Public Participation In Legislation (Legal Comparation Studies In Indonesia, South Africa, And United State)

Delfina Gusman1*, Yunita Syofyan2

1 Faculty of Law, Universitas Andalas, Padang, Indonesia
2 Faculty of Law, Universitas Andalas, Padang, Indonesia
* Corresponding author’s e-mail: vivin.nissa82@gmail.com

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ABSTRACT

Community participation and the legal needs of the community are inherent in the process of forming laws. In fact, these two elements are manifestations and crystallizations of the ideal idea of democracy. In a democracy, public participation is a condition sine qua non. Without public participation in the process of making laws, it will only result in authoritarian regulations and bias against the true meaning of democracy. So that it will result in the formation of laws that are not sourced from the soul and legal needs of the community (volkgeist). The method in this study uses legal research methods with a qualitative approach in the form of normative legal studies and (normative legal studies), where the type of research is descriptive analytical research. In addition, the approach used is a comparative approach (comparison), a historical approach, an institutional approach and a futuristic approach. Community participation in the formation of laws in Indonesia, South Africa and the United States has already started. Although public participation in law-making has some constraints such as slowdown in the legislative process and budgetary requirements, it brings more benefits to the government and society. However, the legitimacy of the process, the issue of justice, also creates better regulations and ultimately creates a stronger quality of democracy so that there is no doubt that public participation is an important part of the legislative process.

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1. Introduction

This law functions as an authority to regulate, to recommend, to provide (funds), to punish, to give, to declare, or to limit something, and so on, so that with this understanding it is well realized that the law has a role in which is very important in the administration of the state, so it must be seen how the formation of the law. To show which is the best of previous researches, to show the main limitation of the previous researches, to show what do you hope to achieve (to solve the limitation), and to show the scientific merit or novelties of the paper. The formation of laws is part of the activity in regulating society which consists of a combination of human individuals with all their dimensions, so that designing and forming laws that can be accepted by the wider community is a difficult job. This difficulty lies in the fact that the activity of forming laws is a form of communication between the institutions that determine, namely the holders of legislative power, and the people in a country. In the process of forming the law, there is a transformation of the vision, mission and values desired by the legislature with the community in the form of a rule of law. The legislators from the beginning of

the drafting process are required to ensure that the resulting law is able to meet various legal needs. namely: able to be implemented, enforceable, in accordance with the principles of legal guarantees and equal rights of regulated targets, and able to absorb the aspirations of the community. Besides having to meet the needs above, the law that is formed must be in line with the development of society, meaning that the drafter of the law must be able to adapt to the dynamics of community development which continues to change in line with values that are considered good by the community. The formation of laws is an activity that can adapt to the dynamics of changing society, not something static. As a state of law, Indonesia has a legal basis, namely the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), and the formation of laws is the ideal of the constitution and is a necessity in a state of law.

This is in line with Article 28 of the 1945 Constitution of the Republic of Indonesia which states, "The freedom of association and assembly, of expressing ideas orally and in writing and so on are stipulated by law. According to Maria Farida, the main purpose of the formation of laws in a state of law is not only to create codification of norms and values that have mingled in society, but the main purpose of forming laws is to create modifications or changes in people's lives. Public participation in the process of forming laws is a very important element, because participation in the formation of laws is a necessity in a democratic government system that places the people as the holders of sovereignty in the state, and also because the formation of laws itself aims to fulfill the legal needs of the community, as well as creating peace in the life of the state. Community participation itself is defined as community participation in designing, forming, and implementing the law, both individually and in groups, and actively in determining public policies or laws and regulations that are appropriate with the dynamics of society. As a result of the formation of legislation that lacks public participation, it often invites legal conflicts ranging from resistance to its application, neglect of the provisions in question, to destroying the meaning of justice in the formed law, while the legal assumption states that "unjust law is not law". at all which means that laws that are unfair and do not meet the legal needs of the community do not deserve to be called law in the trust sense.

