

## **The Implementation of Meaningful Participation in Lawmaking: A Comparative Study and Its Implications for Indonesia**

**Sa'adati\*, Muhammad Yopan**

Universitas Indonesia

Email: [saadati@ui.ac.id](mailto:saadati@ui.ac.id)\*, [muhamad.yopan18@ui.ac.id](mailto:muhamad.yopan18@ui.ac.id)

---

### **Keywords**

public participation, meaningful participation, lawmaking, comparative study, legislative governance

---

### **Abstract**

This study aims to analyze the implementation of meaningful participation in lawmaking in Indonesia, compare it with practices in South Africa and Kenya, and examine its implications for strengthening legislative governance in Indonesia. This study employs a qualitative approach enriched with comparative analysis and public policy analysis. The data used consist of secondary data, including legislation, Constitutional Court decisions, reports, and articles relevant to public participation practices in the comparison countries. The results of the study indicate that although Indonesia has a legal foundation that recognizes public participation, its implementation remains procedural and does not yet meet the indicators of meaningful participation, such as access to information, representation, substantive influence, deliberation, and accountability. A comparative study with South Africa and Kenya shows that similar challenges exist, even though both countries have normative reinforcement at the constitutional level. The main issues lie in implementation, particularly limited access, the dominance of elite groups, weak feedback mechanisms, and minimal public influence on policy substance. This study concludes that strengthening meaningful participation in Indonesia requires improvements in institutional design, stronger accountability mechanisms, and a paradigm shift from procedural participation to substantive participation.

---

## **INTRODUCTION**

Lawmaking in a democratic rule-of-law state is no longer understood as the exclusive domain of the legislative body, but rather as a public process that demands active and meaningful public engagement. In the development of modern legal theory, the legitimacy of a law is determined not only by the fulfillment of formal procedures but also by the extent to which its formation process reflects substantive public participation (Ramadoni et al., 2025; Wardana, Sukardi, & Salman, 2023).

Within the framework of modern governance, the evolution of paradigms in public administration indicates a shift from a government-centered model toward a governance-centered one, which emphasizes multi-stakeholder engagement, including civil society, in the policymaking process (Nabatchi, 2012). In this paradigm, the public is no longer positioned as the object of policy but as a subject with the right to participate in all stages of the policy process, from formulation and discussion to evaluation. The quality of public policy is significantly influenced by the extent to which this process can substantively accommodate the aspirations, needs, and interests of the public. In line with these developments, the concept of meaningful participation has emerged, emphasizing that public involvement must go beyond mere formal attendance at consultation forums. Meaningful participation requires tangible

influence over the policy process and outcomes, ensuring that the public is not merely heard but also considered and provided with explanations for every decision made (Prastyo, 2022; Ramadoni et al., 2025). In the literature, this concept is formulated into three main elements: the right to be heard, the right to be considered, and the right to be explained, which serve as minimum indicators for assessing the quality of public participation (Junaenah & Hashim, 2022).

From a public administration perspective, meaningful participation is also closely linked to the deliberative democracy approach, which emphasizes the importance of rational dialogue, the exchange of arguments, and transparency in the decision-making process (Juchacz, 2020; Bächtiger et al., 2021). Through the deliberative process, the resulting policies possess not only formal legitimacy but also substantive legitimacy, as they are grounded in an inclusive and knowledge-based discussion process. Furthermore, meaningful participation is an integral part of the concept of participatory governance (Nabatchi, 2012).

In the Indonesian context, the principle of public participation has been normatively accommodated in various laws and regulations, particularly in Law No. 12 of 2011, as amended by Law No. 13 of 2022 on the Formation of Laws and Regulations. These regulations provide a legal basis for the public to participate in the legislative process through various mechanisms, such as public hearings, public consultations, and the submission of written or oral feedback.

However, various studies indicate that the implementation of public participation in Indonesia still faces significant challenges. Public participation is often merely procedural and symbolic, serving only to fulfill formal obligations without exerting a tangible influence on the substance of policies (Ramadoni et al., 2025; Prastyo, 2022). Similar findings were also presented by Wardana and Bachtiar (2022), who noted that the digitization of the legislative process has not yet fully ensured effective public engagement if it is not accompanied by adequate access to information and clear follow-up mechanisms. This indicates that public participation has not been optimally integrated into the entire policy cycle.

