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PARTISIPASI YANG BERMAKNA DAN ANALISIS DAMPAK PERATURAN DALAM PERUNDANG-UNDANGAN BERDASARKAN PERSPEKTIF DEMOKRASI DELIBERATIF HABERMAS

MEANINGFUL PARTICIPATION AND REGULATORY IMPACT ANALYSIS IN LEGISLATION FROM THE PERSPECTIVE OF HABERMAS' DELIBERATIVE DEMOCRACY

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Abstrak

Konsep Meaningful Participation dan Regulatory Impact Analysis (RIA) berperan penting dalam memastikan bahwa proses legislasi di Indonesia berjalan transparan dan responsif. Sementara itu dalam Perspektif demokrasi deliberatif Habermas menekankan pentingnya diskursus publik yang rasional dan inklusif sebagai fondasi legitimasi hukum. Artikel ini bertujuan untuk mengevaluasi penerapan *Meaningful Participation* dan RIA dalam pembentukan undang-undang di Indonesia, ditinjau dari prinsip-prinsip demokrasi deliberatif. Penelitian ini menggunakan metode Penelitian hukum doctrinal dengan pendekatan konsep dan perundang-undangan melalui studi kepustakaan. Kesimpulan menunjukkan bahwa pelaksanaan *Meaningful Participation* dan RIA masih terbatas pada aspek formalitas, dengan minimnya keterlibatan publik yang substansial dan penerapan RIA yang belum konsisten. Untuk mewujudkan pembentukan undang-undang yang legitim dan sesuai prinsip demokrasi deliberatif, diperlukan penguatan mekanisme penerapan partisipasi publik dan RIA yang lebih rasional dan responsive sesuai kebutuhan masyarakat seperti aksesibilitas, inklusivitas, peningkatan sumber daya manusia, dan upaya kolaboratif.

Abstract

The concepts of Meaningful Participation and Regulatory Impact Analysis (RIA) play an essential role in ensuring that the legislation process in Indonesia is transparent and responsive.

Keywords: Meaningful Participation; Regulatory Impact Analysis; Deliberative Democracy; Habermas; Legislation

Meanwhile, Habermas' deliberative democracy perspective emphasizes the importance of rational and inclusive public discourse as the foundation of legal legitimacy. This article aims to evaluate the application of Meaningful Participation and RIA in the formation of laws in Indonesia regarding the principles of deliberative democracy. This study uses the doctrinal legal research method with a conceptual and legislative approach through literature study. The conclusion shows that the implementation of Meaningful Participation and RIA is still limited to formality, with the lack of substantial public involvement and inconsistent application of RIA. To realize the formation of legitimate laws that are in line with the principles of deliberative democracy, it is necessary to strengthen mechanisms for public participation and RIA that are more rational and responsive to the needs of the community, such as accessibility, inclusiveness, capacity building of human resources and data, and collaborative efforts.

INTRODUCTION

Legislation is a key process in a democracy that determines the quality and effectiveness of public policy.[1] In a democratic country, the law functions as a legal product and at the same time a reflection of the will of the people towards the fulfillment of the needs of the community itself.[2] This embodies the principle of popular sovereignty in decision-making by involving the community.[3] Therefore, the quality of legislation depends on an open, inclusive and rational legislative process. One approach to achieve this is through Meaningful Participation, which is meaningful public participation, and the application of Regulatory Impact Analysis (RIA) to assess the impact of regulations. Both approaches emerged in Indonesia after the Constitutional Court Decision No. 91/PUU-XVIII/2020 regarding the judicial review of the Job Creation Law which was considered formally flawed because the formation process did not involve the community in depth. The decision emphasized the need to fulfill the right of public participation to be heard and considered in the drafting of related laws because it will have a broad impact on society. On that basis, the law-making process was then developed by adopting a meaningful participation approach and RIA as stipulated in Law Number 13 of 2022 concerning the Second Amendment to the Law on the Formation of Laws and Regulations.[4]

However, public participation in the legislative process in Indonesia still needs to overcome many challenges. Often, participation is limited to administrative formalities, such as public consultations that are not in-depth, holding meetings simply to fulfill the requirements, or only as a fulfilment of procedures without paying

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1 M Fiko Alvino and Siti Halilah, 'Pembentukan Undang-Undang Dalam Rangka Pembaharuan Hukum Nasional di Era Demokrasi' (2023) 6 (1) Siyasah : Jurnal Hukum Tata Negara 76.

2 Fauzi Iswari, 'Aplikasi Konsep Negara Hukum Dan Demokrasi Dalam Pembentukan Undang-Undang di Indonesia' (2020) 6 (1) JCH (Jurnal Cendekia Hukum) 127.

3 *Ibid.*

4 Alda Rifada Rizqi, 'Meaningful Participation in Local Regulation Making in Indonesia: A Study of Legislative Law' (2022) 10 (2) Rechtsidee 6, 7.

attention to the quality of community input.[5] In addition, implementing RIA is often considered an addition without an in-depth evaluation of the impact of policies on social, economic, and environmental aspects. As a result, many laws produced could be more optimal in meeting the community's needs and often changed for correction. In this context, the theory of deliberative democracy by Jürgen Habermas is the basis for evaluating public participation and analyzing the impact of regulations. Deliberative democracy emphasizes the importance of rational, inclusive, and dialogical public discourse in legitimate decision-making.[6]

Meaningful Participation, in the context of deliberative democracy, not only provides opportunities for the public to have their opinion but also needs constructive interaction between policymakers and the public. Meaningful participation should allow the public to influence policy outcomes through rational arguments and sufficient information. Regulatory Impact Analysis (RIA) enriches deliberation (the process of carefully considering the considerations of the various participating parties) by providing empirical data and comprehensive analysis of the impact of regulations.[7] Thus RIA is not only used to measure policy effectiveness, but also to open a broader discussion about the consequences of various existing policy options.