According to Nonet and Selznick, the importance of the community's role in the formation of legal products must be seen in the participatory formation process by inviting as much participation as possible from all elements of society, both in terms of individuals and community groups, besides that it must also be aspirational that comes from the wishes or desires of the community. This means that the legal product is not the will of the ruler to legitimize his power. Public participation and the legal needs of the community are inherent in the process of forming laws and regulations. In fact, these two elements are manifestations and crystallizations of the ideal idea of democracy. In democracy, public participation is a condition sine qua non. Without public participation in the process of forming laws and regulations, it will only result in authoritarian and biased regulations against the true meaning of democracy. (volkgeist). Indonesia is a democratic country, Democracy in a simple sense means the people who rule or the government of the people. In other words, democracy is defined as a form or style of government in which the people govern, either directly or through elected representatives. Lack of public participation in every process of law formation must be avoided,

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4. Article 28 of (3) Constitution of Republic of Indonesia Year 1945
because it will have an impact on the quality of the laws produced. One example of minimal public participation is in the process of forming Law Number 11 of 2020 concerning Job Creation. At the stage of drafting by the government's draft is difficult to access, the government only conveys a general description, so it is difficult for the public to provide input, as a result it raises suspicions why the preparation is closed, even though Article 96 of Law Number 12 of 2011 explains public participation in the formation of legislation, in the context of the formation of laws and regulations, participation implies participation or participation (supervising, controlling, and influencing) the community in an activity to form laws and regulations starting from planning to evaluating the implementation of regulations.

In addition, if you look at the current legal developments with the formation of the Omnibus Law on closely Job Creation, it does not reflect comprehensive participation because most of its members are employers' associations and there are no elements of workers or labor unions, even though workers are greatly affected by this law, especially in the Labor Cluster. due to the process of its formation which was not participatory and aspirational, there were rejections through mass actions in various regions by various groups, especially those who were affected. With the development of technology and information today, on that basis the Constitutional Court (MK) has decided on the Job Creation Law Number 11 2020 as unconstitutional conditional (unconstitutionally condition), which in the Constitutional Court legal considerations explain the process of the formation of the Working Copyright Act are contrary to the Constitution NRI 1945, namely the lack of meaningful public participation (meaningful participation Creation Creation) in the formation of the Job Law, and the Job Act which contradicts the procedure for establishing the Act as regulated in Article 22A of the 1945 Constitution of the Republic of Indonesia, which is "delegated" to the technical implementation of Law Number 12 of 2011 and Law Number 15 of 2019 concerning the Establishment of Legislation. In its ruling, the Constitutional Court ordered that within two years, the executive and legislature must revise the Job Creation Act so that the process of its formation is in accordance with the principles and guidelines regulated by the Law on the Establishment of Legislation. the principle of meaningful participation in the formation of regulations. Meaningful participation means that participation is not only to facilitate theright to be heard, but also so that the interests voiced by the community need to be considered.

2. Method
The method in this study uses legal research methods with a qualitative approach in the form of normative legal studies and (normative legal studies), where the type of research is descriptive analytical research. In addition, the approach used is a comparative approach (comparison), a historical approach, an institutional approach and a futuristic approach.

3. The Concept Of Public Participation In Law Enforcement In Indonesia, The United State, And South Africa

1) Community Participation In The Formation of Law In Indonesia
Indonesia is a unitary republic with a two-chamber parliament system consisting of the People's Representative Council (DPR) and the Regional Representatives Council (DPD) which exercise power in the legislative sector, the two parliamentary chambers have several powers, both jointly owned and

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individual chambers. The powers that are jointly owned by the House of Representatives (DPR) and the Regional Representative Council (DPD) are: (1) Submitting draft laws and (2) Discussing draft laws. This authority is called the authority to establish legislation. Legislation is one of the "infrastructure" owned by the state, therefore, it is important to have protection, fair legal certainty of the rights of the people in the establishment of legislation. The establishment of legislation becomes part of legal development which includes the development of a national legal system with the aim of realizing the goals of the state which is done starting from planning or programs in a rational, integrated and systematic manner.