Several issues hinder the realization of meaningful participation in Indonesia. First, access to information remains limited due to the lack of transparency in the publication of draft laws and academic papers, as well as restricted access periods. Second, the representation of affected groups remains low, as the participation process tends to be dominated by elite groups, such as academics and large organizations, thereby marginalizing vulnerable groups. Third, the absence of systematic feedback mechanisms prevents the public from receiving information regarding follow-up actions or the consideration of their input. Fourth, public aspirations have minimal substantive influence on changes to the content of laws (Prastyo, 2022; Ramadoni et al., 2025).

In a different context, public participation in South Africa is constitutionally recognized as an obligation in the legislative process. Parliament has a mandate to facilitate active public engagement. However, its implementation remains hindered by geographical accessibility for people in remote areas, low legal literacy, and formalistic procedures that do not yet guarantee a substantive impact on policy (ISS Africa, 2023).

Similar to South Africa, Kenya's legal framework has incorporated public participation as a principle of constitutional democracy. Kenya has implemented various models of participation, such as open public consultations and community-based participation mechanisms. Nevertheless, there are challenges similar to those in Indonesia, namely a

tendency toward formalistic participation practices, weak feedback mechanisms, and limited institutional capacity to systematically manage public input (RSIS International, 2024). A comparison of practices in South Africa and Kenya underscores that the primary challenges of public participation do not lie in regulatory aspects, but rather in the quality of implementation and participation. This comparative study does not merely highlight best practices but also identifies the institutional, political, and social variables that determine the success or failure of public participation implementation.

This research analyzes the implementation of meaningful participation in the legislative process in Indonesia through a comparative study with practices in South Africa and Kenya. This analysis aims to identify similarities, differences, and relevant best practices for adaptation. Additionally, this study examines the implications of these comparative findings for efforts to strengthen legislative governance in Indonesia to achieve more inclusive, transparent, and accountable public participation. The findings of this study are expected to provide theoretical contributions to public administration studies on participatory governance and offer practical recommendations for improving public participation mechanisms in the lawmaking process in Indonesia.

## **METHOD**

This study employed a qualitative approach using a comparative framework and public policy analysis. The comparative approach was used to examine public participation practices in the legislative processes of Indonesia, South Africa, and Kenya. The data consisted of secondary sources, including legislation, Constitutional Court decisions, official legislative documents, books, journal articles, policy reports, publications from international institutions, and academic studies on public participation practices in the three countries.

Data were collected through a literature review and document analysis. The data were analyzed using descriptive qualitative analysis by interpreting the collected materials and relating them to relevant theories and concepts. The analysis involved data reduction, systematic presentation of findings, and the drawing of analytical and argumentative conclusions.

## **RESULTS AND DISCUSSION**

### **Implementation of Meaningful Public Participation in Lawmaking in Indonesia**

Indonesia has a legal framework that recognizes the importance of public participation in the legislative process. Law No. 12 of 2011, as amended by Law No. 13 of 2022, provides a formal basis for public involvement in the formulation of legislation. These provisions are reinforced by various Constitutional Court rulings that have developed the concept of meaningful public participation as part of the principle of openness and constitutional democracy.

In its development, public participation is no longer understood merely as a procedural obligation but must meet substantive standards that ensure the public's genuine involvement in the decision-making process. The concept of meaningful participation, as explained by Prastyo (2022) and reinforced by Ramadoni et al. (2025), encompasses three main elements: the right to be heard, the right to be considered, and the right to be explained. These three elements serve as the minimum criteria for assessing whether public participation has met the

expected quality standards in a modern democratic system. However, upon further analysis using more operational indicators—such as access and representation, information transparency, substantive influence on policy, the quality of deliberation, as well as feedback mechanisms and accountability— (Nabatchi, 2012; Wardana, 2022), it is found that the implementation of public participation in Indonesia still faces various structural, institutional, and political limitations.

### **Access and Transparency of Information in the Legislative Process**

Access to information is an absolute prerequisite for meaningful public participation. Without adequate data, the public lacks a sufficient foundation to formulate rational, evidence-based input. Transparency in this context is not merely formal in nature, but encompasses the provision of information that is comprehensive, timely, and easily understood by the public (Nabatchi, 2012). However, in the practice of lawmaking in Indonesia, access to legislative documents remains severely limited. Draft laws and academic papers are often not published openly or are only available for a very brief period before the deliberation process begins. This time constraint hinders the public from conducting in-depth analysis of the substance of the proposed regulations (Normaliyanti et al., 2025).

