



**Indonesia Media Law Review**, Volume 5 Issue 1 (Juni 2026), pp. 82-132

ISSN 2829-7628 (Print) 2829-7423 (Online)

<https://doi.org/10.15294/imrev.v5i1.48840>.

*Indonesia Media Law Review is Journal for Media, Press Law and Ethics in Journalism*

Published biannually by the Faculty of Law, Universitas Negeri Semarang, Indonesia and managed by Law Student Press Community and Press and Journalism Law Studies Center, Faculty of Law Universitas Negeri Semarang, INDONESIA

# **Urgency of Meaningful Participation in Law-Making Processes in the Digital Media Era**

**Rengga Kusuma Putra**

Universitas Sains dan Teknologi Komputer

**Retno Eko Mardani**

Universitas Pamulang

**Dian Ratu Ayu Uswatun Khasanah**

Universitas Terbuka

**Bagus Hermanto**

Universitas Udayana

**Satriya Nugraha**

Universitas Palangkaraya

*\*Corresponding author's email: [renggakusumaputra@gmail.com](mailto:renggakusumaputra@gmail.com)*

**ABSTRACT:** Public participation is an essential element in democratic law-making, especially in the digital media era where information dissemination and public engagement occur rapidly. Despite the recognition of participation rights in Indonesia, meaningful engagement in legislative processes remains limited and largely procedural. This normative juridical study analyzes the urgency of institutionalizing meaningful public participation through the lens of digital media law. It examines the legal challenges and implications of digital participation in Indonesia. The findings reveal that while digital platforms have exponentially expanded public access to legislative discourse, current media regulations lack robust, legally binding mechanisms to ensure transparent and responsive public engagement. Consequently, digital participation is often rendered symbolic rather than substantive. The study concludes that reforming Indonesia's media law framework to establish strict digital participation

standards is imperative. Strengthening these legal frameworks and digital mechanisms guarantees an inclusive, accountable, and truly meaningful democratic law-making process.

**KEYWORDS:** Meaningful Participation, Law-Making Process, Digital Media, Public Participation, Democratic Governance.

## I. INTRODUCTION

The development of digital media has fundamentally transformed the relationship between the state and society, particularly in the context of democratic governance, legislative processes and public participation.<sup>1</sup> In Indonesia, the importance of public participation in legislative formation is constitutionally grounded in the 1945 Constitution and further reinforced through Law Number 12 of 2011 concerning the Formation of Laws and Regulations, as amended by Law Number 13 of 2022.<sup>2</sup> Nevertheless, despite the normative recognition of participation rights, the implementation of public participation in legislative processes often remains procedural and symbolic rather than substantive. The rapid expansion of digital media has intensified public engagement in legal and political discourse, yet it has simultaneously exposed structural weaknesses in the mechanisms through which public aspirations are accommodated within the legislative process.

The shift of public participation channels into the digital realm necessitates an adaptation of the legal framework, focusing not only on the law-making formulation statutes (Law No. 12/2011 in conjunction with Law No. 13/2022) but also on media governance and law. Currently, Indonesia's media law infrastructure—such as the Electronic Information and Transactions Law (UU ITE), broadcasting

---

<sup>1</sup> Amirul Huda Musyafa Samudra and Ninuk Wijiningsih, "Perbandingan Pelaksanaan Fungsi Legislasi Antara Dewan Perwakilan Rakyat Di Indonesia Dan Representatives Di Uruguay: Comparison of the Legislative Functions Between the House of Representatives in Indonesia and the Representatives in Uruguay," *Reformasi Hukum Trisakti* 6, no. 3 (August 2024): 1146–56, <https://doi.org/10.25105/refor.v6i3.21180>.

<sup>2</sup> Achmad Ruslan, *Teori Dan Panduan Praktik Pembentukan Peraturan Perundang-Undangan Di Indonesia* (Yogyakarta: Rangkang Education, 2001).

regulations, and public information disclosure rules—exhibits significant gaps regarding legislative participation. These regulations primarily focus on content oversight, cybersecurity, and information distribution restrictions, yet fail to establish legally binding standards on how digital media platforms should be formally integrated as mechanisms for meaningful participation. The absence of media law instruments mandating legislative bodies to transparently accommodate, manage, and respond to public input from digital spaces causes high online engagement to often culminate merely as public discourse without substantial impact. Therefore, this study reorients the issue of public participation into the domain of media law to formulate a digital media regulatory framework that not only guarantees freedom of expression but also institutionalizes digital spaces as an inclusive and accountable democratic participatory ecosystem.

However, previous studies have not adequately addressed the specific legal frameworks of media law required to regulate and protect this public participation. Previous studies concerning public participation in legislative processes have generally focused on constitutional democracy, deliberative democracy, transparency, and procedural legitimacy in law-making.<sup>3</sup> Several scholars have emphasized that meaningful participation constitutes a crucial element in achieving democratic governance because it enables citizens to influence policy-making processes beyond electoral representation.<sup>4</sup> Other studies have examined the role of digital platforms and social media in expanding civic engagement, particularly in facilitating access to legislative information and mobilizing public opinion.<sup>5</sup> However, most existing studies remain fragmented and tend to examine public

---

<sup>3</sup> M. Chang, “Taiwan’s Constitutional Court: Judicial Activism and Politicization in a New Democracy,” *Jackson School Journal of International Studies*, no. Query date: 2026-03-10 17:09:40 (n.d.), <https://jsis.washington.edu/ellisoncenter/wp-content/uploads/sites/25/2023/01/TaiwanConstitutionCourtJackson-School-Journal-Winter-2022.pdf>.

<sup>4</sup> Arfa’i Arfa’i, Bahder Johan Nasution, and Febrian Febrian, “Aktualisasi Pancasila sebagai Sumber Hukum dalam Pembentukan Undang-Undang,” *Undang: Jurnal Hukum* 3, no. 2 (December 2020): 377–407, <https://doi.org/10.22437/ujh.3.2.377-407>.