Implementing Meaningful Participation and RIA in Indonesia faces various structural and cultural barriers. Structurally, law-making is still top-down, with the government and legislature dominating the substance of regulations. In addition, public access to legislative information needs to be improved, thus hindering effective participation. The knowledge gap between policymakers and the public is also a challenge for meaningful participation. In the cultural context, Indonesia's legal culture, oriented towards hierarchy and authority, often inhibits free and open deliberation processes. This is where the relevance of Habermas' theory of deliberative democracy becomes very important. Habermas emphasizes that to achieve a legitimate and quality policy, involving various stakeholders in a discussion forum free from power domination is necessary.[8] In this forum, arguments must be evaluated based on rationality and evidence, not on the status or authority of the speaker. The deliberation process needs to create "ideal communication" where all parties have equal opportunities to participate and make constructive contributions.

This article examines the application of Meaningful Participation and Regulatory Impact Analysis in legislation formation in Indonesia based on Habermas' deliberative democracy perspective. This research evaluates the reflection of the principle of deliberation in legislative practice in Indonesia and provides recommendations to optimize both concepts to improve the quality of laws produced. By referring to the theory of deliberative democracy, this article is expected to enrich

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5 Helmi Chandra SY and Shelvin Putri Irawan, 'Expansion Meaning of Public Participation in the Formation of Laws After Decision of Constitutional Court' (2022) 19 (4) Jurnal Konstitusi 766, 776.

6 Costantinus Fatlolon, 'An Evaluation of the Amendment Process of the 1945 Constitution: A Habermasian Perspective' (2022) 19 (4) Jurnal Konstitusi 819, 825.

7 Agatha Retnosari and Humaidi Rizqi Alfath Syaif, 'Penerapan Regulatory Impact Assessment Dalam Pembentukan Peraturan Perundang-Undangan: Suatu Kewajiban Atau Saran?' (2024) 18 (1) Cakrawala: Jurnal Litbang Kebijakan 143, 151.

8 Anastasia Meilin Gita Permata Laia, 'Inter-Civilizational Dialogue: Habermas' Theory As A Philosophical Basis For Understanding Global Peace' (2025) 10 (1) Jurnal PIR : Power in International Relations 26, 35.

the academic discourse on more inclusive and rational legislative reform in Indonesia. Based on this background, the problem posed in this article is how effective meaningful participation and RIA are in the legislative process and the challenges faced in realizing it.

This article aims to analyze and evaluate the application of Meaningful Participation and Regulatory Impact Analysis (RIA) in the legislation process in Indonesia. This research seeks to examine the extent to which the two concepts have been applied and whether they can improve the quality of legislation by the principles of deliberative democracy suggested by Jürgen Habermas. More specifically, the writing of this article aims to 1) Assess the effectiveness of Meaningful Participation in ensuring substantive and dialogical public involvement in policy formation. 2) Identifying the role and challenges of implementation of RIA in enriching the policy deliberation process through comprehensive regulatory impact analysis. 3) Criticize the suitability of legislative practices in Indonesia with the principles of deliberative democracy, which emphasize rational, inclusive, and free public discourse from power domination.

Several studies, such as those conducted by Fanny Graciela Egas Moreno et al., reveal that Habermas' theory has the potential to help the government implement actions in the public interest through community participation. This theory provides space for the community to debate and participate in public policy management. The contextualization of Habermas' thinking can contribute to community management practices in dealing with public issues. However, the study has not yet discussed the form of public participation in the formulation of regulations from Habermas' perspective.[9] Public participation has become increasingly emphasized in Indonesia following the Constitutional Court Decision No. 91/PUU-XVIII/2020, which was later adopted in Law No. 13 of 2022. Public participation has become a critical point of improvement in the process of lawmaking as the foundation of a legal and democratic state.[10] In-depth research on the application of meaningful participation and RIA in the formulation of regulations from the perspective of deliberative democracy has not been widely conducted, making this research important.

Based on the background, problems, and objectives, the research and writing of this article uses doctrinal legal research. The approach used is a conceptual approach and legislation related to community participation and RIA, as well as reviewing literature based on secondary legal materials, namely academic literature and legal doctrine for analysis.[11] Furthermore, this research involves a critical analysis of the conformity of legal provisions with the principles of deliberation, such as inclusiveness, rationality, and transparency.

DISCUSSION

9 Fanny Graciela Egas Moreno and others, 'Considerations on Citizen Participation in the Development of Public Policies: Insights from a Habermasian Perspective' (2024) 5 (3) Sapienza: International Journal of Interdisciplinary Studies 1, 2.

10 Eko Nursetiawan and Riris Ardhanariswari, 'Meaningful Participation in Legislative Drafting as a Manifestation of a Democratic Rule of Law' (2022) 5 (2) Jambe Law Journal 251, 253.

11 Lendy Siar, Marthin L. Lambonan and Audi Helri Pondaag, 'Partisipasi Masyarakat Dalam Pembentukan Peraturan Daerah Di Kabupaten Minahasa Selatan' (2024) 9 (1) Nuansa Akademik: Jurnal Pembangunan Masyarakat 55, 58.