These conditions constitute the primary barriers to optimizing public participation (Ramadoni et al., 2025). (Wardana, 2022) emphasizes that information transparency is a crucial indicator in assessing the quality of participation. Without transparency, public participation tends to be symbolic and fails to make a substantive contribution to policy. Additionally, the complexity of technical language in legislative documents also poses a barrier to inclusive participation. From a public administration perspective, this phenomenon highlights weaknesses in policy communication design, which should be an integral element of participatory governance

#### 1.2 Representation and Inclusivity of Public Participation

Representation is a crucial determinant in evaluating the quality of public participation. The quality of participation is not determined by the quantity of participants, but rather by the level of representation of various community groups, particularly those directly affected by policies (Wardana, 2022). Current legislative practices in Indonesia show a tendency toward dominance by elite groups, including academics, professional organizations, and specific interest groups. Conversely, vulnerable groups such as indigenous communities, informal workers, women, and other marginalized groups often lack adequate involvement in the process.

This representation gap indicates that public participation has not yet achieved an optimal level of inclusivity. From a participatory governance perspective, inclusivity is a fundamental element that determines the legitimacy and quality of public policy (Nabatchi, 2012). Imbalances in representation risk producing policies biased toward the interests of specific groups, thereby neglecting the needs of the broader public. In addition to regulatory factors, structural barriers such as limited access to information, geographical constraints, and low legal literacy are key variables hindering equitable representation. Thus, strengthening public participation requires comprehensive interventions, not only in regulatory aspects but also in enhancing the social and institutional capacity of the community.

### **The Substantive Impact of Participation on Policy**

One of the primary indicators of meaningful participation is the extent to which public input has a tangible impact on the substance of policy. Participation cannot be considered

meaningful if it stops at the stage of expressing aspirations without integration into the decision-making process (Prastyo, 2022). In the Indonesian context, various studies indicate that public input rarely has a significant impact on the content of legislation. The legislative process remains dominated by political actors, so public participation tends to be a procedural formality. This aligns with the findings of Ramadoni et al. (2025), who state that public participation in Indonesia remains symbolic and has not yet reached a level of substantive participation.

From the perspective of deliberative democracy, as explained by Juchacz (2020), public participation should serve as a space for the exchange of rational, evidence-based arguments. However, in practice, the deliberative process in the lawmaking process in Indonesia remains limited and has not provided sufficient space for the public to meaningfully influence decisions. This situation indicates a gap between the concept of participation as a deliberative process and legislative practices that remain top-down and elitist.

### **Feedback Mechanisms and Accountability**

The existence of feedback mechanisms is an essential component in realizing meaningful participation. Participation encompasses not only the public's right to voice their aspirations but also the right to receive information regarding the follow-up on input provided during the decision-making process (Prastyo, 2022). Current legislative practices in Indonesia reveal limitations in these mechanisms. The absence of a normative obligation for lawmakers to provide an explanation regarding the status of public input whether accepted, rejected, or ignored, results in a legislative process that lacks transparency and is difficult to hold accountable.

The absence of a feedback mechanism serves as a significant indicator of the low effectiveness of public participation (Wardana, 2022). Without accountability, the participation process loses its substance and risks eroding public trust in legislative institutions. From a public administration perspective, accountability is a fundamental pillar of good governance. Therefore, strengthening feedback mechanisms is urgent to improve the quality of public participation in the policy-making process.

### **Quality of Deliberation in the Legislative Process**

The quality of deliberation is an indicator that assesses the extent to which the participatory process enables rational, open, and inclusive dialogue. In deliberative democracy theory, policy legitimacy is determined not only by the final outcome but also by the quality of the discussion process involving various stakeholders (Juchacz, 2020). In the Indonesian context, the deliberative process in lawmaking remains largely formal and one-sided. Public participation forums often do not provide sufficient space for in-depth discussion, the exchange of arguments, or critical evaluation of policy substance. This indicates that public participation has not yet functioned as an effective deliberative mechanism. In fact, high-quality deliberation can improve policy quality by enriching perspectives, reducing bias, and enhancing social legitimacy.