<sup>5</sup> Nirmal Varghese Babu and E. Grace Mary Kanaga, “Sentiment Analysis in Social Media Data for Depression Detection Using Artificial Intelligence: A Review,” *SN Computer Science* 3, no. 1 (January 2022): 74, <https://doi.org/10.1007/s42979-021-00958-1>.

participation either from the perspective of constitutional law, digital democracy, or governance studies separately.<sup>6</sup> Consequently, the interaction between digital participation, legislative legitimacy, and constitutional principles has not yet been sufficiently explored within an integrated analytical framework.

This study argues that the emergence of digital media has created a new constitutional landscape in which public participation can no longer be understood solely through conventional mechanisms such as public hearings or limited consultations.<sup>7</sup> Instead, digital communication technologies have transformed participation into a more dynamic, immediate, and decentralized process.<sup>8</sup> However, the absence of responsive institutional mechanisms often reduces public participation to procedural formalities that fail to influence legislative outcomes substantively. In many cases, public consultations are conducted only after legislative drafts have been substantially finalized, while public input is neither transparently accommodated nor adequately responded to by policy-makers. Such conditions illustrate the persistent tension between *das sollen* and *das sein* in democratic law-making processes.<sup>9</sup> Therefore, this article seeks to address the limitations of previous studies by offering a more comprehensive analysis that integrates constitutional theory, democratic participation, and digital media governance within the broader discourse of legislative legitimacy.<sup>10</sup>

---

<sup>6</sup> Farhana Farhana, Atik Nurwahyuni, and Saly Salim Alatas, "Pemanfaatan Digital Health untuk Meningkatkan Keberhasilan Pengobatan Pasien Tuberkulosis di Negara Berkembang : Literature Review: The Digital Health Utilization to Improve Successful Treatment of Tuberculosis Patient in Developing Countries : Literature Review," *Media Publikasi Promosi Kesehatan Indonesia (MPPKI)* 5, no. 9 (September 2022): 1043–53, <https://doi.org/10.56338/mppki.v5i9.2542>.

<sup>7</sup> Osihanna Meita Kasih and Irwan Triadi, "Penegakan Hak Asasi Manusia dalam Partisipasi Politik Warga Negara pada Pemilihan Umum di Indonesia: (Enforcement of Human Rights in Public Political Participation in General Elections in Indonesia)," *Indonesian Journal of Law and Justice* 1, no. 4 (April 2024): 14, <https://doi.org/10.47134/ijlj.v1i4.2369>.

<sup>8</sup> M. M. Abraham, "A Legal Analysis on Navigating Facial Recognition Technology in India's State Surveillance Framework," *Championing Civil Rights in the Digital Era*, 2026, 57–75, Scopus, <https://doi.org/10.4018/979-8-3693-3920-6.ch003>.

<sup>9</sup> I. Ariezyandy, *Kajian Yuridis Tentang Pembentukan Peraturan Pemerintah Pengganti Undang-Undang* (repository.unja.ac.id, 2024), <https://repository.unja.ac.id/69183/>.

<sup>10</sup> H. Hillman, "Pass or Play: Should Regulators Address the Money Laundering Risks Posed by Cryptocurrencies Themselves or Await Legislative Reform?," *Journal of Business Law* 2024, no. 4 (2024): 301–28, Scopus.

The scientific novelty of this article lies in its integrative approach in examining meaningful participation within the digital media era through the intersection of constitutional law, democratic theory, and digital governance.<sup>11</sup> Unlike previous studies that generally focus on participation as a procedural requirement, this article positions meaningful participation as a substantive constitutional principle that directly affects the legitimacy of legislation in democratic states.<sup>12</sup> Moreover, this study highlights the transformative role of digital media not only as an instrument of communication but also as a constitutional space for civic engagement and democratic deliberation. By adopting a normative juridical approach combined with conceptual and comparative perspectives, this study intends to formulate a more comprehensive understanding of how meaningful participation should be institutionalized within modern legislative systems.

Accordingly, this study aims to analyze the urgency of meaningful participation in law-making processes within the digital media era, examine the challenges in its implementation within Indonesia's legislative system, and formulate a conceptual framework for strengthening participatory and democratic law-making.<sup>13</sup> In order to achieve these objectives, this article addresses two principal research questions: first, how is meaningful participation conceptually and constitutionally positioned within contemporary law-making processes; and second, how does the development of digital media influence the implementation and effectiveness of public participation in legislative formation in Indonesia. Through these questions, the article seeks to contribute both theoretically and

---

<sup>11</sup> Laurianne Allezard, "Beyond Constitutional Identity: Thinking Identity in Constitutional Law," *European Law Open*, October 28, 2025, 1–24, <https://doi.org/10.1017/elo.2025.10027>.

<sup>12</sup> Aryo Wasisto and Achmadudin Rajab, "Dampak Putusan MK Nomor 80/PUU-XX/2022 Terhadap Kewenangan Komisi Pemilihan Umum Dalam Penataan Daerah Pemilihan," *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan* 14, no. 1 (2023).

<sup>13</sup> N. Febrina, "Tinjauan Yuridis Normatif Terhadap Perlindungan Hukum Kebebasan Pers Dalam Era Digitalisasi Media Di Indonesia," *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, no. Query date: 2026-05-06 12:27:56 (2026), <http://ejournal.yayasanpendidikandzurriyatulquran.id/index.php/AlZayn/article/view/5571>.

practically to the development of democratic legislative governance in the digital age

## II. METHODS

This study employs a normative juridical research method with a descriptive-analytical approach to examine the urgency of meaningful participation in law-making processes within the digital media era.<sup>14</sup> The research applies statute, conceptual, and comparative approaches in analyzing constitutional principles, legislative frameworks, and democratic participation mechanisms related to public involvement in legislative formation. Primary legal materials consist of constitutional provisions, statutory regulations, and relevant court decisions, particularly the 1945 Constitution of the Republic of Indonesia and Law Number 12 of 2011 concerning the Formation of Laws and Regulations as amended by Law Number 13 of 2022, while secondary legal materials include journal articles, books, research reports, and legal doctrines concerning constitutional law, democratic governance, digital democracy, and participatory legislation.<sup>15</sup> The legal materials were collected through library research and analyzed qualitatively using descriptive and interpretative methods through grammatical, systematic, and teleological interpretation in order to formulate a comprehensive understanding of the relationship between digital media, public participation, and democratic legitimacy in contemporary law-making processes.

