, conducting the direction and policy of the political party. Well, once it's directed and decided at the fractional level, the automatic of all the AKDs will be running that right now. And this is connected, that's going to be a lot more complicated, because it's connected to the political system. Thro that time, the system as it is now, yes proportional, huh, members will not have the meaningful power to decide a decision.”

The faction controls the votes of its members in the DPR to stay in line with the principles set by the party as its master. Each board member must be a member of one of the factions. The discussions in the DPR must begin and end with the submission of opinions of the factions. The Problem Inventory List (DIM) that forms the basis of the argument is also produced by fractions. Although fractions are not part of the DPR’s equipment, they are dominant in determining processes and substances. This condition reduces the function of representation of the members of the RI DPR against the people of the electoral district. The fractional level must resolve the disagreement between the individual member and the faction. The faction’s decision is highly likely to conflict with the community’s confidence in the elected members. When there is a disagreement, the faction’s decision takes precedence in the discussion. The final sanction is that a faction can make a time shift between members of the faction that are not in line with the new members.

The faction’s strategic role in the implementation of the DPR RI’s functions is due to a lack of equality between the abilities of the elected DPR RI members in terms of capacity and educational background. Therefore, the function of the faction is to provide support to members who join its factions, enabling them to effectively perform their respective roles. Therefore, it is necessary to recruit members of political parties and DPR RI who are proficient in their respective mechanisms, requirements, capacities, and knowledge to ensure they can effectively perform their roles and represent the people’s vote.

The capacity of the National Assembly members will greatly influence the quality and quantity of legislation produced. Although the law is a product of its own creation, the political process plays a crucial role in its formation. Therefore, the system of recruiting members of the legislature has become a crucial element that influences the quality of DPR RI members, enabling them to effectively address the aspirations of both the country’s citizens and those across the nation. According to Maharani, the legislative regulations fail to incorporate the ideal recruitment system, and the internal rules of political parties’ conflict with their recruitment function. Three regulations directly contribute to the weakness of the legislative member recruitment system: Article 29 paragraph (2) of the Act No. 2 of 2008 on Political Parties, Articles 1 and 29 of the Law No. 2 of 2011 on Amendments to the Act No. 2 of 2008, and Article 52 of the Law No. 8 of 2012 on the General Elections of Members of the National Assembly, DPD, and the DPRD.

- Indonesia has not yet developed a framework for public participation.

Another obstacle that requires attention is that Indonesia lacks a public participation framework. As a result, policymakers interpret the implementation of public participation in PPP Law No. 13 of 2022 differently. The absence of a framework causes policymakers to assume that public participation only fulfills formal requirements and is not substantial in forming legislation. Policymakers still view participation to justify academic validation without delving into aspirational aspects or public legitimacy. Should the public reject the proposed policy; policymakers will view it as a natural part of the policy-making process rather than an urgent issue requiring correction. Meanwhile, from the perspective of the community and stakeholders, the lack of a public participation framework has resulted in limited opportunities for participation. Policymakers continue to be perceived as reluctant to gather aspirations and provide a transparent and accountable forum to accommodate these aspirations.

Article 27 paragraph (1) and Article 28 paragraph (2) of the 1945 Constitution of the Republic of Indonesia guarantee public participation as a constitutional right, yet the current implementation of public participation fails to motivate the public to actively participate in lawmaking. The community identifies additional issues that hinder the optimal implementation of public participation in Indonesia, such as the temporary nature of public participation, its adaptation to the bill under discussion, and its perceived negative impact on the community. The current level of participation has not yet evolved into continuous and planned public participation.

Several factors contribute to the underdevelopment of the participation culture in Indonesia:

- The public lacks understanding about their rights to participate in creating a policy, or more specifically, a law.

The low level of public awareness of public participation in drafting laws can be attributed, among other things, to the political culture that is developing in Indonesia. Political culture is a pattern of orientation towards political objects such as parties, government, and the constitution expressed in beliefs, symbols, and values. Political culture traces the way society views a country's politics. Political culture is a dynamic thing that determines a country's political life.