In the establishment of legislation, it is very likely that the people who are the object of legislation face various limitations in accepting the presence of a legislation, this will happen if a legislation is made unilaterally by the legislator, so it will be very perhaps its presence is rejected because it is not in accordance with the sense of justice in society. This is the meaning of the importance of public participation in the process of establishing legislation. With the existence of participatory democracy is expected to guarantee more for the realization of responsive legal products, because the public participates in the birth of a law. Therefore, in the process of forming the law, the law-making institution should be able to accommodate all the aspirations of the existing community, not vice versa, the regulation is detrimental to the community affected by the implementation of a statutory regulation, Moh. Mahfud. MD has a view related to the development of laws or Indonesian legal political rules, which are known for the signs and the guiding principles of the law that must be followed, one of which is:

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\text{that national law must be built democratically and nomocratically in the sense that it must invite participation and absorb the aspirations of the wider community through procedures. - procedures and mechanisms that are fair, transparent and accountable. We must prevent the emergence of a legal product which is processed in a sly, cat and mouse, and transactions in a dark place}
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Thus, it can be said that the process of establishing a legal product that is not transparent and does not provide space for people to express their aspirations and can apply the law of the legislation is the result of a "cat-and-mouse" process that is inconsistent with the Pancasila Legal System which aspires to develop national law through a democratic and nomocratic way. Community participation in the formation of laws and regulations is not an activity that eliminates power or reduces authority. From the formation of laws and regulations, public participation in the formation of laws and regulations must be seen as a part of the democratization process in the formation of laws and regulations and is a form of steps to strengthen legitimacy or create laws and regulations. Legislation has strong social roots so that people feel they have a statutory regulation. According to Alexander Abe, as quoted by Sirajuddin and his friends in his book entitled Legislative Drafting Institutional Participatory Methods in the Formation of Legislation, states that:

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\text{Participation is not enough only for a handful of people who sit in representative institutions because institutions and people who sit in Representative institutions often use politics in the name of the people's interests to fight for their own personal or group interests. Direct people's participation will have three important impacts, namely: first, avoiding the opportunity for manipulation of people's involvement and clarifying what the community wants; second, adding value to the legitimacy of the planning formulation. The more people involved the better; and third, increasing public awareness and political skills.}
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12 Article of 20 paragraph 1, third revision of the Constitution of Republic of Indonesia of 1945
Matters that regulate community participation are contained in Article 96 of Law Number 12 of 2011 which reads as follows:

1. The public has the right to provide input orally and/or in writing in the Formation of Legislation;
2. Input orally and/or in writing as referred to in paragraph (1) can be made through:
   a. Public Hearing;
   b. Work visit;
   c. Socialization; and/or
   d. Seminars, Workshops, and/or discussions
3. The community as referred to in paragraph (1) is an individual or group of people who have an interest in the substance of the Draft; and
4. Legislation must be easily accessible to the public.

According to Ubbe, the process of law formation can basically be divided into three stages, namely: Pre-Legislation, Legislation Stage, and Post-Legislation Stage. Communities can participate in one of the stages or all three. According to Pataniari Siahaan, at the planning and preparation stage of the bill, there are four forms of community participation that can be carried out in the process of forming the law, namely research, discussions, workshops and seminars, proposals for initiatives, and drafting. At the discussion stage of the Draft Law (RUU) there are six forms of public participation that can be carried out by the community in the process of forming the law, namely hearings/public hearings (RDPU), alternative bills, input through print media, input through electronic media, demonstrations, flavors, and discussions, workshops, and seminars. Another alternative in supporting community participation is the involvement of the DPR, for example through the RDPU and working visits. In the RDPU, groups that are considered to be able to represent the community are invited to express their aspirations in the context of discussing a law. DPR as a representative institution functions to channel the aspirations of the people it represents. Issues brought up by the community in the process of forming a bill will not necessarily be accepted by the factions in the DPR. In the analysis conducted by the coalition of civil society members of the Alliance for the Save the Election, it turns out that the space for public participation in the process of making laws and regulations is still very low, this problem can be seen from the five stages that are usually carried out in the process of forming laws and regulations in Indonesia. According to Wawan Ichwanuddin, including:

1) The stage of drafting the national legislation program. Community involvement in the consultation and communication stages is possible to provide input and strengthen the National Legislation Plan (Ranlegnas). Unfortunately, it is not clear who is meant by community representatives in the forum because all of them are appointed by the government;
2) Drafting the draft law initiative. There are two stages the community can be involved in the preparation of academic manuscripts and consultation forums. However, both are facultative depending on the intention and interest of the government to involve the community;
3) process of drafting laws in the DPR. The role of the community can be carried out through universities that are notified by the Legislative Body of the DPR to make a bill. Community design depends on the participation of civil society circles to participate. Design by the DPR

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17 Ibid. P. 432
18 Ibid. Hal. 434
20 Ibid. P. 258
P3LI (Center for the Assessment of Information Services) and the Secretariat General of the DPR involving academics or NGOs to provide input;

4) on the proposal process at the DPR. At this stage there is no public participation because the DPR only conveys information; and

5) Discussion in the DPR. Community participation lies in the General Hearing Meeting (RDPU). Unfortunately, the RDPU is more of an initiative from the DPR so it is not clear which community groups are being listened to and can provide input.

2) Community Participation In The Formation of Laws In South Africa

According to the Constitution of the Republic of South Africa1996, South Africa is a unitary republic with a two-chamber parliament consisting of the National Assembly as the first chamber and the National Council of Provinces as the second chamber22. Members of the National Assembly (National Assembly) as many as 350 to 400 people who are elected to represent the people with a term of 5 years. Members of the National Council of Provinces are elected to represent the provinces to ensure the interests of the provinces in the national government. Each province is represented by 10 (ten) people, consisting of 1 (one) provincial head or members of the provincial legislature assigned by the provincial head, 3 (three) special representatives who are regularly replaced and 6 (six) representatives. Permanent members who are elected from members of the provincial legislature based on the percentage of votes acquired by political parties in the provincial legislature while still taking into account the representation of minority political parties. Member of provincial parliament who was elected vice-permanently in the National Council of Provinces (National Council of Provinces) must relinquish her membership as a member of the provincial legislature23. Neither the National Assembly (National Assembly) and the National Council of Provinces (National Council of Provinces), they both have the authority to form24;

a. participate in the legislative process;

b. joint authority exercised in the form of joint committee in order to make rules and regulations regarding technical procedures for implementing legislation, jointly considering the bills that have been discussed by the two chambers, reviewing the Constitution, mediation commissions, commissions for amendments to the constitution, and other committees;

c. of each chamber may propose and prepare bills (except the Bill on Finance (Money Bill) which is only submitted to the National Assembly by cabinet members or deputy ministers), consider, approve, amend, or reject bills submitted by other chambers, and exercising oversight over the executives;

d. of each chamber may compel a person or institution to provide explanations, accept petitions or representatives from individuals or institutions;

e. each chamber has the authority to make arrangements, procedures, and internal procedures.

In terms of making laws, the Constitution of the Republic of South Africa regulates the mechanisms and procedures for relations between the National Assembly (National Assembly) and the Provincial National Councils) with sufficient detail which can be distinguished in five ways, namely in terms of, namely25;

a. the establishment of all laws, except those specifically regulated;

b. the establishment of the Law on amendments to the Constitution;

c. the establishment of laws that are not related to the province;

d. the establishment of the Law on Finance (Money Bills).