## III. CONSTITUTIONAL LEGITIMACY AND THE CONCEPT OF MEANINGFUL PARTICIPATION IN DEMOCRATIC LAW-MAKING

---

<sup>14</sup> Elisabeth Nurhaini Butar-Butar, *Metode Penelitian Hukum, Langkah-Langkah Untuk Menemukan Kebenaran Dalam Ilmu Hukum* (Bandung: PT. Refika Aditama, 2018).

<sup>15</sup> Mexsasai Indra, Geofani Milthree Saragih, and Tito Handoko, "Pseudo-Judicial Review for the Dispute over the Result of the Regional Head Election in Indonesia," *Lentera Hukum* 10, no. 1 (May 2023): 111, <https://doi.org/10.19184/ejllh.v10i1.36685>.

Constitutional legitimacy constitutes one of the most fundamental elements in the operation of a democratic state governed by the rule of law.<sup>16</sup> In contemporary constitutionalism, the legitimacy of legislation is no longer assessed solely on the basis of procedural compliance with formal legislative mechanisms, but also on the extent to which the law-making process reflects democratic participation, transparency, accountability, and public deliberation.<sup>17</sup> The modern understanding of constitutional democracy places the people not merely as passive recipients of legal norms, but as active participants whose aspirations, interests, and constitutional rights must be accommodated within legislative processes. Consequently, meaningful participation has emerged as an essential constitutional principle that directly influences the democratic validity and moral authority of legislation within democratic governance systems.<sup>18</sup>

The theoretical foundation of meaningful participation is closely related to the doctrine of popular sovereignty and deliberative democracy. Within democratic constitutional theory, sovereignty ultimately resides in the people, and therefore every legislative product derives its legitimacy from public consent and participation.<sup>19</sup> Jurgen Habermas, through the theory of communicative action and deliberative democracy, argues that legitimate law can only emerge through rational public discourse involving equal participation among citizens.<sup>20</sup> Public participation is not merely symbolic consultation but a substantive process through which citizens are able to influence policy outcomes and legislative decisions. Accordingly,

---

<sup>16</sup> Richard Albert, ed., “Revolutionary Constitutionalism: Law, Legitimacy, Power,” *Italian Journal of Public Law* 12, no. 1 (2020), <https://doi.org/10.5040/9781509934607>.

<sup>17</sup> Roberta Camineiro Baggio, Paulo Eduardo Berni, and Alexandre Carpenedo, “Authoritarian Legality and Constitutional Jurisdiction in Chile: Continuities and Ruptures in the Formation of Constitutionalism from the 1990s,” *Beijing Law Review* 15, no. 03 (2024): 1158–77, <https://doi.org/10.4236/blr.2024.153070>.

<sup>18</sup> J. Barnard-Naudé, “FORM AND SUBSTANCE IN THE CONSTITUTIONAL COURT: WHITHER CONTRACT LAW’S POLICY AFTER APARTHEID?,” *South African Law Journal* 138 (2021): 569–98, Scopus, <https://doi.org/10.47348/SALJ/v138/i3a6>.

<sup>19</sup> PM DARLIS, YA VIVI, and E. Elviandri, “Meaningful Participation in the Formation of Regional Legal Products: An Ideal Model of Local Regulation In the Implementation of Regional Autonomy,” *PENA JUSTISIA: MEDIA KOMUNIKASI ...*, no. Query date: 2026-05-06 12:27:26 (2024), <https://elibrary.ru/item.asp?id=81430519>.

<sup>20</sup> Thomas Loughran, Andrew Mycock, and Jonathan Tonge, “A Coming of Age: How and Why the UK Became the First Democracy to Allow Votes for 18-Year-Olds,” *Contemporary British History* 35, no. 2 (April 2021): 284–313, <https://doi.org/10.1080/13619462.2021.1890589>.

meaningful participation should be understood as a mechanism that guarantees inclusiveness, accessibility, transparency, and responsiveness within the legislative process.

In the context of the digital era, Habermas's concept of 'rational public discourse' has fundamentally migrated to digital platforms and social media. Consequently, the theoretical ideals of deliberative democracy carry direct implications for media law and governance. For meaningful participation to occur, media law must go beyond merely regulating content restriction or cybersecurity; it must actively construct and protect a democratic digital public sphere. *First*, to ensure the discourse remains 'rational' and 'inclusive,' media regulations must safeguard freedom of expression from digital authoritarianism and mitigate the manipulation of public opinion through algorithmic bias, computational propaganda (bots), and disinformation. *Second*, to prevent participation from being 'merely symbolic,' media law must mandate the creation of legally binding digital infrastructure—such as official, transparent e-participation platforms—that compels legislative bodies to process, document, and formally respond to public inputs. Therefore, in the digital age, a robust media law framework is the essential prerequisite for translating the abstract doctrine of popular sovereignty into substantive and responsive law-making practices.