### **Synthesis of Implementation in Indonesia**

The implementation of public participation in the legislative process in Indonesia currently remains procedural and has not fully met the criteria for meaningful public participation. Although the normative framework guarantees the public's right to engage, in practice, it tends to become an administrative formality. Key obstacles in this process include

limited access to and transparency of information, where the lack of timely access to legislative documents hinders substantive, evidence-based public contributions.

Gaps in representation and inclusivity are another fundamental issue. The legislative process remains dominated by certain elite groups and professional organizations, while directly affected communities—particularly vulnerable groups—have not been adequately accommodated. This disparity indicates that the principle of participatory justice in good governance has not been implemented. Furthermore, the minimal impact of public input on the substance of laws underscores that the participation that has taken place so far tends to be symbolic rather than an integral part of the decision-making process. The quality of participation is also hampered by the absence of accountable feedback mechanisms. The lack of a normative obligation for lawmakers to provide explanations regarding the follow-up to public input weakens legislative accountability and erodes public trust.

Overall, these findings indicate that the challenges of public participation in Indonesia are multidimensional. These issues are not limited to regulatory aspects but also encompass institutional capacity, the design of participatory mechanisms, and a bureaucratic culture that does not yet fully facilitate openness and inclusivity.

### **Comparison of the Implementation of Meaningful Public Participation in Indonesia, South Africa, and Kenya**

This study conducts a comparative analysis to identify similarities, differences, and best practices in the implementation of meaningful public participation in the lawmaking process. South Africa and Kenya were selected as comparison subjects because both are developing democracies that have adopted constitutional mandates regarding the obligation of public participation. The selection of these two countries is based on the relevance of the implementation challenges they face, which share similar characteristics with the legislative context in Indonesia.

#### **Normative Framework and Constitutional Recognition**

From a normative perspective, the three countries share common ground in recognizing public participation as a fundamental principle in the lawmaking process. Indonesia regulates this through Law No. 12 of 2011 as amended by Law No. 13 of 2022 on the Formation of Legislation. Meanwhile, South Africa has a stronger constitutional foundation. The 1996 South African Constitution explicitly requires the parliament to facilitate public participation in the legislative process (Hidayati, 2019). This makes public participation not merely an administrative policy but a constitutional obligation that can be legally challenged. In fact, the courts in South Africa play an active role in ensuring that this obligation is substantively fulfilled (Putra et al., 2024).

In Kenya, public participation is a core principle of governance. Every legislative process is required to involve the public through various consultative mechanisms. The 2010 Constitution made a significant contribution to formalizing citizen engagement in the legislative process (Maiyo, 2025). Normatively, Kenya shares similarities with South Africa regarding the strengthening of public participation at the constitutional level. However, although South Africa and Kenya have stronger constitutional foundations compared to Indonesia, this does not automatically guarantee better implementation quality. Rather, this comparison indicates that the primary issue lies not in the absence of regulations, but in how those regulations are implemented in practice.

## **Access to Information and Transparency in the Legislative Process**

South Africa has an advantage in providing access and transparency compared to Indonesia and Kenya. The South African Parliament provides a comprehensive digital platform that publicly publishes draft legislation, discussion schedules, and consultation results. However, the availability of formal access to information does not automatically guarantee inclusivity, given that geographical barriers and the digital divide still limit the scope of participation for communities in rural areas.

In Kenya, although regulations guarantee the public's right to access government information to support meaningful participation, the effectiveness of implementation remains low. According to a study by Jumanne (2025), digital public participation platforms in Kenya face obstacles such as low digital literacy, limited internet infrastructure in remote areas, and user-unfriendly platform interfaces.

Indonesia faces more fundamental challenges regarding the consistency and systematization of legislative transparency. Regulatory fragmentation and legal complexity often hinder efforts to enhance transparency (Rodiyah et al., 2023). The unsystematic publication of legislative documents makes it difficult for the public to monitor the progress of the lawmaking process. This gap in institutionalized transparency places Indonesia below the standards achieved by South Africa. This situation aligns with the concept of participatory transparency proposed by Muthomi and Thurmaier (2021). This concept emphasizes that transparency is not limited to open access to data but also includes the provision of relevant and easily understandable information so that the public can influence the decision-making process. Participatory transparency is an essential prerequisite for the effectiveness of public participation in influencing policy substance.