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23 Ibid.
25 Ibid. P. 230
The 1996 South African constitution became the initial milestone of South African government which was based on the principles of accountability, transparency, and openness. Some parts of the Constitution relate directly to public participation, while others indirectly support public interaction with the government. Under the 1996 South African Constitution, the legislative function rests with Parliament. Parliament is domiciled as the national legislative power, where parliament has the authority to make laws. This body consists of The National Assembly and The National Council of Provinces. The National Assembly is elected to represent the people and guarantee a democratic government based on the constitution. Meanwhile, The National Council of Provinces is a regional or provincial representative to ensure that the interests of the province are taken into account in the national scope.

The National Assembly has the task of conducting presidential elections, providing a national forum for public opinion on an issue, forming laws, supervising executive actions, and making constitutional changes. In addition, in the drafting of the bill there is the involvement of the National Council of Provinces, which has the task of participating in the national legislation process and providing a national forum for public consideration of issues that have an impact on the province. The president is the head of state and head of government. The President also has legislative functions and authorities, among others, to apply laws unless the constitution stipulates otherwise, to form and implement national policies, to prepare and start drafting laws. The formation of laws is regulated in Articles 73-82 of the 1996 Constitution. A bill can only be proposed in the DPR by the Minister, Deputy Minister, Parliamentary Committee, or individual members of Parliament. Generally, Bills are drawn up by the government, especially the Minister regarding the materials being prepared. This bill must first be approved by the Cabinet before it is proposed to the DPR. A bill proposed by an individual member of Parliament is referred to as a special member bill. Before becoming law, a bill must be discussed by both parties in Parliament. Certain bills that affect the provinces must be explained in advance to the National Council of Provinces. Other bills are first presented in The National Assembly. Once discussed, the bill is directed to the committee concerned with the bill being published in The Government Gazzette for comment by the general public unless the bill is urgent.

Debate on the committee and changes can be made. If the public pays great attention to the bill, the committee can hold a public hearing. When the content of the bill has been decided, the committee sits together in Parliament to discuss it further and conduct an election. The bill can be withdrawn to the committee for review before elections are held. The bill was then asked for input or consideration from The National Council of Province. If the bill has been agreed by both the National Assembly and the National Council of Provinces, then the bill is submitted to the President for ratification. When the President has passed the Bill, the Bill becomes a law drawn up by the Parliament. When the President has certain considerations after receiving the Bill, the Bill can be returned to The National Assembly for review. If the bill contains material related to the province, then The National Council of Province must be involved in the review. If the bill that has been reviewed agrees with the President's considerations, then the President must ratify the bill. However, if the President's considerations are not fully accommodated, then the President must ratify or submit it to the Constitutional Court to decide how the position of the Bill on the Constitution is. If the Constitutional Court decides that the bill is constitutional, then the President must ratify the bill. Laws that have been ratified must be properly disseminated and effective from the date of promulgation.

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considerations are not fully accommodated, then the President must ratify or submit it to the Constitutional Court to decide how the position of the Bill on the Constitution is. If the Constitutional Court decides that the bill is constitutional, then the President must ratify the bill. Laws that have been passed must be properly disseminated and have been in effect since they were promulgated. Community participation is regulated in the 1996 South African Constitution. Sections that are directly related to public participation in the formation of laws are a bill of rights; public participation in the legislature; institutions supporting democracy; and parliamentary committee. There are various forms of community participation in South Africa, including The People's Assembly, The Taking Parliament to the People programme, The Women's Parliament and the Youth Parliament (sectoral parliaments), public hearings, outreach programmes, radio programs and broadcasts, television broadcasts, business and educational publications, newsletters, promotional material, the website, Facebook, Twitter and YouTube.