Within the Indonesian constitutional framework, the principle of public participation in law-making is implicitly rooted in the democratic character of the 1945 Constitution of the Republic of Indonesia.<sup>21</sup> Article 1 paragraph (2) of the Constitution affirms that sovereignty is vested in the people and implemented according to the Constitution. This constitutional principle establishes the normative basis for public involvement in governance and legislative formation. Furthermore, Law Number 12 of 2011 concerning the Formation of Laws and Regulations, as amended by Law Number 13 of 2022, explicitly recognizes the right of the public to provide input during

---

<sup>21</sup> Putra Perdana Ahmad Saifulloh, "Rekonstruksi Pengaturan Hak Dipilih Pegawai Negeri Sipil Dalam Pemilihan Umum Legislatif Menurut UUD 1945," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 11, no. 2 (August 2022), <https://doi.org/10.33331/rechtsvinding.v11i2.920>.

legislative processes. Nevertheless, despite this normative recognition, the implementation of public participation in Indonesia frequently remains procedural rather than substantive. Public consultations are often conducted only to satisfy formal requirements without ensuring that public opinions genuinely influence legislative outcomes.<sup>22</sup>

The Constitutional Court of Indonesia has progressively reinforced the constitutional significance of meaningful participation through several landmark decisions, particularly in cases concerning procedural constitutional review of legislation.<sup>23</sup> The Court has emphasized that meaningful participation requires at least three essential elements: the public's right to be heard (right to be heard), the public's right to have their opinions considered (right to be considered), and the public's right to receive explanations or responses regarding the accommodation of their views (right to be explained). These principles signify an important shift from formalistic participation toward participatory constitutionalism that prioritizes substantive democratic engagement.<sup>24</sup> Consequently, meaningful participation is no longer interpreted merely as administrative compliance but as an integral component of constitutional legitimacy itself.

However, the practical realization of meaningful participation remains problematic in many legislative processes.<sup>25</sup> In numerous instances, legislative drafting occurs within closed political negotiations dominated by political elites, governmental actors, and economic interest groups, while broader public involvement is limited

---

<sup>22</sup> F. Mannan et al., "Exposing Discrepancies in Indonesia's Legislative Processes: Mengungkap Ketidaksesuaian Dalam Proses Legislasi Di Indonesia," *Indonesian Journal of ...*, no. Query date: 2026-04-26 16:45:04 (2024), <https://ijins.umsida.ac.id/index.php/ijins/article/view/1069>.

<sup>23</sup> Pablo Castillo-Ortiz, "The Dilemmas of Constitutional Courts and the Case for a New Design of Kelsenian Institutions," *Law and Philosophy* 39, no. 6 (December 2020): 617–55, <https://doi.org/10.1007/s10982-020-09378-3>.

<sup>24</sup> Sherif Zakhour, "The Democratic Legitimacy of Public Participation in Planning: Contrasting Optimistic, Critical, and Agnostic Understandings," *Planning Theory* 19, no. 4 (November 2020): 349–70, <https://doi.org/10.1177/1473095219897404>.

<sup>25</sup> Sarah Malena Andrea Dondokambey, "Penerapan Prinsip Partisipasi Masyarakat Bermakna (Meaningful Participation) Dalam Pembentukan Peraturan Daerah," *Lex Privatum* XI, no. 2 (2023).

or marginalized. Such conditions create a democratic deficit in which laws are formally enacted according to constitutional procedures but lack substantive democratic legitimacy.<sup>26</sup> The absence of effective participation mechanisms may also result in legislation that fails to reflect social needs, constitutional values, and public interests, thereby weakening public trust in democratic institutions and legal systems.

The issue becomes increasingly complex within the context of digital governance and rapid technological transformation. Digital media has fundamentally altered the landscape of public participation by enabling broader access to information and facilitating instant public engagement in legislative discourse. Social media platforms, digital forums, and online advocacy movements have expanded opportunities for citizens to participate in debates surrounding public policy and legislation.<sup>27</sup> This transformation has created what may be described as a “digital public sphere,” where constitutional discourse is no longer monopolized by state institutions or conventional political actors. Instead, citizens are increasingly capable of mobilizing collective opinions, criticizing draft legislation, and influencing political narratives through digital communication technologies.

Nevertheless, the expansion of digital participation does not automatically guarantee meaningful participation in a substantive constitutional sense.<sup>28</sup> Digital engagement frequently remains fragmented, reactive, and vulnerable to misinformation, political polarization, and algorithmic manipulation. Moreover, the absence of institutional mechanisms capable of integrating digital public aspirations into formal legislative processes often causes online

---

<sup>26</sup> A. Haynes et al., “True Inclusion: Evaluation Protocol for an Approach to Increase Meaningful Participation of Children with Disability in Athletics,” *Frontiers in Public ...*, no. Query date: 2026-05-06 12:27:26 (2024), <https://doi.org/10.3389/fpubh.2024.1403866>.

<sup>27</sup> Hugues Sampasa-Kanyinga et al., “Social media use and parent–child relationship: A cross-sectional study of adolescents,” *Journal of Community Psychology* 48, no. 3 (April 2020): 793–803, <https://doi.org/10.1002/jcop.22293>.

<sup>28</sup> EZ Muttaqin and S. Hikam, “Konsep Meaningful Participation Dalam Proses Legislasi Di Indonesia Pasca Putusan Mahkamah Konstitusi Nomor 91/PUU XVIII/2020,” *Amnesti: Jurnal Hukum*, no. Query date: 2026-05-06 12:27:26 (2024), <https://jurnal.umpwr.ac.id/index.php/amnesti/article/view/4091>.

participation to remain disconnected from actual policy-making. As a result, while digital media increases the visibility of public opinion, it does not necessarily ensure that such participation meaningfully shapes legislative outcomes. This condition illustrates the continuing tension between technological democratization and institutional responsiveness within democratic governance.

From the perspective of constitutional law, meaningful participation should therefore be conceptualized not merely as a political preference but as a constitutional obligation derived from democratic principles, human rights protection, and the rule of law. Democratic legitimacy requires that law-making processes provide equal opportunities for public engagement and ensure that citizens are not excluded from decisions affecting their rights and obligations. In this regard, participation functions as a constitutional safeguard against arbitrary law-making and excessive concentration of political power.<sup>29</sup> Meaningful participation also strengthens the accountability of legislative institutions by subjecting policy-making processes to public scrutiny and deliberation.