Habermas' Deliberative Democracy and Its Relevance to Inclusive Legislative Processes

Deliberative democracy is a concept popularized by Jürgen Habermas, a German philosopher and sociologist, who emphasized the importance of open and rational dialogue in political decision-making. The state in the context of deliberative democracy no longer determines policies in a closed space, but the community can contribute to the formation of each policy.[12] The word "deliberation" itself comes from the Latin "deliberation" which means "consultation", "weighing", or "deliberation". Democracy is said to be deliberative, if the process of giving reasons or considerations for public policy is tested first through public consultation or what Jurgen Habermas calls "public discourse".[13]

In Habermas' view, democracy is not just about elections but involves a communication process where all citizens can participate in public discussion.[14] This process is important for creating shared understanding, strengthening the legitimacy of political decisions, and facilitating inclusive participation. Habermas argues that deliberative democracy requires a public space where individuals can exchange opinions and arguments without pressure from power.[15] In this context, the public sphere serves as an arena for critical dialog that allows people to discuss different interests and values. This dialogue should be based on the principles of rationality, where arguments are measured and evaluated based on their quality and relevance, not based on power or dominance. Therefore, deliberative democracy seeks to promote open and constructive discussion, which in turn is expected to result in better public policies that better represent the interests of the wider community.

The relevance of deliberative democracy in the legislative process is evident in the effort to create laws that are more inclusive and responsive to the needs of society.[16] In the context of legislation, public participation is essential. The law-making process should involve legislators, civil society, academics, and other stakeholders. Through this participation, legislation can reflect the voices and aspirations of the people, not just the interests of a handful of political or economic elites.

Inclusive legislative processes not only broaden participation but also enrich discussions. Discussions are conducted comprehensively and are not just a formality but are really utilized to fully absorb the aspirations of the community, academics, and interested parties. Through comprehensive discussions, the views and experiences of the community on the problems and realities of community life that occur will be clearly visible. When people's different views and experiences are accommodated, the process helps to identify perspectives that might otherwise be unreachable if relying solely on political elites. This is crucial for creating laws that

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12 Mohammad Asy'ari Muthhar, 'Membaca Demokrasi Deliberatif Jurgen Habermas Dalam Dinamika Politik Indonesia' (2020) 2 (2) Ushuluna: Jurnal Ilmu Ushuluddin 49, 54.

13 Melki Nino, 'Demokrasi Deliberatif Jurgen Habermas dan Relevansinya Bagi Demokrasi Pancasila' (2024) 23 (2) Akademika 50, 52.

14 Khaerul Umam Noer, *Partisipasi Publik: Model, Pendekatan, dan Praksis* (1st edn, Perwatt 2022) 45.

15 F. Budi Hardiman, *Demokrasi Deliberatif: Menimbang Negara Hukum dan Ruang Publik Dalam Teori Diskursus Jurgen Habermas* (Kanisius 2021) 67.

16 Muthhar (n 12) 50.

are not only formal but also substantial in the sense that they address the real needs of the people. In other words, public participation in the legislative process can increase the legitimacy and acceptance of the resulting policies.

In addition, the principle of rationality in deliberative democracy also has significant implications for the legislative process. Rationality is basically a mindset that prioritizes logic and reason in the decision-making process and actions. By emphasizing the importance of rational arguments, deliberative democracy encourages discussions based on facts and evidence rather than subjective opinions. This process ensures that decisions do not simply follow the flow of public opinion, which may be emotional or momentary, but result from careful consideration and in-depth analysis. This principle also emphasizes the ability to listen to and consider the views of the community openly and critically. In this case, regulatory impact analysis (RIA) can serve as an instrument that supports applying the principles of deliberative democracy. RIA helps to identify and analyze the consequences of various policy options before decisions are made, thus strengthening the deliberative process with valid data and evidence.

However, significant challenges remain in realizing deliberative democracy in legislative practice. One is the need to create a genuinely inclusive public space where all voices can be heard and valued. In addition, there needs to be a mechanism that ensures that the outcomes of deliberations do not just become a formality but are integrated into the policy-making process. This includes the utilization of information technology to expand the reach of public participation, as well as political education that helps people understand the importance of their involvement in the democratic process.[17]

Furthermore, in the context of an increasingly diverse society, deliberative democracy must accommodate different views, cultures and values. This requires the ability to communicate and argue respectfully and constructively. This approach enables the creation of a climate of trust, which is a prerequisite for productive dialogue and facilitates constructive compromise between parties.

Deliberative democracy thus offers a strong framework for strengthening inclusive and rational legislative processes. By placing open dialogue and public participation at the core of the policy-making process, these principles can overcome the limitations of more traditional democratic systems. It is not just about how laws are made but also about how they can reflect people's will and serve as instruments for achieving shared prosperity. In this way, deliberative democracy is relevant and crucial for building a more just and sustainable society.

The Concept of Meaningful Participation in the Legislation Process

Meaningful Participation in the context of legislation refers to community involvement that is not merely symbolic but also substantial and has a tangible impact on the policy-making process.[18] This concept goes beyond formal Participation determined by existing procedures, emphasizing the importance of

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17 Liza Farihah and Della Sri Wahyuni, 'Demokrasi Deliberatif Dalam Proses Pembentukan Undang-Undang di Indonesia: Penerapan dan Tantangan ke Depan' (2014) 6 Dictum 39, 45.