Almond and Verba differentiate pure political culture into parish political culture, subjective political culture, and participant political culture. In parish political culture, people identify themselves more with their locality than with their nation or at the national level. In this political culture, people have neither the desire nor the ability to participate in politics. Meanwhile, in political subject culture, people are passive and realize they only have a limited capacity to influence the government. People in this political culture are oriented towards output and system aspects, are aware of the decision-making mechanisms, and are aware but not confident in voicing their political views, which results in a low level of community participation. The final political culture is characterized as a participatory culture. In this political culture, the people have paid significant attention to politics and consider public participation desirable and effective. People possess the desire and ability to participate in politics, respond positively to all political objects, and actively engage in their political activities.

In the Indonesian context, the level of political culture that is developed tends to have the character of subjective political culture. Despite possessing the necessary skills, the dominant community remains passive. Academics or interested stakeholders actively participate. Indonesian society does not fully understand that building a political culture can determine a country's political life. Political culture is a variable that can maintain complex interaction relationships with the economy, social structure, and the political-institutional field.

- Still, limited political education that teaches public participation is part of democracy.

In addition to fostering understanding and establishing a culture of participation, political education serves as a tool for educating the public about their rights and responsibilities in policy formation. In the context of UU, this involves educating people about their rights to participate in policy formation, the various forms



of participation, the procedures involved, the available channels, and the consequences of not actively participating.

- Policymakers and the entire community have not engaged in the formation of laws and regulations.

Currently, the DPR has only established collaboration with 78 universities throughout Indonesia to be involved in drafting bills and academic texts. This condition strengthens the stigma of policymakers prioritizing academic legitimacy over public legitimacy.

- The mechanisms for public participation in forming laws and regulations are still not transparent.

Currently, the DPR RI lacks a mechanism to monitor the processing stage of public opinions and determine whether future revisions of bills and academic texts incorporate these opinions. This creates reluctance among the public to participate in forming a law.

Based on the problems above, it is important to immediately establish a public participation framework. This framework must include not only technical rules or guidelines for implementing public participation but also ways to build a culture of public participation in society. The public participation framework incorporates the objectives of public participation in law formation, as outlined in Constitutional Court Decision No. 91/PUU-XVIII/2020:

- Creating strong collective intelligence that can provide better analysis of potential impacts and broader considerations in the legislative process to achieve a higher quality of results overall;
- Building legislative institutions that are more inclusive and representative in decision-making;
- Boosting citizens' trust and confidence in legislative institutions;
- Strengthening legitimacy and shared responsibility for every decision and action;
- Increasing citizens' understanding regarding the role of parliament and parliamentarians.
- Providing citizens with opportunities to express their diverse interests; and
- Creating a more accountable and transparent parliament.

Policymakers, the community, and stakeholders need this framework to understand meaningful participation and how to effectively implement it. There are several ways to build a public participation framework, such as utilizing the 3A3 concept, the Spectrum of Public Participation, or Smith's concept for Health Canada. We must build a participation framework that considers the culture and characteristics of Indonesian society, ensuring that communication patterns, public participation planning, and developed forms of public participation are easily comprehensible to the public, thereby fostering well-developed engagement between policymakers and the community. The components of a public participation framework may include the planning process, the planning itself, and the phenomenon of participation. We have considered social, cultural, political, economic, and geographical structures at the planning stage. Meanwhile, the dimensions of public participation can consist of actors, arenas, and goals. Public participation frameworks must be diverse, conceptually broad, yet flexible, allowing for critical thinking and unpacking the dimensions and elements that shape the phenomenon. A public participation framework should understand the dimensions of participation and the shifting configuration of its elements. This framework can also navigate the different arrangements of elements in different participatory processes.