Furthermore, meaningful participation contributes significantly to the substantive quality of legislation. Laws produced through inclusive and participatory processes are generally more responsive to social realities, more adaptable to societal needs, and more likely to gain public acceptance. Conversely, legislation enacted through exclusive or opaque processes often generates public resistance, constitutional challenges, and implementation difficulties. This relationship demonstrates that democratic legitimacy and legal effectiveness are deeply interconnected. Therefore, strengthening participatory mechanisms within legislative systems should not be viewed as an obstacle to governance efficiency, but rather as a constitutional necessity for achieving sustainable and legitimate democratic governance.

The urgency of meaningful participation in democratic law-making lies in its capacity to bridge the gap between constitutional ideals and

---

<sup>29</sup> Andrej Zaslove et al., "Power to the People? Populism, Democracy, and Political Participation: A Citizen's Perspective," *West European Politics* 44, no. 4 (June 2021): 727–51, <https://doi.org/10.1080/01402382.2020.1776490>.

legislative practices. The future of democratic constitutionalism increasingly depends upon the ability of legal systems to institutionalize participatory governance in ways that are inclusive, transparent, and responsive to societal transformation. Consequently, meaningful participation must be strengthened not only through formal legal recognition but also through institutional reforms that ensure public engagement genuinely influences legislative decision-making processes. Such reforms are essential for reinforcing constitutional legitimacy, protecting democratic values, and maintaining public trust in contemporary democratic governance

#### **IV. DIGITAL MEDIA TRANSFORMATION AND PUBLIC PARTICIPATION IN LEGISLATIVE PROCESSES**

The rapid development of digital media has significantly transformed the structure of democratic participation in contemporary governance, particularly within legislative processes. In modern constitutional democracies, digital communication technologies are no longer understood merely as instruments for information dissemination or interpersonal communication, but have evolved into strategic platforms for political deliberation, public mobilization, civic engagement, and democratic participation.<sup>30</sup> The emergence of social media platforms, online discussion forums, digital journalism, and internet-based advocacy movements has fundamentally altered the traditional relationship between the state and society by creating broader opportunities for citizens to access legislative information, express political opinions, and directly engage in policy-making discourse. Consequently, the transformation of digital media has reshaped the dynamics of public participation in legislative formation by shifting democratic engagement from conventional institutional spaces into decentralized and digitally mediated public spheres that transcend geographical and institutional boundaries.<sup>31</sup>

---

<sup>30</sup> S. Baer, "To Listen and to Belong. A Personal Take on Constitutionalism at Work Today," *German Law Journal* 26, no. 2 (2025): 350–60, Scopus, <https://doi.org/10.1017/glj.2025.10>.

<sup>31</sup> YN Tarigan and A. Agusmidah, "The Use of the Concept of Regulatory Impact Assessment to Prevent the Practice of Autocratic Legalism in the Process of Legislative Formation in

Within the framework of democratic constitutionalism, this transformation reflects a broader shift in the concept of citizenship and participatory governance.<sup>32</sup> Traditional models of representative democracy generally positioned citizens as passive recipients of governmental decisions whose primary political role was exercised through periodic elections. However, the digital era has significantly disrupted this model by enabling continuous interaction between citizens, governmental institutions, and legislative actors through digital networks. Citizens are now increasingly capable of participating in legislative debates, criticizing public policies, organizing collective actions, and influencing political narratives in real time through digital platforms.<sup>33</sup> In this regard, digital media has contributed to the expansion of what Habermas conceptualizes as the “public sphere,” namely a communicative space where public discourse concerning state affairs is formed through rational debate and societal participation. Unlike conventional public spheres that were often limited by institutional gatekeeping and access restrictions, digital media enables more open, horizontal, and immediate forms of democratic interaction.

The expansion of digital participation has also strengthened the role of civil society in monitoring legislative processes and promoting governmental accountability. Through digital technologies, non-governmental organizations, academics, journalists, legal observers, and ordinary citizens may collectively engage in legislative oversight by disseminating legal analyses, organizing public campaigns, and exposing procedural irregularities within law-making processes. In Indonesia, this phenomenon became particularly visible during legislative controversies surrounding the Job Creation Law (Omnibus Law), revisions to the Criminal Code, and various regulatory reforms that generated extensive public debate through social media

---

Indonesia,” *Jurnal Ilmiah Wahana Pendidikan*, no. Query date: 2026-04-26 12:39:54 (2025), <http://jurnal.peneliti.net/index.php/JIWP/article/view/11709>.

<sup>32</sup> R. Henrico, “Judicial Review in South Africa and India: Advancing Constitutionalism or Undue Activism?,” *Obiter*, no. Query date: 2026-03-10 17:09:40 (2023), [https://doi.org/10.10520/ejc-obiter\\_v43\\_n4\\_a10](https://doi.org/10.10520/ejc-obiter_v43_n4_a10).

<sup>33</sup> PRB Ramos et al., “Transforming Politics: Intersection of Judicial Power, Activism and Legislative Decline in Brazil,” *Beijing L. Rev.*, no. Query date: 2026-03-10 17:09:40 (2023), [https://heinonline.org/hol-cgi-bin/get\\_pdf.cgi?handle=hein.journals/beijlar14&ion=73](https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/beijlar14&ion=73).

platforms and digital advocacy movements. Hashtags, online petitions, virtual discussions, and digital campaigns increasingly function as instruments of political mobilization capable of influencing public discourse and pressuring legislative institutions to respond to societal concerns. Such developments indicate that digital media has transformed participation from a limited procedural activity into a more dynamic and socially interconnected democratic practice.<sup>34</sup>

Moreover, digital media has contributed significantly to improving public access to legislative information, which constitutes an essential prerequisite for democratic participation.<sup>35</sup> In democratic governance systems, meaningful participation cannot be realized without transparency and accessibility of information. Digital technologies facilitate faster dissemination of draft legislation, parliamentary agendas, public consultations, and governmental policies, thereby reducing informational asymmetries between state institutions and society. Through online media and digital communication platforms, citizens are increasingly capable of monitoring legislative developments and evaluating governmental actions independently. This transformation strengthens democratic accountability because legislative institutions are subjected to broader public scrutiny and continuous public evaluation. Consequently, digital media not only enhances participation quantitatively by increasing the number of participants, but also potentially strengthens the qualitative dimensions of democratic oversight and constitutional transparency.