3) Community Participation In The Formation of Laws In United of America

Democratic in the United States, the adult level of society in democracy is very advanced and even becomes an example for countries that will implement their form of state, namely democracy. During the cold war, the United States has emerged as the champion of democracy and the guardian of democracy, being a country that always sponsors the dissemination of democracy in various parts of the world. America can be said to be the champion country of democracy ideology, legal system, technology, to agriculture. In the end the Soviet Union collapsed due to economic bankruptcy so that it was unable to compete with the United States until implicitly the superpower fell into the hands of a country nicknamed Uncle Sam, general elections, voting, pooling, referendum, plebiscite and so on are the existing institutions in the democratic political system (the American model) which are commonly used in whole or in part from each country.

In the legislature in America there are two parts, namely the senator and the assembly, where the senator has 40 members, while the assembly have 80 members, the law itself can be drafted by the senate or by the assembly, where the public can participate directly in each process of forming the legislation, which is when people know that the government will make a law, they can get more information from every legislator because every Senate and Member of the Assembly is based in that area, because the purpose of this Office is here to help the community, What's more, the public can call from a distance to ask everything they want to know about the law that will be made, about when it will be heard in the assembly, about amendments that could change the law, or about how to arrange a time to conduct interviews with legislators to express opinions directly. The first step in the formation of a law is the discovery of ideas, ideas or proposed legislation. These ideas or ideas can come from legislators, society, government, and negotiators. Then after finding the idea the next process is when an individual or group persuades a member of the legislature to make a bill, the Senate member then sends the idea and language for the bill to the Legislative Advisory Office where it is drafted into an actual bill. The bill is returned to the legislator for review. The person or group that came up with the idea for the bill can also review it to make sure that the provisions they want are in the law that is properly formed. If the author is a Senator, the bill is introduced on the Senate Table; if a member of the Assembly, at the Assembly Table, where he is numbered and read the first time.

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28 Ibid
After the bill is formed, then the next step is the publication of the law, and individuals or groups can be involved in the Policy Committee, this committee is the people can know where the law is given by the author. After that the draft law must wait for 30 days after being distributed to the public to give the community the opportunity to conduct a review and investigation of the draft law, then the public can determine their position, namely whether the community will agree or will oppose the draft law. In this law, sometimes people form groups to work together to oppose a bill, because forming a group is a good strategy to encourage or reject the passage of the bill. Next in the life cycle of legislation, there is one important process, namely the “committee meeting”. In this process, legislators will hear several testimonies from legislators, experts, experts and jury, this activity involves many kinds of groups in the hearing process can provide more benefits for legislators because they can hear ideas from both sides, from groups supporters and opponents, making it easier for legislators to determine how this bill will be ratified, rejected, or corrected by the.

United States as a Liberal Constitutional country with a Federal Republican form of government that can actually be carried out by means of a referendum in determining a decision of the people. The form of political participation in the United States is very accommodating, one of which is particularized contacting and cooperative activity. Of the two, between particularized contacting and cooperative activity as a forum for the United States community to be able to engage in politics fair, political participation in particularized contacting and cooperative activity is as follows:

a. Particularized contacting is a form of political participation in which citizens make contact with political figures or public institutions with the aim of changing public policies. The issues raised usually concern the welfare of the people or the state, but the problems raised tend to be personal problems faced by the individual. For example, parents who have children with disabilities, contact the State welfare agency to get training for their children and someone who comes to a city council meeting who makes suggestions for the improvement of city parks, and so on. What is interesting about this participation is that those who do are not politically active; and

b. Cooperative Activity United States citizens who want to influence public policy and who are thinking about effective strategies to influence public policy will consider their messages to be more impactful when they come from a group than messages from individuals.

Conceptually, from public participation in the formation of laws and regulations, there has been a forum to be able to accommodate all the political views of the community so that in the discussion of the Draft Law, it can be in accordance with the needs and interests of the people of the United States. In the concept of community participation in the formation of laws and regulations that can be done through workshops or research, in the United States there is a forum like the one above through particularized contacting, on the other hand, the concept of cooperative activity is where researchers conduct interviews or fulfill data from the public becomes a recommendation for the substance contained in the contents of the legislation. In this way, the objectivity of both planning and ratification of laws and regulations in the legislative process is in accordance with the principles of formal openness.