Public Participation Model

Citizen participation must be held when there is space for citizens to participate meaningfully in the decision-making process of public policy. Public authorities should initiate the participation process. The public can participate in public policy making if there are problems that the public can help solve and there is room in the policy-making process for the public to influence certain decisions. Senior policy leaders are genuinely committed to considering citizen input; adequate financial, technical, and human resources are available to carry out meaningful participation processes; and there is sufficient time to organize a participatory process. We must adjust the implementation period to align with the decision-making cycle. This ensures that decision-making can only occur after implementing a meaningful participation process.

Public participation in the decision-making process for a policy can be meaningful if policymakers and the public have a common goal, a trustworthy process, and visible impacts. Shared goals encompass goals and desired outcomes that extend beyond the personal interests of policymakers, such as specific matters of interest to those who may be affected or goals that align with the interests of society. Meanwhile, a trustworthy process ensures that the public can access a policy process that is inclusive, open, fair, respectful, and delivered with integrity and competence. We communicate any limitations or obstacles in the delivery or impact to the public openly and honestly. Visible impacts are evident when they significantly influence decision-making, alter organizational governance, or provide products or services that align with the public interest. Policymakers are open to trade-offs or competing priorities that have different impacts on people's aspirations.

Having a common goal and the same understanding between policymakers and the community is important to creating meaningful community participation. Clarity of shared goals will also help policymakers understand who needs to be involved in the policy development process, the appropriate timeframe, and effective methodology. This shared goal will streamline the process of community participation, aid in policy decision-making, and ensure that the desired results align with the community's expectations. There are several possible considerations in determining common goals that can build bonds between policymakers and society, including understanding the limitations that fall into human rights and other real problems that are suitable for using artificial intelligence (AI) to overcome them; considering future impacts on humans and human rights; reflecting on the potential for abuse and its impact; consider environmental implications of policy products; collaborating with experts and experience to ensure the concerns and rights of the communities most affected; avoiding reproducing systems of power inequality; assessing effectively alternative policies whether they are appropriate to continue or must undergo changes; and understanding how to measure positive impacts and ensure early warning of unexpected negative impacts in advance. Strategies for defining common goals can be done in several ways, including getting internal buy-in to outcomes, forming an advisory board of external and internal policy stakeholders, using senior human resources who are qualified in their fields, and involving external stakeholders.

There are several ways to design and deliver a trusted process: first, by understanding and overcoming concerns about community obstacles and limitations in overseeing the policy decision-making process; second, by deciding when to engage, as engagement is a dynamic and repetitive process that can involve multiple goals, different target groups, and different methods at different times; and third, by determining who must be involved or carrying out stakeholder mapping. Stakeholder mapping must include those directly or indirectly affected, those potentially affected, those who can help find solutions, experts in their field, and those with relevant experience with the issue. Next, we will compile the impact and influence of this mapping tool, and finally, we will apply the method. Connecting the goal of building ties with the community—identifying who to target, why, and how to achieve the best results—is the way to get the best results. People will trust decisions when they can see the process involving individuals who are competent in their fields, including independent academic experts, civil society groups, critics, and those who defend marginalized groups' rights and interests.

Policymakers must be able to create harmony between public and political interests in the phase of producing visible impacts. During the development process, policymakers can clarify how the proposed goals aim to influence decision-making or governance of the organization, product, or service. Preparing internal buy-in, analyzing findings, evaluating responses, communicating and engaging about impacts, reflecting and acting on stakeholder input, and conducting evaluations can accomplish this.

The legislative process involves planning, drafting, discussing, ratifying, and promulgating. In Figure 1, the authors add two new stages that provide unrestricted access to meaningful public participation in the law formation process: pre-planning and pre-discussion. In the pre-planning stage, the authors add human resources who serve as intermediaries or mediators between the public (society or stakeholders) and policymakers. These human resources can be drawn from existing functional positions by adding new roles, such as policy analysts, or from new functional positions designed to act as public mediators and policymakers during the public participation stage. Human resources education can come from various sources, including public policy, state administration, government administration, sociology, communications, public relations, and international relations. Meanwhile, the skills needed by human resources include public communication, mediation knowledge, persuasive abilities, and political entrepreneurship. We hope that these intermediary human resources will help policymakers gain a clear understanding of the public's needs and reduce the gap in understanding crucial issues in a bill. Therefore, we hope the public will accept and implement the policies more easily.