Analyzing the transformation of digital media requires a critical review of the media law infrastructure itself. Currently, Indonesia's digital legal framework, particularly the Electronic Information and Transactions Law (UU ITE), is primarily oriented toward content

---

<sup>34</sup> K. Koch et al., "Clarifying Terms and Concepts: What Is Meant by Social Participation in Decision-Making for Health," *Eurohealth*, no. Query date: 2026-05-06 12:27:26 (2024), <https://iris.who.int/bitstream/handle/10665/376885/Eurohealth-30-1-11-18-eng.pdf?sequence=1>.

<sup>35</sup> O. Huss, "The Social Construction of Anti-Corruption Technologies: Analysing the e-Participation Platform Rahvaalgatus. Ee in Estonia," *Digital Media and Grassroots Anti-Corruption*, no. Query date: 2026-03-15 20:58:23 (2024), <https://www.elgaronline.com/edcollchap-0a/book/9781802202106/book-part-9781802202106-14.xml>.

moderation, penalization, and cybersecurity, which indirectly creates a *chilling effect* in the public sphere. The absence of legal guarantees protecting citizens from criminalization when criticizing draft legislation online prevents digital participation from functioning optimally.

Furthermore, media governance law in Indonesia has not yet established binding operational standards regarding digital participation instruments. For instance, although the government has developed platforms such as SIMAS PUU or the official House of Representatives (DPR) website, these portals remain at the level of *e-information*—functioning merely as one-way suggestion boxes. This contrasts sharply with progressive digital governance implementations in various countries. Examples include the vTaiwan system, which utilizes a consensus-building algorithm (*Pol.is*) whose results policymakers are obliged to accommodate, or the Rahvaalgatus.ee system in Estonia, where digital public petitions reaching a specific threshold legally compel the parliament to discuss them in legislative sessions. For Indonesia to guarantee *meaningful participation* in accordance with the mandate of the Constitutional Court, media law must be reformed to establish digital governance regulations that obligate legislative bodies to transparently document, consider, and respond to digital inputs, akin to the system applied by Regulations.gov in the United States.

However, efforts to adopt robust digital governance frameworks—such as the *vTaiwan* or *Regulations.gov* models—cannot be separated from the crucial issue of personal data protection. To ensure that public participation remains free from bot manipulation or computational propaganda, official government participation platforms absolutely require an identity verification system (such as the integration of the National Identity Number or other digital identities). Nevertheless, this verification mandate directly implies the accumulation of highly sensitive personal data—including group affiliations, political views, and citizens' critiques—within state agency servers. In the context of Indonesia's cybersecurity governance, which remains vulnerable to data breaches, this data

centralization triggers serious risks. Although Indonesia has enacted the Personal Data Protection Law (UU PDP), its enforcement against data controllers in the public sector is often still weak. Consequently, citizens voicing strong opposition to a draft law become highly vulnerable to threats of *doxing*, identity tracking, and digital repression.

The absence of absolute privacy guarantees directly impacts the erosion of the essence of *meaningful participation*. When the public perceives that their online activities are under constant surveillance (*surveillance apprehension*), a *Digital Panopticon* phenomenon emerges, driving *self-censorship*. The fear that their identities will be tracked by authorities triggers a secondary *chilling effect*, forcing critical groups to withdraw from government participation platforms. Ultimately, this undermines the fulfillment of the constitutional *right to be heard*. Therefore, future digital media law reforms must explicitly adopt the principles of *Privacy by Design* and *Privacy by Default*. Juridically and technically, media regulations must obligate state platforms to utilize cryptographic technologies that guarantee pseudonymity—such as *zero-knowledge proof*—where the system can validate citizens' credibility without exposing their real identities in the public sphere. Furthermore, the law must establish strict data retention policies to immediately delete public identity logs once the legislative process of a law is completed. Without these privacy guarantees, digital participation spaces will merely become instruments of surveillance that weaken democratic values.

Beyond the chilling effect caused by such penalization-heavy regulations, another fundamental flaw in Indonesia's media law is the absence of binding operational standards for digital participation instruments. Currently, although the government has developed digital platforms such as SIMAS PUU and the official portal of the House of Representatives (DPR), these systems remain stagnant at the level of *e-information*—functioning merely as one-way digital suggestion boxes. This passive approach contrasts sharply with progressive digital governance models in other jurisdictions. For instance, the vTaiwan system utilizes a consensus-building algorithm

(*Pol.is*) that generates results policymakers are formally obliged to accommodate. Similarly, the *Rahvaalgatus.ee* system in Estonia legally compels the parliament to debate digital public petitions once they reach a specific signature threshold. Therefore, in order for Indonesia to fulfill the Constitutional Court's mandate of *meaningful participation*, media law must be reformed to establish robust digital governance regulations. These regulations must legally obligate legislative bodies to systematically document, publicly consider, and formally respond to digital inputs, akin to the mandatory notice-and-comment framework applied by *Regulations.gov* in the United States.