18 Entol Zaenal Muttaqin and Sahrul Hikam, 'Konsep Meaningful Participation Dalam Proses Legislasi di Indonesia Pasca Putusan Mahkamah Konstitusi Nomor 91/PUU XVIII/2020' (2024) 6 (1) Amnesti: Jurnal Hukum 62, 68.

community input that can significantly influence policies' processes and outcomes. In a democratic system, meaningful Participation is closely linked to the principles of openness, accountability and inclusiveness, all of which contribute to the legitimacy of the resulting policies.[19]

Theoretically, meaningful participation is based on public participation in democracy. Jürgen Habermas' deliberative democracy approach is relevant to understanding this concept, emphasizing rational and dialogic communication in public decision-making, where all parties have equal rights to participate.[20] In this context, meaningful participation shows that the community is the object of policy and the subject with the right to direct policy through constructive, evidence-based dialogue. Understanding the difference between meaningful participation and symbolic participation or tokenism is essential. If participation is only carried out as a formality without any real impact on the substance of the policy, then it cannot be considered meaningful participation.[21] Therefore, to fulfill the criteria of meaningful participation, public engagement must include several elements, including open information, information that is easy to access and obtain, space for critical discussion for the wider community (not just involving certain people who are in line with policy makers), and real responses from policy makers to community input.

The Principles of Meaningful Participation in the legislative process include several basic requirements: 1) Information about the legislative process must be open and easily accessible to all members of society. This transparency enables people to participate effectively and provide relevant input. 2) All community groups, including marginalized and minority, must be given equal participation opportunities. This aims to ensure that the resulting regulations fairly reflect the interests of various parties. All community groups and classes must have their aspirations accommodated so that the resulting regulations do not demean or discriminate against the interests of certain groups. 3) The participation process must be designed in such a way that there are no barriers for the community to provide input. This includes providing easily accessible communication channels and using language that everyone can understand. 4) Participation can only be considered meaningful if policymakers are willing to respond to and consider the input provided by the public. This shows that the public's views have a real influence on the substance of the policy. Moreover, the resulting policy will have an impact on people's lives, therefore policy makers must consider input from the community. 5) The discussion and consultation process should be rational and evidence-based, with arguments that can be justified and all views treated equally.[22]

Thus, meaningful participation is essential in legislation to ensure regulations' social and political legitimacy. Public involvement in legislation is not only for

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19 Fahmi Ramadhan Firdaus, Ratih Listyana Chandra and Christo Sumurung Tua Sagala, 'Meaningful Participation as People's Sovereignty Form in Democratic Rule of Law State' (2024) 31 (2) Jurnal Hukum IUS QUIA IUSTUM 337, 342.

20 Muhammad Ersyad Muttaqien and Deden Ramdan, 'Konsep Komunikasi Jurgen Habermas Dalam Ide Demokrasi Deliberatif dan Tindakan Komunikatif' (2023) 6 (1) Linimasa : Jurnal Ilmu Komunikasi 51, 56.

21 Henny Andriani, 'Partisipasi Bermakna Sebagai Wujud Asas Keterbukaan Dalam Pembentukan Undang-Undang' (2023) 7 (1) Unes Journal of Swara Justisia 306, 310.

22 Bagus Hermanto, 'Dinamika Partisipasi Publik Dalam Mewujudkan Legislasi Yang Partisipatoris' (2023) 16 (2) Jurnal Yudisial 205, 220.

technical input but also strengthens accountability and increases public trust in the government. When people feel they can contribute and their opinions are considered, the legitimacy of the resulting laws will be more substantial. The resulting laws will be more acceptable and obeyed by the community because they are in line or do not conflict with the will and interests of the community itself.[23]

Implementing meaningful participation in legislative practice can be done through various mechanisms such as public consultations, public hearings, and opinion surveys. However, to ensure that participation is significant, policymakers must ensure that public input is heard and becomes the basis for formulating policies. Therefore, a clear regulatory framework on public participation mechanisms and political commitment to implement them are needed.

While meaningful participation is essential, various challenges can hinder its implementation. These challenges can be structural, cultural and technical. Some of the main challenges in implementing meaningful participation in the legislative process include: 1) Limited Access to Information: Communities often do not have adequate access to information about the legislative process, which hampers their ability to participate effectively. 2) Political Elite Domination: The dominance of elites or power groups can hinder public participation, with certain groups having more significant influence over the legislative process. This great influence can easily perpetuate the interests of certain groups or political elites to be accommodated in policies, which can harm the wider community who are directly affected by these policies. 3) Knowledge Gap: The public may not understand legal or policy issues sufficiently, making it difficult to provide evidence-based input. There are also many people who do not have an adequate understanding of the mechanism for the formation of laws and regulations. 4) Formalistic Legal Culture: In some countries, including Indonesia, the legislative process often tends to be formalistic and less open to public input coming from outside the official mechanism. Activities carried out to absorb community aspirations are often only organized as a formality and are not in-depth, with limited time and community involvement.[24]

Strategies to overcome barriers to meaningful participation can include several steps: 1) Improving Legal Literacy: Improve people's understanding of the law and the legislative process through public legal education programs to participate more effectively. Educational programs are essential to increase public awareness of legal issues and involvement in the formation of laws and regulations. 2) Use of Information Technology: Utilize digital technology to provide participation platforms that are easily accessible to the public, such as public consultation portals or e-legislation applications. The platform is also not just a formality, but the aspirations received through the platform are guaranteed to be considered in the discussion of lawmaking. 3) Strengthening Public Participation Regulations: Formulate a clear regulatory framework regarding the rights and obligations of the public in the legislative process, as well as establishing sanctions for policymakers who do not meaningfully involve the public. 4) Institutional Capacity Building: Strengthen the

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23 Morus Maxine Sianipar and others, 'Law and Public Participation in Indonesia' (2022) 11 (23) Journal of Public Administration, Finance, and Law 275, 288.