Table 1. The DPR RI Model for Meaningful Public Participation in the Legislative Process

Pre-Planning Stages	Prepare Regulations and Variables to be Used as a Basis for Evaluation	Preparing Human Resources Involved in Public Participation	Prepare Tools or Channels for Public Participation				
	To implement public participation and to conduct evaluations, regulation is necessary.	The party acting as an intermediary between the public and policymakers is the human resource in question.	This tool can be in the form of direct interviews, FGDs, expert discussions, and social media channels via the DPR RI website.				
Planning Stages	Fact Group Discussion with Bappenas, the Ministry of Finance, the Ministry of Law and Human Rights, the House of Representatives, the Regional Representative Council, legal, economic, and social experts, and the community	The FGD Results Serve as the Foundation for Selecting Which Bills to Include in the Five-Year Plan or Long List, As Well As the Annual Priority of Prolegnas	The Government and Baleg Are Deliberating Over the Draft List of Bills Included in the Five-Year National Legislation Program and/or Annual priorities	The Five-Year National Legislation Program and/or Annual Priority Are Determined	Every Month, Baleg Evaluates the Implementation of Prolegnas		
	We used FGDs to determine the direction of the major legal development themes for five years and annual priorities. (June-July)	At this stage, the Legislative Body is in the process of drafting either the five-year National Legislation Program/long list, or the Annual Priority National Legislation Program. The Legislative Body then presents this draft to the public to solicit feedback, uphold transparency, and aid the community in monitoring their proposals. (August-Early September)	Baleg prepared the draft, and the public contributed to the deliberation. (Early of September – end of September)	(End of September)	(January-December)		
Preparation Stages	Determination of the Five-Year National Legislation Program and/or Annual Priority Prolegnas	FGD with Experts, Experienced Parties, and Communities Affected Directly and Indirectly	FGD/Gathering of Resources and Information with Stakeholders Based on Mapping Results Related to Crucial Issues That Have Been Determined	The expert team prepares a draft bill and academic paper	Dissemination of the Draft Bill and Academic Paper	Improvement to Draft Bill and Academic Paper	The presentation took place at the Equipment of the Council (AKD) Plenary Meeting, in front of the proposed DPR member
	The DPR, the government, or the DPD provide the foundation for the task of drafting a bill.	This process involves mapping stakeholders and identifying crucial issues that the bill will regulate. The expert team accepts input and suggestions for improvements to the bill, as well as dissemination results if they are still consistent with the bill's main purpose.	We accomplish this by directly visiting stakeholders, physically debriefing in the DPR, or using Zoom. (Carried out a Month)	We obtained information from the FGDs, collected data, and reviewed the draft bill and academic paper. (Carried out a Month)	We are testing the draft bill and academic paper with stakeholders to gather feedback on improvements and adjustments. (Carried out a Month)	The expert team accepts input and suggestions for improvements to the bills, and the dissemination results remain consistent with the bill's main purpose. (Carried out 1-2 Weeks)	The Head of the Expertise Agency and the Expert Team present the draft bill and academic paper to the AKD Drafting stage. The team of experts will receive the draft bill and academic paper back if they need revision. (Carried out a day)
	Arrangement in AKD	Finalization of Draft Bills and Academic Papers	Plenary Legitimations for the Draft Bill and Academic, which are then sent to Bamus	Submission to the Deliberative Body (Bamus)		Announced at the Plenary Meeting	
AKD, possessing the compiling authority, collaborates with a team of initial drafting experts to carry out this task. At this stage, the authorized AKD initiates the preparation process by conducting an FGD/work visit/public hearing with stakeholders and affected parties. The AKD has published the draft bill and academic paper at this stage. (Carried out 2-3 months)	AKD, possessing the authority to prepare it, collaborates with a team of experts, considering feedback from the FGD, public hearings, and the outcomes of work visits, in addition to public input. (Carried out 2-3 weeks)	The main factions expressed their opinions on the draft bill and academic paper and gave their approval, either with or without notes, for its forwarding to Bamus. (Carried a day)	We then submit the approved draft bill, academic paper, and outcome of the plenary meeting to Bamus for scheduling in the plenary meeting, thereby legitimizing it as an initiative bill, as proposed by the DPR RI. (Carried out 1-5 days)		AKD, responsible for drafting the bill and academic paper, presented the results at the plenary meeting, subsequently legitimizing them as an initiative proposal for the DPR RI. Once approved as an initiative proposal, the government receives the draft and academic paper for further discussion. Carried out 1-5 days)		