## **Representation and Inclusivity of Participation**

In terms of representation, the three countries exhibit relatively similar patterns, namely the dominance of elite groups in the participatory process. In Indonesia, public participation is still dominated by academics, large civil society organizations, and specific interest groups. In South Africa, there are various forms of public participation such as people's assemblies, parliamentary programs for the people, radio broadcasts, newsletters, and websites (Gusman & Syofyan, 2023). Despite having more structured participation mechanisms, South Africa also faces challenges in ensuring the involvement of marginalized groups. Studies indicate that participation is often more accessible to groups with adequate resources and organizational capacity. Kenya faces challenges such as negative public attitudes, limited financial capacity and resources for engagement, a lack of political will, and political interference hindering effective participation (Ronoh et al., 2018). Community based participation mechanisms have indeed been developed, but their implementation has not yet been able to reach all segments of society equitably. Thus, it can be concluded that representation remains a universal issue, not only in Indonesia but also in the comparison countries. This indicates that the design of participation mechanisms has not yet fully been able to accommodate the principle of inclusivity in a substantive manner.

## **Substantive Influence on Policy**

The substantive influence of public input is an essential indicator in determining the quality of meaningful public participation. A comparative analysis of Indonesia, South Africa, and Kenya reveals a similar pattern: the low integration of public aspirations into the final

legislative products. In Indonesia, public involvement in the legislative process is generally limited to procedural formalities. Public input rarely significantly influences the substance of laws, so participation has not been integrated as an integral component of decision-making.

South Africa has a comparative advantage through judicial review mechanisms that allow the public to demand accountability for non-participatory legislative processes. Nevertheless, in practice, the effectiveness of public influence remains heavily influenced by political dynamics and the interests of the elite in parliament.

The situation in Kenya reveals comparable challenges. Weak mechanisms for processing public input, coupled with the absence of a normative obligation for lawmakers to accommodate public aspirations, constitute the primary obstacles. Research by Imbo and Kiruthu (2019) confirms that public contributions to the legislative output of the Kenyan National Assembly tend to be minimal. This phenomenon is caused by ineffective participation designs, limited consultation periods, and suboptimal systems for managing public aspirations.

### **Feedback Mechanisms and Accountability**

One of the main weaknesses in all three countries is the absence of strong feedback mechanisms. In Indonesia, the public does not receive information on how their input is processed. South Africa actually has better potential in this regard, but its implementation remains inconsistent. Meanwhile, Kenya also faces a similar issue: there is no clear mechanism for providing feedback to the public (Imbo & Kiruthu, 2019). The absence of such feedback mechanisms causes public participation to lose its substantive meaning, as there is no guarantee that public aspirations are genuinely taken into account.

### **Best Practices That Can Be Adopted**

Despite facing various challenges in implementing public participation, the results of the comparative study indicate the existence of several best practices that can serve as a reference for Indonesia. South Africa, for example, demonstrates the importance of strengthening constitutional obligations to ensure public participation, supported by the active role of the judiciary in overseeing the legislative process. Through this mechanism, public participation is not merely a formal norm but can also be legally enforced if disregarded by lawmakers.

On the other hand, Kenya offers an interesting example regarding the development of community-based participation models that are closer to the people. This approach enables more inclusive engagement, particularly for community groups that have historically been underrepresented in formal forums.

Participation does not occur solely at the central level but also extends to the local level, allowing for the broader and more contextually relevant incorporation of public aspirations. Furthermore, both South Africa and Kenya demonstrate the importance of innovation in utilizing digital technology as a tool for public participation. The use of digital platforms in the legislative process can enhance information accessibility, expand the scope of participation, and strengthen transparency at every stage of lawmaking. These practices are relevant for Indonesia, particularly in addressing geographical challenges and limitations in information access. Thus, these practices underscore that the success of public participation is determined not only by the existence of regulations but also by institutional design, innovative participation mechanisms, and political commitment to consistently implementing them.