24 Ali Imran Nasution and Rahmat Bijak Setiawan Sapii, 'Aktualisasi Konsep Meaningful Participation Dalam Pembentukan Peraturan Perundang-Undangan' (2022) 9 (2), Jurnal Surya Kencana Dua : Dinamika Masalah Hukum dan Keadilan 202, 217.

capacity of legislative and executive institutions to receive, assess and respond to public input in a professional manner. The ability of human resources in the legislative and executive institutions to accommodate community input needs more attention so that the regulations produced are truly in accordance with the needs and wishes of the community.[25]

In the theoretical framework of meaningful participation, community engagement is not just a formal administrative process, but a real effort to ensure that every individual has an equal opportunity to influence policies that impact them. This is in line with the principles of deliberative democracy that prioritize citizen engagement in rational and inclusive decision-making.[26] Therefore, meaningful participation should be an integral part of a modern and democratic legislative system.

Evaluation of Meaningful Participation Implementation in Legislation Drafting in Indonesia

Evaluating the implementation of Meaningful Participation in legislation in Indonesia is increasingly vital due to increasing demands for transparency, accountability and public Participation. Meaningful Participation is the significant involvement of all stakeholders, including civil society of all groups and classes, in decision-making that impacts their lives. In Indonesia's evolving democracy and rule of law, evaluating this Participation is crucial.

Public participation is regulated by various laws, such as Law Number 12 of 2011, amended by Law Number 13 of 2022, which requires the public to be involved in forming regulations so that their voices and interests are accommodated. Despite the legal framework, the implementation of public participation is often ineffective. One factor affecting Meaningful Participation's effectiveness is the lack of public understanding and awareness of the legislative process. Many citizens do not know when and how to participate in expressing their interests. Sometimes, the people who are directly affected are not fully involved, which makes them even less aware of the legislative process and does not educate their own awareness. People's limited level of education and understanding of the law also affect participation.[27] The people affected by the policies being formulated are generally not present as experts, so what is known is not certain theories, but the real facts experienced in people's lives and concrete views to fight for the interests of the affected people. This ignorance or limitations often results in involvement that is merely symbolic rather than substantive, where people are only involved at the end of the process rather than the beginning. Often, community input is not accommodated because it is considered to have less strength and argumentative basis than other interested parties who are more knowledgeable and educated. In this case, the balance of position and capacity between parties has a significant influence on the sustainability of public participation.

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25 Sandya Erlangga, 'Partisipasi Masyarakat yang Bermakna (Meaningful Participation) Dalam Pembentukan Undang-Undang = Meaningful Participation in Establishment of the Act' (Thesis, Universitas Indonesia 2023).

26 Jane Smith, *Deliberative Democracy and the Role of Public Participation* (Cambridge University Press 2022) 320.

27 Soerjono Soekanto, *Sosiologi: Suatu Pengantar* (Rajawali Pers 2018) 152.

In addition, time limitations and access to information are also barriers to Meaningful Participation. The community is often only given a short time to provide input. Sometimes the absorption of community interest voices is only through forum group discussions with very limited time. It is certainly not enough for the community to study the substance and provide comprehensive input to realize reasonable regulations. On the other hand, the information available is often insufficient to help the public understand the issues and substance being discussed. Materials and information are not fully publicized, making it difficult for the public to fully understand. The difficulty of obtaining access to adequate information can hinder and affect the quality of input the community provides.[28] Weak input from the public can be easily undermined by elites or special interest groups who are fully informed. Access to sufficient information is an absolute requirement for meaningful participation.[29]

A complex and non-transparent bureaucracy also contributes to inhibiting public participation. The public, especially those directly affected by the laws being made, feel frustrated and skeptical due to bureaucratic red tape. People become reluctant and lazy to provide input or contribute to the policies that are being made because of the complicated bureaucracy that must be faced. In the end, the legislative process is often not transparent to the public. Sometimes there is information or interests from certain parties that are not clearly known by the community so that the input provided by the community is often conflicting and ultimately difficult to accommodate. Therefore, it is important to increase transparency and accountability in the legislative process.

Another challenge to implementing Meaningful Participation is the dominance of certain groups' voting power in lawmaking. The law basically regulates people's lives so there will always be various interests and even clashes of interests from certain groups. The dominance of the power of a particular group generally comes from the dominance of the interests of the ruler, the political elite, or other powerful interest groups. Civil society involvement is often influenced by larger political interests, shifting the focus of participation away from issues that reflect public interest. Not infrequently, large political groups influence the direction of policies to suit the interests that benefit their groups through their power and power relations. As a result, the resulting legislation is more favourable to certain groups, leaving the public dissatisfied as their input has little effect.[30]

The experiences of other countries can provide valuable lessons to improve the implementation of Meaningful Participation in Indonesia. In New Zealand, a strong mechanism exists for involving the public in the legislative process through structured public consultations. The government seeks to involve the public by emphasizing open dialogue in the legislative process to absorb public opinion. New

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28 Hasyim Asyari, 'Asas Keterbukaan Dalam Pembentukan Peraturan Daerah (Studi Kasus di Kabupaten Lombok Tengah)' (2018) 2 (1) Refleksi Hukum: Jurnal Ilmu Hukum 81, 86.