Pre-Deliberation Stages	Carrying Out Socialization of the Draft Bill and Academic Paper Before Preparing the Inventory of Issues (DIM)		Compile DIM		
		AKD carried out this socialization, assigning it to a team of experts, representatives of factions, the government, and human resources, who have the authority to act as intermediaries between policymakers and the public. (Carried out 2-4 weeks)		We prepared the DIM based on public input and the interests of the factions in the DPR RI. (Carried out 1-4 weeks)	
Deliberation Stages	Determining the Deliberation Schedule and Working Committee Members	Public Hearing/FGD/Work Visit/Public Discussion	Discussion with the Government	Plenary Meeting for Deliberation of Bill and Academic at AKD	Plenary Meeting
	The president's letter, which assigned the ministry responsible for the discussion, tasked AKD with preparing the deliberation schedule and its working committee members. (Carried out a week)	Before beginning deliberations with the government, AKD, which oversees the bill and academia, conducts public testing and creates opportunities for meaningful public participation. (Carried out 1-2 weeks)	The Working Committee engages in deliberations with the government, utilizing the newly created DIM. In this discussion, the public can participate both actively and passively through the DPR RI website. The public receives each discussion result within a maximum of one 24-hour period. (Carried out 3-4 months)	Each faction shows their opinion, expressing agreement or disagreement with the discussion's outcomes. The Bama then schedules a plenary meeting to decide whether to approve the bill. (Carried out 1-5 days)	At the plenary meeting, each faction expresses its opinion on whether it approves the bill and academic paper, either with or without notes for improvement. At this stage, the public can only participate passively, observing the outcome of the decisions made during the plenary meeting. (Carried out a day)
Approval Stage	The State Secretariat reserves the decision from the plenary meeting that resulted in the bill becoming law for promulgation. The Act and legislated academic papers are now accessible to the public.				
Promulgation	The State Secretariat Minister promulgates the law.				

Source: Processed by the Author, 2024

Meanwhile, the second stage is the pre-deliberation stage. This stage opens opportunities for public participation in preparing the DIM before deliberation between the DPR RI and the government. This stage is important for building an ordinary understanding of crucial issues that require a legal umbrella between the public and policymakers. In addition, it aims to enhance the public's sense of ownership over the policies being formulated. The law regulates issues to reflect the public's needs and the interests of various factions.

In the planning stage, the author also proposed a new sub-process in the form of an FGD with Bappenas, the Ministry of Finance, the Ministry of Law and Human Rights, DPR, DPD, legal, economic, social, and cultural experts, and/or the community or society. In the authors' opinion, inviting Bappenas into the initial process of preparing the National Legislation Program is important because national development planning and national legislative planning should be in harmony and support each other. So far, the reality is that national development planning and Prolegnas are often not aligned. According to Widyawati, law has a role in national development, including as a social engineering tool, social control tool, development control tool, justice enforcement tool, and public education tool.

During the preparation stage, the author incorporated two sub-stages, namely FGDs with various parties, to facilitate the compilation of stakeholder mapping and issue mapping. These sub-stages served as a foundation for policy stakeholders, enabling them to further gather data and information for use in the preparation of bills and academic texts. Stakeholder and issue mapping must involve the public so that the mapping prepared can be appropriate or close to the actual problem conditions and that the policy choices taken in the bill can fulfill public and political interests.