In many jurisdictions, including Indonesia, governments increasingly face tensions between protecting democratic freedoms and regulating digital spaces to prevent misinformation, hate speech, and online criminal activities. Laws governing electronic information and digital communication may potentially create chilling effects that discourage public criticism and civic participation if interpreted excessively or implemented arbitrarily. Consequently, the constitutional protection of digital expression becomes essential for safeguarding democratic participation within contemporary law-making processes. The relationship between digital regulation and participatory governance therefore requires careful constitutional balancing between public order, democratic freedom, and human rights protection.

In addition, digital media has transformed the role of journalists and media institutions within democratic governance structures. In constitutional democracies, the press functions not merely as an information intermediary but also as a constitutional watchdog responsible for monitoring legislative conduct and exposing abuses of power. Digital journalism and online investigative reporting have strengthened the ability of media institutions to scrutinize legislative processes and disseminate information rapidly to the public.<sup>36</sup> Through digital platforms, legal analyses, parliamentary debates, and policy critiques may reach broader audiences and encourage more active civic engagement. Therefore, freedom of the press and

---

<sup>36</sup> T. Haryanto, "Kriminalisasi Produk Pers Digital Dalam Perspektif Hak Asasi Manusia," *INOMATEC: Jurnal Inovasi Dan Kajian ...*, no. Query date: 2026-05-06 12:27:56 (2026), <https://portalpublikasi.com/index.php/inomatec/article/view/798>.

independent digital journalism remain indispensable elements of participatory constitutionalism and accountable legislative governance.

From a broader constitutional perspective, the transformation of digital media demonstrates that democratic legitimacy in contemporary governance increasingly depends upon the capacity of legal systems and state institutions to adapt participatory mechanisms to evolving technological realities. Participatory law-making can no longer rely solely upon conventional consultation procedures or limited institutional hearings.<sup>37</sup> Instead, legislative systems must develop more responsive, transparent, and digitally integrated participation mechanisms capable of accommodating broader civic engagement. Such reforms may include open-access legislative platforms, interactive digital consultations, online parliamentary hearings, and institutional obligations to publicly respond to citizen input. Without such institutional adaptation, digital participation risks remaining symbolic rather than substantively influential within legislative decision-making processes.

The transformation of digital media represents both a significant opportunity and a profound challenge for democratic governance and constitutional law-making. On one hand, digital technologies expand civic participation, strengthen public oversight, and democratize access to legislative discourse. On the other hand, digital polarization, misinformation, unequal access, and institutional limitations continue to hinder the realization of meaningful participation within legislative processes. Therefore, strengthening democratic legitimacy in the digital era requires not only technological innovation, but also constitutional commitment, institutional responsiveness, legal safeguards, and democratic political culture capable of ensuring that digital participation genuinely contributes to inclusive, accountable, and participatory law-making processes.

---

<sup>37</sup> Uffe Jakobsen, Henrik Larsen, and Emma J. Stewart, "Introduction: Indigenous Self-Governance in the Arctic States," *The Polar Journal* 14, no. 1 (January 2024): 1–8, <https://doi.org/10.1080/2154896X.2024.2342116>.

Within democratic theory, public participation constitutes an essential component of constitutional legitimacy because legislation derives democratic validity not only from representative institutions but also from meaningful public involvement. In the digital era, the internet and social media have expanded the accessibility of legislative information and enabled citizens to monitor, critique, and influence governmental policies in real time. Manuel Castells conceptualizes this phenomenon as the emergence of a “network society,” in which digital communication networks facilitate horizontal interaction among citizens beyond conventional institutional boundaries. This transformation has strengthened the capacity of civil society actors to mobilize public opinion, organize collective actions, and pressure state institutions regarding legislative agendas.

In Indonesia, the transformation of digital media has become increasingly visible in legislative controversies involving public interests, where social media campaigns and digital advocacy movements have played significant roles in shaping political discourse. Legislative debates concerning the Job Creation Law (*Omnibus Law*), the Criminal Code Bill, and various controversial regulations have demonstrated how digital platforms can function as instruments of participatory democracy.<sup>38</sup> Citizens, academics, journalists, civil society organizations, and legal activists increasingly utilize digital media to disseminate legal analyses, organize protests, and demand transparency from legislative institutions. Such developments indicate that digital participation has become an inseparable aspect of contemporary law-making processes.

Nevertheless, despite the expansion of digital participation, the effectiveness of public involvement in influencing legislative outcomes remains contested. One of the primary challenges is the absence of institutional mechanisms capable of integrating digital aspirations into formal legislative procedures. In many cases, public

---

<sup>38</sup> Kania Venisa Rachim, Christo Sumurung Tua Sagala, and Eddy Mulyono, “Omnibus Law dalam Konstitusi Indonesia: Studi Perbandingan Indonesia, Amerika Serikat, dan Filipina,” *Ajudikasi: Jurnal Ilmu Hukum* 7, no. 1 (June 2023): 17–34, <https://doi.org/10.30656/ajudikasi.v7i1.6485>.

engagement through digital platforms remains reactive and symbolic rather than substantively influential. Legislative institutions frequently provide limited access to draft regulations, conduct consultations within restricted timeframes, or fail to explain whether public input has been accommodated within final legislative products. As a result, digital participation often produces political visibility without necessarily generating substantial policy influence.