29 Inna Junaenah, Abd Shukor Mohd Yunus and Normawati Hashim, 'Adequacy of Public Information for Meaningful E-Participation in Policy-Making: Human Rights-Based' (2022) 6 Journal of Southeast Asian Human Rights 153, 176.

30 Fahmi Ramadhan Firdaus, Ratih Listyana Chandra and Christo Sumurung Tua Sagala, 'Meaningful Participation as People's Sovereignty Form in Democratic Rule of Law State' (2024) 31 (2) Jurnal Hukum IUS QUIA IUSTUM 337, 353.

Zealand's concept of deliberative democracy enhances the transparency and legitimacy of the laws it produces.[31] By looking at international examples, Indonesia can adopt good practices that strengthen public participation in legislation.

Technology plays a vital role in enhancing Meaningful Participation. Advances in information technology provide the public with greater access to the legislative process. Digital platforms can disseminate information and gather input efficiently. A report by Ministry of Communication and Information Technology shows that technology can increase public participation interactively and responsively. However, it is necessary to ensure that access to technology is equitable across all levels of society, as digital inequality can exacerbate the participation gap. Therefore, digital accessibility must be addressed so that all segments of society can participate meaningfully.[32]

Evaluating the implementation of Meaningful Participation requires the development of clear indicators to measure public engagement in the legislative process, including measuring the quality of public input and its impact on legislative outcomes. The importance of data and analysis in evaluating the effectiveness of public participation is an indicator that helps stakeholders identify the strengths and weaknesses of the process.[33]

In addition, training and education on the rights and obligations of the public in the legislative process are needed to increase awareness and participation. In its strategic document on Increasing Public Legal Awareness, the Ministry of Law and Human Rights of the Republic of Indonesia emphasizes the importance of educational programs to help the public understand the legislative process and how to participate. If people understand the legislative process and how and why it is important to participate, then they will be encouraged to actively participate to achieve a policy that is in line with the will of the community at large.

An evaluation of the implementation of Meaningful Participation in legislation in Indonesia shows that challenges remain in practice despite the legal framework. Meaningful public participation needs to be enhanced through collaboration between government, civil society and other stakeholders.[34] Collaboration and synergy between these parties make it possible to collect and process a variety of comprehensive information and input from various perspectives to improve the quality of the regulations produced later. Collaboration is also able to minimize community resistance to the regulations produced because it is based on comprehensive input, including from the community. In addition, accountability and transparency are better maintained with this collaboration. Structural reforms, increased transparency, utilization of technology, and public education are essential

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31 Balqis Mira Firdausy, 'Tahukah Kamu? Ada Praktik Unik Partisipasi Publik Ala Selandia Baru' (*IAP2 Indonesia*, July 2023) <https://iap2.or.id/tahukah-kamu-ada-praktik-unik-partisipasi-publik-ala-selandia-baru/> accessed 20 July 2025.

32 Hary Budiarto and others, *Strategi Pengembangan Masyarakat Digital Indonesia* (Kementerian Komunikasi dan informatika Republik Indonesia 2024).

33 Angga Prastyo, 'Limitation of Meaningful Participation Requirements in the Indonesian Law-Making Process' (2022) 11 Jurnal Hukum dan Peradilan 405, 433.

34 Yuni Putri Dewantara and Agustin Widjiastuti, 'Peran Masyarakat Dalam Pembentukan Peraturan Perundang-Undangan Sebagai Pilar Negara Hukum' (2025) 22 (3) Al Qodiri : Jurnal Pendidikan, Sosial dan Keagamaan 439, 447 .

steps towards making participation less symbolic. Thus, laws that are more responsive and accountable to the needs of society are expected to be created.

Further research is also needed to develop more effective public participation models and evaluate reforms' impact. Clear indicators are needed to measure how community participation can be considered meaningful participation. Meaningful Participation should include presence and engagement that really affect stakeholder decisions. Since the 1998 Reformasi, Indonesia has attempted to increase public participation through public consultations and discussion forums. However, evaluation results continue to show significant challenges.

First, accessibility to the legislative process is an issue. Despite the government's efforts to involve the public, marginalized groups, such as indigenous peoples and vulnerable groups, but the fact is that they still have difficulty accessing information. Research by the Alliance of Independent Journalists (AJI) in 2021 showed that only 25% of the public felt involved in lawmaking, while 75% felt they lacked access to provide input. This indicates that the government's efforts have not met expectations because the percentage of community involvement is still minimal.[35]

Second, the quality of participation is a concern. The Indonesian Ministry of National Development Planning (Bappenas) 2022 study noted that many community inputs are received in the legislative process but are often not seriously considered. Input from the public seems to be just to fulfill the formality of public participation procedures in the process of forming laws and regulations. One of the conditions for participation to be meaningful is that community input is accommodated in the regulations being drafted. Public incomprehension and the dominance of political actors' voices affect the quality of input. As a result, participation is more symbolic than substantive, with people's voices not influencing the outcome of legislation.[36]

Third, the influence of politics in the legislative process cannot be ignored. Politicians and parties often have agendas that are not in line with the public interest. LIPI's 2023 research shows that policies are more influenced by political interests than public input, indicating that while there are mechanisms to engage the public, their voices are often overlooked. In this case, inequality in terms of importance or position has a major influence on the priority of interests to be achieved.[37]

Fourth, the use of technology to support Meaningful Participation needs to be considered. The Ministry of Communication and Informatics (Kemenkominfo) 2022 report states that information technology can increase public participation. Through digital platforms, people can access information and provide input more easily. The use of digital platforms can expand the affordability of participation of all levels of society wherever they are. However, digital accessibility remains a challenge, creating inequalities in participation among the public. The readiness of technological facilities and the capacity of human resources to access information technology is still a problem.[38]

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35 Aliansi Jurnalis Independen, 'Laporan Penelitian: Partisipasi Publik Dalam Proses Legislasi' (2021).