The DPR RI can diversify the forms of public participation by creating a new menu on the main website, [dpr.go.id](http://dpr.go.id). The menu is called e-participation. The addition of this menu is to make it easier for the public to obtain draft bills and the latest information regarding the preparation or discussion of bills in the DPR. This menu not only simplifies access but also creates a platform for the public to offer their input or suggestions on bills or academic texts under draft or discussion in the DPR RI. Figure 2 provides an overview of the menu.



**Figure 2. Additions to the E-Participation Menu**

Source: [dpr.go.id](http://dpr.go.id), processed by the author (2024)

We must focus on implementing meaningful public participation in the future, which requires us to continue considering deliberation and public representation in every policy discussion. Deliberation is appropriate when dealing with interest-based politics.

## Conclusion and Suggestion

Based on the deliberations of the 2020 Ciptaker Bill, the author discovered a gap in the meaning of forms of participation between the community and policymakers, which gave birth to Constitutional Court Decision No. 91 of 2020. The absence of inclusive governance, which allows a broader range of diverse groups to participate and provide input on a bill under deliberation, led to this gap in interpretation. Different interpretations of public participation in the 2020 Ciptaker Bill are caused by several things, such as the need for different types of participation between policymakers and the public, disagreements over the roles of different actors in making laws, flaws in the parliament's representation system, and the lack of an official public participation framework in Indonesia.

The author tries to build a model of public participation that can increase public involvement, especially in the formulation of the proposal, by considering the above factors. The author builds a model of public participation based on each stage of the legislative process. The model proposed by the author has two new stages: pre-planning and pre-deliberation. In the pre-planning phase, the author adds human resources that serves as an intermediary or mediator between the public (community or stakeholders) and policymakers. During the public participation phase, the author can integrate this human resource into existing functional positions, such as policy analysts, or create new functional posts designed to serve as public mediators and policymakers. Human resources require an educational background in public policy, state administration, government administration, sociology, communication, public relations, and international relations. The skills required by this human resource include, among others: public communication, the science of mediation, persuasive ability, and being a political entrepreneur. Human resource aims to equip policymakers with a comprehensive understanding of public needs and bridge the knowledge gap on critical business issues. Therefore, we anticipate that the public will accept and implement the policy more easily.

The second phase is the pre-deliberation phase. This phase provides an opportunity for public participation in the preparation of the DIM prior to discussions between the DPR and the government. This is an important phase to awaken a common understanding of crucial issues that require a legal umbrella between the public and policymakers. Additionally, this phase aims to enhance the public's sense of ownership over

the policies under consideration. This ensures that UU deliberations on regulated issues reflect public needs rather than factions.

During the planning phase, the author proposed a new FGD sub-process that involved Bappenas, Kemenkeu, Legal & Human Rights Chiefs, the DPR, DPD, Legal, Economic, Social, & Cultural, and/or the community at large. The author emphasizes the importance of involving Bappenas in the initial Prolegnas preparation process, as coordination and mutual support are crucial between national development planning and national legislation planning. The relationship between national development planning and the Prolegnas is frequently inconsistent. The law has a role in national development, including as a tool of social engineering, a tool for social control, a tool for control of development, an instrument for enforcing justice, and a tool of public education.

During the preparation phase, the authors introduced two sub-stages of the FGD to the various parties. These sub-stages served as a basis for compiling the mapping of stakeholders and issues. These mappings were based on the policyholders' experience in data collection, and they also provided additional information and material for the compilation of data and academic manuscripts. The process of mapping stakeholders and issues must involve the public to ensure that the compiled maps accurately reflect the actual situation of the problem and that the policy choices made in this matter align with the interests of the public and political parties.

The DPR RI can diversify the forms of public participation by creating a new menu on the main website, [dpr.go.id](http://dpr.go.id). The menu is called e-participation. This menu not only facilitates access but also creates an opportunity for the public to offer their input or advice on drafts or academic manuscripts under preparation or discussion within the DPR. To foster meaningful participation in the future implementation of public participation, it is critical to consider discourse and public representation in every policy discussion.

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