## **Comparative Synthesis**

Overall, the comparative analysis of Indonesia, South Africa, and Kenya reveals that all three countries have, in principle, recognized the importance of public participation in the lawmaking process as part of democratic principles and good governance. However, the findings of this study indicate that the primary challenges do not lie in regulatory aspects but rather in the practical implementation of these provisions. Although the legal framework is in place, the implementation of public participation in all three countries still faces various structural obstacles. The issues that arise tend to follow a similar pattern, namely limited access to information, low levels of representativeness and inclusivity, minimal substantive influence on the decision-making process, and weak accountability and feedback mechanisms.

This situation indicates that public participation has not yet been fully integrated as part of a substantive deliberative process, but remains at the level of procedural formalities. Furthermore, the comparative findings also show that no single country has fully succeeded in realizing the concept of meaningful participation in an ideal manner. Nevertheless, each country has specific practices that can be categorized as best practices and have the potential to be adapted in the context of other countries. This underscores that strengthening public participation cannot be achieved through a single approach but requires a combination of regulatory strengthening, institutional design improvements, and innovation in participation mechanisms. Thus, this comparative study underscores that efforts to strengthen public participation in Indonesia should not only focus on the creation or revision of formal regulations but also be directed toward improving institutional design, enhancing transparency, and strengthening accountability mechanisms within the legislative process. A comprehensive and implementation-oriented approach is key to achieving truly meaningful public participation.

## **Implications of Strengthening Meaningful Public Participation in Lawmaking in Indonesia**

Research findings indicate that the primary barriers to public participation in lawmaking in Indonesia do not lie in regulatory aspects, but rather in the quality of implementation and institutional design. Normatively, Indonesia's legal framework is adequate as stipulated in Law No. 12 of 2011, as amended by Law No. 13 of 2022 on the Formation of Legislation. However, in practice, public participation remains procedural and has not yet fully met the essential substantive dimensions.

According to Prastyo (2022), meaningful public participation must at least meet three key indicators: the right to be heard, the right to be considered, and the right to be explained. These three indicators serve as tools to measure the extent to which the public is not only given the opportunity to express their opinions but also receives assurances that those opinions are considered and explained. In legislative practice in Indonesia, the "right to be heard" indicator is relatively well-established through mechanisms such as public hearings, public consultations, and discussion forums organized by legislative bodies. However, the "right to be considered" and "right to be explained" indicators still exhibit various shortcomings, reflected in the limited influence of public input on policy substance and the absence of systematic feedback mechanisms.

This finding aligns with the research by Wardana and Bachtiar (2022), which states that the digitalization of public participation has not yet fully succeeded in improving the quality of

public engagement if it is not accompanied by transparency and accountability in the legislative process. Similarly, research by Wardana, Sukardi, and Salman (2023) indicates that public participation in lawmaking in Indonesia remains dominated by specific groups with access to the legislative process, thus failing to fully reflect the principle of inclusivity. The results of these findings are presented in Table 1.

**Table 1.** Evaluation of the Implementation of Meaningful Public Participation in Indonesia

| Indicator                | Actual Condition                  | Main Problem   |
|--------------------------|-----------------------------------|--|
| Right to be Heard        | Consultation forums are available | Has not yet reached all community groups   |
| Right to be Considered   | Input is formally accepted        | Has not had a significant impact on the substance of the law                       |
| Right to be Explained    | Very limited                      | No feedback mechanism available  |
| Information Transparency | Some documents are published      | Publication is inconsistent and often delayed                                      |
| Inclusivity              | Still dominated by the elite      | Vulnerable groups are underrepresented   |
| Public Deliberation      | Consultative in nature            | Public Deliberation Consultative in nature<br>Substantive dialogue remains limited |

Source: Adapted from Prastyo (2022), Wardana and Bachtiar (2022), Wardana et al. (2023), and Mochtar et al. (2024).

The evaluation results indicate that the quality of public participation in Indonesia remains at the consultative level and has not yet evolved toward deliberative participation (Sjarif, 2023). From a public administration perspective, this situation suggests that public participation is still positioned as a procedural formality rather than as a primary instrument for improving the quality of public policy.