36 Badan Perencanaan Pembangunan Nasional (Bappenas), 'Studi Kualitas Partisipasi Publik Dalam Pembuatan Kebijakan' (2022).

37 Lembaga Ilmu Pengetahuan Indonesia (LIPI), 'Pengaruh Politik Dalam Proses Legislasi' (2023).

38 Kementerian Komunikasi dan Informatika, 'Laporan Tentang Pemanfaatan Teknologi Dalam Partisipasi Publik' (2022).

Evaluation of Meaningful Participation implementation should focus on the impact of participation, not just the number of people involved. Meaningful participation emphasizes the quality of community input and the accommodation of that input, so that it does not merely fulfill the quantity. The development of indicators to measure the effectiveness of participation is essential. The Universitas Gadjah Mada 2023 study recommends a monitoring and evaluation system that assesses the quality as well as quantity of community input. With proper analysis, stakeholders can identify strengths and weaknesses in the legislative process.[39]

The results of the evaluation of Meaningful Participation implementation in Indonesia show progress, but many challenges remain, such as uneven accessibility, low quality of input, and the dominance of political influence. Efforts to improve participation mechanisms, develop better indicators, and effective education programs should be prioritized to increase public engagement in the legislative process.

Regulatory Impact Analysis (RIA) as a Data-Based Policymaking Instrument

Regulatory Impact Analysis (RIA) is a theoretical framework and method used to ensure the policy and regulatory-making process is based on relevant data and evidence, resulting in more effective and efficient decisions. Conceptually, RIA is a systematic approach to evaluate a proposed policy or regulation's economic, social, and environmental impacts before it is adopted. This analysis assesses the benefits and costs of policy alternatives and understands the potential consequences of a regulation. By integrating empirical data and evidence, RIA aims to minimize the risk of ineffective or inefficient policies.[40]

From a theoretical perspective, RIA is rooted in the principle of welfare economics that assesses public policies to improve people's welfare. This process includes evaluating policy options based on their impact on resource allocation and welfare distribution. RIA considers economic benefits and social consequences such as equity and quality of life. Therefore, RIA is a holistic approach to policymaking.

As a data-based instrument, RIA seeks to reduce reactive regulations that arise without in-depth analysis. RIA offers a systematic approach that requires policymakers to consider various options and consequences so that decisions are based on empirical evidence. Academically, RIA is related to the rational decision-making theory, which demands the identification of problems, objectives, and evaluation of options. It involves collecting data to assess the impact of policy alternatives and facilitating transparent and accountable decisions.

However, RIA challenges include the availability of quality data. In many countries, including Indonesia, data is often incomplete. Data completeness is an important aspect that must be available as material for analyzing the impact of a regulation. Incomplete data makes the analysis less complex and comprehensive. In addition, availability and ease of access are also a problem. Difficult access to data

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39 Universitas Gajah Mada, 'Rekomendasi Untuk Evaluasi Efektivitas Partisipasi Masyarakat' (2023).

40 Ihsanul Ihsanul Maarif and Firdaus Arifin, 'Komparasi Penggunaan Analysis Regulatory Method Sebagai Instrumen Pendukung Kebijakan Dalam Penyusunan Peraturan Perundang-Undangan' (2022) 23 (2) Jurnal Litigasi 272, 277.

certainly hampers the impact analysis carried out so that the resulting analysis is not comprehensive.

Limited human resource capacity in understanding RIA methods is also an obstacle. Actually, the application of RIA is a relatively new mechanism that is again encouraged in the process of forming laws and regulations. Not all human resources are able to fully understand the application and impact analysis with the RIA method to a regulation. This limitation of human resources is further hampered when the available data is incomplete or difficult to access. Even so, studies show that adequately applying RIA can improve public policy quality by identifying more efficient alternatives and reducing administrative burdens. RIA also enables sustainable policy evaluation. The resulting analysis is not just a formality but becomes material for continuous evaluation so that the quality of a policy or regulation is getting better and more relevant in people's lives. RIA also allows adjustments if the analysis results are not as expected. The results of the analysis encourage adjustments and improvements so that the policy is more in line with people's lives.

In the context of deliberative democracy, RIA is in line with the principles of participation and openness, involving stakeholders to consider various perspectives. RIA strengthens meaningful participation by providing transparent analysis and explaining the reasons for policy selection to the public. Thus, RIA increases policy legitimacy through in-depth and objective analysis. The application of RIA encourages the development of more advanced analytical methods, integrating economics, statistics, sociology, and political science for a comprehensive analysis of policy impacts. The RIA approach continues to be refined with new techniques, such as distributional impact and risk analysis, making it a dynamic framework.

Thus, Regulatory Impact Analysis is essential in data-based policymaking, ensuring effective, efficient, and sustainable regulations. By emphasizing evidence and critical evaluation, RIA contributes to policymaking that is more rational and responsive to community needs. The success of RIA requires support from data availability, increased analytical capacity, and political commitment to serve the public interest.