The Concept Of Public Participation In Ideal Law Enforcement In Indonesia

Community participation in the formation of legislation is a manifestation of the implementation of the principle of openness which is one of the foundations in the formation of good legislation. It can be seen in the explanation of Article 5 letter g of Law Number 12 of 2011 states that what is meant by the "principle of openness" is the Establishment of Legislation that starts from planning, preparation, discussion, ratification or stipulation, and invitations are transparent and open. Thus, all levels of society have the widest opportunity to provide input in the Establishment of Legislation. Public participation in the formation of laws and regulations, there has been a forum to be able to accommodate all the political views of the community so that in the discussion of the Draft Law, it can be in accordance with the needs and interests of the people of the United States. In the concept of community participation in the formation of laws and regulations that can be done through workshops or research, in the United States there is a forum like the one above through particularized contacting, on the other hand, the concept of cooperative activity is where researchers conduct interviews or fulfill data from the public becomes a recommendation for the substance contained in the contents of the legislation. In this way, the objectivity of both planning and ratification of laws and regulations in the legislative process is in accordance with the principles of formal openness.

Ibid

Halifa Haqqi. Analysing Politic Participation in United State of America. File:///C:/Users/Window~1/Appdata/Local/Temp/40-Article Text-79-1-10-20120801-1.Pdf,
participation is basically a guarantee that must be given to the people, where the people are given the authority to participate in the process of state administration and access public policy freely. and open, this includes the establishment of legislation, where this is the embodiment of the system of sovereignty in the hands of the people to create ideal regulations, then public participation in the formation of legislation is the embodiment of the people’s political participation rights. So it can be understood that the political rights of citizens are no longer just to vote (the right to vote in elections), but equipped with civil and political rights to participate in the government process. Reforms have also taken place in government and parliament, which is marked by the increasing acceptance of civil society (civil society) in influencing the process of drafting legislation.

Government. Reforms have also occurred in the government and parliament, which are marked by the increasing acceptance of civil society in influencing the process of drafting laws and regulations. Formally, Article 96 of Law Number 12 of 2011 concerning the Formation of Legislation has provided guarantees for citizens to be involved in the process of drafting laws and regulations in the legislature, but even though there is such authority, the community also needs to obtain keys from the legislative body. in which the DPR is an important key to realizing participation in the process of drafting legislation, if the DPR unlocks this participation, then citizen participation is not impossible.

According to Jimly Ashidique, all parties within the state structure and outside the state structure can convey their ideas related to the formation of laws and regulations, therefore the DPR as a legislative body needs to absorb all aspirations from the community. Therefore the DPR, through its equipment, is currently drafting laws, usually carrying out activities to get input from the public. in the form of Public Hearing Meetings (RDPU), seminars, similar activities, and visits. The method of absorbing aspirations that is most often used is visiting regions or visiting local governments, DPRD, and universities, because an aspirational law formation is if in the process of making the legislation the aspirations of the people are taken into account, Satjipto Raharjo argues that a legislation is said to be aspirational and participatory.

If it can produce regulations that have the following characteristics;

a. are general and comprehensive, which are therefore special and limited virtues
b. are universal, because laws are formed to deal with future events. Therefore, laws cannot be formulated to deal only with certain events; and
c. has the power to self-correct and improve. Is it common for a regulation to include a clause containing the possibility of a review

According to Solly Lubis, legislation was considered perfect (perfect) if compliance with the terms of the

1. The regulation provides justice for those concerned, for example whether the workers, farmers, fishermen, street vendors, women, teachers and lecturers feel that with the presence of the legal regulations their interests will be truly protected;
2. The legal regulation provides certainty, in the sense of legal certainty, that with the enactment of the regulation it will be clear the boundaries of the rights (recht, right) and obligations (plicht, duty) of all parties involved in a legal relationship (rechtsbetrekkingen), for example in labor relations, marriage, employment, and so on; and

36 Ibid
3. The regulation provides clear benefits for those with an interest in the presence of the regulation. In general, if the previous two conditions have been met, then this third condition will also be.