**Table 2.** Comparison of the Implementation of Meaningful Participation

| Aspect                   | Indonesia   | South Africa                          | Kenya                          |
|--------------------------|---|---------------------------------------|--------------------------------|
| Legal Basis              | Law No. 12 of 2011 as amended by Law No. 13 of 2022 on the Formation of Legislation | The 1996 Constitution of South Africa | The 2010 Constitution of Kenya |
| Public Hearing           | Yes   | Very strong                           | Exists                         |
| Judicial Oversight       | Limited   | Strong                                | Moderate                       |
| Legislative Transparency | Moderate  | Tall                                  | Moderate                       |
| Inclusivity              | Low   | Medium                                | Moderate                       |
| Feedback Mechanism       | Weak  | Moderate                              | Weak                           |
| Digital Participation    | Developing  | Developing                            | Developing                     |

Source: Adapted from ISS Africa (2023), RSIS International (2024), and various national legislative documents.

Based on Table 2, South Africa demonstrates a relatively higher level of public participation implementation compared to Indonesia and Kenya. One factor influencing this situation is the existence of a constitutional mandate that explicitly requires the parliament to facilitate public engagement in the legislative process. Additionally, the existence of oversight mechanisms by the constitutional court ensures that public participation is not merely an administrative obligation but also a legal obligation subject to judicial review. Meanwhile, Kenya has demonstrated significant progress through the implementation of community-based participation mechanisms. This model enables public involvement down to the local level, allowing aspirations emerging within the community to be channeled more effectively to policymakers.

The diagram indicates that Indonesia still lags behind South Africa and Kenya in the implementation of meaningful public participation. This gap is primarily due to weak accountability mechanisms and the public's limited substantive influence on the decision-making process. From a participatory governance perspective, Nabatchi (2012) explains that effective public participation must foster a reciprocal relationship between the government and the public. Participation is not only aimed at obtaining information from the public but also at building policy legitimacy through an open and inclusive deliberative process. This view is reinforced by Bächtiger et al. (2021), who emphasize that the quality of deliberative democracy is determined by the ability of public institutions to create a space for dialogue that allows for the exchange of arguments in a rational and equal manner.

Based on the findings of this study, there are four main strategies that can be implemented to strengthen the implementation of meaningful public participation in Indonesia. First, enhancing transparency through the mandatory public disclosure of draft legislation and academic papers from the earliest stages of legislative planning. Second, increasing inclusivity by providing broader opportunities for vulnerable groups and communities directly affected. Third, establishing a feedback mechanism that requires lawmakers to explain the reasons for accepting or rejecting public input. Fourth, developing digital participation platforms that enable the public to participate more easily and widely (OECD, 2020; OECD, 2022).

## CONCLUSION

Normatively, Indonesia's legal framework has recognized the importance of public participation in lawmaking, as stipulated in Law No. 12 of 2011, as amended by Law No. 13 of 2022 on the Formation of Laws and Regulations. However, in practice, such participation tends to be procedural and has not yet fully met essential indicators, namely accessibility, transparency, representation, substantive influence, quality of deliberation, and accountability. Public involvement is often treated merely as an administrative formality without making a tangible contribution to the substance of policy.

A comparative study of South Africa and Kenya indicates that similar challenges are also faced by countries with stronger constitutional mandates. Phenomena such as limited access to information, the dominance of elite groups, weak substantive influence, and suboptimal feedback mechanisms are structural issues that transcend jurisdictional boundaries.

These conditions underscore that the existence of comprehensive regulations does not automatically guarantee meaningful public participation. The ideal implementation of public participation in Indonesia still requires the fulfillment of the principles of the right to be heard,

the right to be considered, and the right to be explained. The success of public participation depends heavily on the synergy between regulations and transparency, inclusivity, accountability, and strong institutional support. Therefore, strengthening public participation in Indonesia requires strategic steps, such as increasing information transparency, strengthening feedback mechanisms, and optimizing digital-based participation to produce a more democratic and high-quality legislative process.