Review of the Implementation of RIA in the Legislative Process and the Challenges Faced

Regulatory Impact Analysis (RIA) is a tool to assess the impact of regulations before they are implemented. RIA evaluates regulations' social, economic, and environmental effects on improving policy quality. This method developed in the 1970s, with the US pioneering through Executive Order 12291 in 1981. The European Union implemented RIA guidelines in Europe in 2002, while Australia developed a similar approach in 1995. In Asia, RIA began to be adopted based on Western practices.[41]

In Indonesia, RIA was introduced through Presidential Regulation Number 112 of 2012 concerning the National Medium-Term Development Plan (RPJMN) 2015-2019 to assist policy evaluation. Furthermore, the basis for implementing impact

[41] James R Drummond and Claudio M Radaelli, 'Behavioural Analysis and Regulatory Impact Assessment' (2024) 15 (4) European Journal of Risk Regulation 1, 3.

analysis is expressly regulated in Presidential Instruction Number 7 of 2017 concerning Policy Making, Supervision, and Implementation Control at the Level of State Ministries and Government Institutions, which emphasizes the need for impact and risk analysis of a policy. In addition, Law Number 12 of 2011, as amended by Law Number 13 of 2022 on the Second Amendment to Law Number 12 of 2011 on the Formation of Laws and Regulations, states the addition of implementing impact analysis, one of which is through the RIA method.

RIA is essential in the legislative process because it can improve the quality of the laws formed. The law will be analyzed deeply to help policymakers understand its impact or implications. RIA also increases the space for public participation so that the resulting legislation can accommodate the community's real needs. Of course, this is to avoid legislative products that are contradictory and can harm the community.[42]

Impact analysis of a policy or legislation so far appears to be progressing. Nevertheless, analysis through the application of RIA so far still encounters obstacles and challenges. The challenges faced include the lack of human resources (HR) capacity. Human resources are an essential part of the RIA formulation process because the effectiveness and success of RIA implementation depend on the performance of these human resources. Inadequate quality of education affects the development of human resources for implementing RIA. Many employees or policymakers in the scope of government, including legislators, do not understand how-to methods and analyze the impact of good and correct policies. Increased training and education related to RIA must be carried out regularly to ensure that human resources have adequate qualifications and abilities.[43]

In addition to the quality, capacity, and understanding of human resources regarding RIA, in quantity, the availability of human resources also has its challenges. The number of skilled human resources competent to perform RIA is still limited. The number of skilled human resources with the needs of the formation of laws and regulations that require the preparation of RIA is not comparable. This will cause excessive workload for certain employees with adequate skills and capacity. More workloads can potentially lead to errors in the analysis process performed.[44]

The impact analysis process through RIA requires accurate and up-to-date data. The availability and quality of existing data is often limited and inaccurate. Low data quality will directly impact the process and results of impact analysis that is not comprehensive. If the analysis results are not exhaustive, it will also affect the quality of the legislation formed. Inaccurate data can lead to wrong conclusions.

These constraints are further exacerbated by various interests from certain parties or policymakers that affect the quality of the impact analysis of draft laws and regulations. If the results of the study and recommendations proposed by RIA are not in line with the interests of these parties, then resistance can occur. Policymakers often must balance various interests with the reality of RIA results.

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42 Retnosari and Syaif 143, 151.

43 Fradhana Putra Disantara, 'Innovative Legal Approaches for Contemporary Challenges in Indonesia' (2024) 25 (4) Indonesian Journal of Innovation Studies 5, 13.

44 *Ibid.*

Resistance also usually occurs from policymakers because they feel RIA slows down the legislative process.[45]

The RIA preparation process also needs to be responsive to changes in socioeconomic conditions and pay more attention to the perspective of vulnerable groups. RIA preparation can finally be more inclusive of social situations, and the impact on vulnerable groups is not neglected. The government must increase human resource capacity and collaboration between government, academia, and civil society to overcome this challenge. By overcoming existing obstacles, RIA can potentially improve the quality of public policy in Indonesia.

CONCLUSION

Based on the results of the analysis, meaningful participation and Regulatory Impact Analysis (RIA) have significance for Habermas' deliberative democracy in improving the legislative process in Indonesia. Habermas' deliberative democracy requires a process of communication and critical dialogue with rationality to produce a policy. Public involvement in the legislative process strengthens legal legitimacy and improves the quality of decisions taken. In practice, RIA is an evaluation tool that can help decision-makers understand the impact of proposed regulations in more depth.

However, significant challenges still exist in implementing these two concepts. Lack of human resource capacity and low-quality data are the main obstacles. In addition, resistance from policymakers is concerned that the RIA process and public participation may slow down the legislative process often hinder effective implementation. Without collaborative efforts involving all stakeholders and improvements in analytical capacity, the goal of achieving meaningful participation and practical analysis will be challenging to realize. Therefore, to learn the effectiveness of Meaningful Participation and RIA in the legislative process, a strong commitment from the government and society is needed to adapt and improve existing processes. Capacity building, data accessibility, and the application of more inclusive analysis methods will be significant in creating public policies that are more responsive and oriented to the needs of the community.

Based on these conclusions, to increase public involvement and the implementation of Regulatory Impact Analysis (RIA) by the principles of deliberative democracy, it is recommended to 1) Ensure that all stakeholders have easy access to relevant information and data regarding the proposed policy. 2) Hold regular public discussion forums to allow the public to express opinions and input. 3) Implement education and training programs to increase the capacity of human resources to carry out RIA and policy analysis. 4) Fostering cooperation between the government, academia, and civil society to create a more comprehensive analysis and responsive to the community's needs.

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