To create perfect regulations, the legislature is required to realize democratization that leads to the involvement of all stakeholders in the government process. In addition, legislative awareness is needed to carry out reforms. Efforts to democratize in the formation of legislation have become one of the drivers of the opening of space for public participation and supervision in the formation of laws and regulations. Participation can be interpreted as participating, participating, in an activity, from planning to evaluation. As a general definition, it can be said that participation is the activity of a person or group of people to participate actively in political life. Either directly, through the election of state leaders; or indirectly, by influencing government policy (public policy)\(^{40}\). Therefore, there are several things that should be a concern in the formation of laws and regulations, both at the central and regional levels, in relation to public policies and their touch to the interests of the community. Indonesia, and that legislation at the local level, will relate to the interests of local communities. However, the issue of accuracy, absorption capacity (accommodating the interests of the community), the aspiration of the laws and regulations, whether central or regional, are equally important for the fulfillment of the requirements of ideal laws and regulations. Article 28D of the 1945 Constitution of the Republic of Indonesia stipulates that everyone has the right to fair recognition, guarantees, protection and legal certainty. This has the result that all laws and regulations that are formed in Indonesia give everyone the right to express their aspirations and provide an obligation to the state that the process of establishing laws and regulations is carried out transparently. The public has the right to provide input both in writing and/or verbally in the formation of laws and regulations. The community in question is an individual or group of people who have an interest in the substance of the draft legislation. These include groups of people, among others, community groups/organizations, professional groups, non-governmental organizations, and indigenous peoples. This has been contained in Article 96 and its explanation of Law Number 12 of 2011 concerning the Establishment of Legislation. However, in Presidential Regulation Number 87 of 2014 concerning Implementing Regulations of Law Number 12 of 2011 concerning the Establishment of Legislation, it is not explained in detail regarding public participation in the formation of laws and regulations and only explains in Article 188 of the Presidential Regulation that the implementation of community participation in the formation of statutory regulations are implementation in the context of carrying out public consultation activities and arrangements regarding public consultations are further regulated in ministerial regulations. Until now, the Regulation of the Minister of Law and Human Rights regarding Public Consultation in the formation of legislation is still in draft form as found on the official website of the National Legal Development Agency (BPHN).

This results in a legal uncertainty in protecting the rights of the community in the formation of laws and regulations, so that it can result in the formation of laws and regulations an action that is only a formality for community participation activities. The character of legal products in a country can be divided into several types, namely repressive, autonomous and responsive legal products. According to Nonet and Selznick, they put forward a theory regarding three basic types of law in society, namely as a servant of repressive power (repressive law), law as a separate institution capable of taming repression and protecting its integrity (autonomous law), and law as a facilitator of various responses to social needs and aspirations (responsive law)\(^{41}\). Repressive law is a law that serves power and repressive social order, relying a lot on the use of coercion without thinking about the interests of the people. The main concern of repressive law is the maintenance or implementation of order, public peace, defense, authority and dispute resolution. Autonomous law is a law that is oriented towards the supervision of repressive powers. That is, autonomous law is the antithesis of repressive law.

4. Conclusion

The concept of public participation in the formation of laws in Indonesia, South Africa and the United States has been implemented quite well although public participation in law-making has several obstacles such as a slowdown in the legislative process, however, the legitimacy of the process, issues of justice, also create more efficient regulations. and ultimately create a stronger quality of democracy so that there is no doubt that public participation is an important part of the legislative process. The ideal concept of community participation in the formation of laws in Indonesia where in creating perfect regulations, the legislature is required to realize democratization that leads to the involvement of all stakeholders in the government process, one of which is community participation.

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