## REFERENCE

- Bächtiger, A., John Dryzek, Jane Mansbridge, & Mark Warren. (2021). *The Oxford handbook of deliberative democracy*. Oxford University Press.
- Gusman, D., & Syofyan, Y. (2023). Public participation in legislation (legal comparison studies in Indonesia, South Africa, and United States). *Nagari Law Review*, 6(2), 133–145. <https://doi.org/10.25077/nalrev.v6i2.145>
- Hidayati, S. (2019). Partisipasi masyarakat dalam pembentukan undang-undang (Studi perbandingan Indonesia dengan Afrika Selatan). *Jurnal Bina Mulia Hukum*, 3(2), 224–241. <https://doi.org/10.23920/jbmh.v3n2.18>
- Imbo, V. W., & Kiruthu, F. (2019). Effects of public participation on legislation by the Kenya National Assembly. *International Academic Journal of Law and Society*, 1(2), 104–120.
- Juchacz, P. W. (2020). Deliberative democracy and public participation: A theoretical framework. *Journal of Public Deliberation*.
- Jumanne, A. S. (2025). Public participation modalities and framework: A review of legislative process. *International Journal of Research and Innovation in Social Science*, 8(12), 1707–1715. <https://doi.org/10.47772/IJRIS.2024.8120146>
- Junaenah, I., & Hashim, N. (2022). Adequacy of public information for meaningful e-participation in policy-making: Human rights-based. *Journal of Southeast Asian Human Rights*, 6(2), 153–181.
- Maiyo, C., et al. (2025). Public participation and the legislative process: A case of finance act, 2023. *International Journal of Research and Innovation in Social Science*, 9(9), 7639–7651. <https://doi.org/10.47772/IJRIS.2025.909000624>
- Mochtar, Z. A., et al. (2024). From meaningful to meaningless participation: The tragedy of Indonesia's omnibus law on job creation.
- Muthomi, F., & Thurmaier, K. (2021). Participatory transparency in Kenya: Toward an engaged budgeting model of local governance. *Public Administration Review*, 81(3), 519–531. <https://doi.org/10.1111/puar.13294>
- Nabatchi, T. (2012). Putting the public back in public values research: Designing participation to identify and respond to values. *Public Administration Review*. <https://doi.org/10.1002/crq.21142>
- Normaliyanti, N., Aslamiah, S., Adistianisa, A., & Yamani, A. Z. (2025). Legal drafting: Tantangan menjembatani teori dan praktik dalam pembentukan peraturan di Indonesia. *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory*, 3(2), 1236–1250. <https://doi.org/10.62976/ijjel.v3i2.1105>
- OECD. (2020). *Innovative citizen participation and new democratic institutions: Catching the deliberative wave*. OECD Publishing.
- OECD. (2022). *Guidelines for citizen participation processes*. OECD Publishing.
- Prastyo, A. (2022). Limitation of meaningful participation requirements in the Indonesian law-making process. *Jurnal Hukum dan Peradilan*, 11(3), 405–436. <https://doi.org/10.25216/JHP.11.3.2022.405-436>
- Putra, R. K., Nugroho, A. W., Saragih, G. M., Fatimah, S., & Nugraha, S. (2025). The urgency

- of meaningful participation in the law-making process from the perspective of democratic countries (Comparison of Indonesia, South Africa and the United States). *Pena Justisia: Media Komunikasi dan Kajian Hukum*, 24(1), 2571–2586. <https://doi.org/10.31941/pj.v24i1.5270>
- Ramadoni, R., Suryadin, S., Mustamin, M., & Erham, E. (2025). Partisipasi masyarakat dalam pembentukan undang-undang: Studi terhadap partisipasi masyarakat secara substansial/bermakna (Meaningful participation). *SENTRI: Jurnal Riset Ilmiah*, 4(12), 4314–4327.
- Rodiyah, R., Idris, S. H., & Smith, R. B. (2023). Mainstreaming justice in the establishment of laws and regulations process: Comparing cases in Indonesia, Malaysia, and Australia. *Journal of Indonesian Legal Studies*, 8(1), 333–378. <https://doi.org/10.15294/jils.v7i2.60096>
- Ronoh, G., Mulongo, L. S., & Kurgat, A. (2018). Challenges of integrating public participation in the devolved system of governance for sustainable development in Kenya. *International Journal of Economics, Commerce and Management*, 6(1), 476–491.
- Sjarif, F. A. (2023). Strategi mewujudkan partisipasi masyarakat yang bermakna dan bermanfaat dalam pembentukan undang-undang. *Jurnal Legislasi Indonesia*, 20(4), 109–124. <https://doi.org/10.54629/jli.v20i4.1196>
- Wardana, D. J., & Bachtiar, H. (2022). Public participation in the law-making in the digitalization era. *Indonesia Law Reform Journal*, 2(3), 289–298.
- Wardana, D. J., Sukardi, & Salman, R. (2023). Public participation in the law-making process in Indonesia. *Jurnal Media Hukum*, 30(1), 66–77.