The constitutional and legal framework governing digital participation and media freedom in Indonesia formally recognizes the importance of public access to information and freedom of expression. Several laws regulate the relationship between digital media, public participation, and democratic governance, as summarized in the following table:

**Table 1. Legal Framework Governing Digital Media and Public Participation in Indonesia**

| <b>Legal Instrument</b>                                                                                           | <b>Main Substance</b>                                                            | <b>Relevance to Public Participation</b>                                |
|-------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|-------------------------------------------------------------------------|
| <b>The 1945 Constitution of the Republic of Indonesia</b>                                                         | Guarantees freedom of expression, access to information, and popular sovereignty | Constitutional basis for democratic participation and public engagement |
| <b>Law Number 12 of 2011 concerning the Formation of Laws and Regulations as amended by Law Number 13 of 2022</b> | Regulates legislative formation procedures and public participation mechanisms   | Establishes legal recognition of public involvement in law-making       |
| <b>Law Number 14 of 2008 concerning Public Information Disclosure</b>                                             | Guarantees public access to governmental information                             | Supports transparency and accessibility in                              |

|                                                                                 |                                                           |                     |                                                                          |
|---------------------------------------------------------------------------------|-----------------------------------------------------------|---------------------|--------------------------------------------------------------------------|
|                                                                                 |                                                           |                     | legislative<br>processes                                                 |
| <b>Law Number 40 of 1999 concerning the Press</b>                               | Protects freedom journalistic independence                | press and           | Strengthens media functions in public oversight and democratic discourse |
| <b>Law Number 19 of 2016 concerning Electronic Information and Transactions</b> | Regulates electronic communication and digital activities |                     | Influences digital expression and online civic participation             |
| <b>Constitutional Court Decisions on Formal Judicial Review</b>                 | Introduces concept meaningful participation legislative   | the of in processes | Reinforces substantive participation as a constitutional requirement     |

*Source: Compiled and analyzed by the author from various legal sources, 2025.*

The legal framework above demonstrates that Indonesia formally recognizes the importance of public participation and digital communication within democratic governance. However, the existence of legal norms alone does not automatically ensure substantive democratic participation. In practice, digital participation remains vulnerable to various structural and political challenges, including information asymmetry, digital inequality, algorithmic polarization, and governmental resistance to public criticism. Furthermore, the increasing use of digital surveillance and restrictive interpretations of electronic information laws may create chilling effects that discourage critical public expression. Consequently, while digital media expands opportunities for participation, it simultaneously introduces new risks for democratic freedoms and constitutional rights.

Another significant issue concerns the quality of participation facilitated by digital media. The speed and openness of digital communication often encourage the spread of misinformation, populist narratives, and emotional polarization, which may weaken rational public deliberation. Jurgen Habermas emphasizes that democratic legitimacy depends upon communicative rationality, where public discourse should be grounded in reasoned arguments rather than manipulation or disinformation. In the context of digital media, however, public debates are frequently shaped by viral trends, political propaganda, and algorithm-driven visibility rather than substantive constitutional discussion. This condition creates a paradox in which digital media simultaneously democratizes participation while potentially undermining the quality of democratic deliberation itself.

Moreover, digital participation often reflects unequal access to technological infrastructure and digital literacy. Marginalized communities, rural populations, and economically disadvantaged groups may experience limited access to digital platforms, thereby restricting their ability to participate effectively in legislative discourse. This digital divide creates the risk that participatory law-making processes may disproportionately represent urban, educated, and technologically connected groups, while excluding broader segments of society. Consequently, ensuring meaningful participation in the digital era requires not only technological accessibility but also inclusive policies that address structural inequalities in digital engagement.

In the Indonesian legal context, the concept of meaningful participation is firmly rooted in the jurisprudence of the Constitutional Court (*Mahkamah Konstitusi*), most notably established in Decision No. 91/PUU-XVIII/2020. In this landmark ruling, the Court mandated that public participation must transcend mere procedural formality and satisfy three fundamental constitutional prerequisites: the right to be heard (*hak untuk didengarkan pendapatnya*), the right to be considered (*hak untuk dipertimbangkan pendapatnya*), and the right to receive an

explanation (*hak untuk mendapatkan penjelasan atau jawaban atas pendapat yang diberikan*). Applied to the digital landscape, merely providing internet access is insufficient to meet these constitutional standards. Structural inequalities—such as the digital divide, disparate digital literacy, and algorithmic biases—hinder marginalized communities from effectively exercising these three rights online. Without inclusive media regulations that legally compel lawmakers to systematically document, evaluate, and formally respond to public inputs gathered through digital platforms, online engagement only facilitates the 'right to speak' but fundamentally fails to guarantee the constitutional imperative of being truly 'heard, considered, and explained' as stipulated by the Court.

The transformation of digital media also affects the role of journalists and independent media institutions within democratic governance. In contemporary constitutional democracies, the press functions not merely as an information intermediary but also as a constitutional watchdog that monitors legislative processes and exposes procedural irregularities.<sup>39</sup> Investigative journalism, digital reporting, and online legal commentary contribute significantly to increasing public awareness regarding legislative developments. Through digital platforms, media institutions are capable of amplifying public concerns and facilitating broader democratic debate concerning controversial laws and policies. Therefore, media freedom and journalistic independence remain essential prerequisites for meaningful public participation in democratic law-making.

From a constitutional perspective, the relationship between digital media and public participation should be understood within the broader framework of participatory constitutionalism. Democratic legitimacy in the digital era requires institutional adaptation capable of transforming digital engagement into substantive legislative participation. This includes the establishment of transparent online consultation systems, open-access legislative databases, responsive digital hearings, and formal obligations for legislators to respond to

---

<sup>39</sup> Apriani Riska and Rusdianto Sesung, "Digitalisasi Fidusia dan Kenotariatan: Solusi Hukum Modern di Era Cyber Digitalization of Fiduciary and Notarial Affairs: Modern Legal Solutions in the Cyber Era," *Jurnal Hukum Media Justitia Nusantara* 15, no. 1 (2025).

public input. Without such institutional reforms, digital participation risks remaining performative rather than transformative.

Ultimately, the transformation of digital media presents both opportunities and challenges for democratic law-making processes. On one hand, digital technologies expand public access to legislative information and facilitate broader civic engagement.<sup>40</sup> On the other hand, institutional limitations, regulatory ambiguities, digital inequality, and political resistance continue to hinder the realization of meaningful participation. Therefore, strengthening democratic governance in the digital era requires not only technological innovation but also constitutional commitment, institutional responsiveness, and legal reforms that ensure public participation genuinely influences legislative outcomes. Through such an approach, digital media may function not merely as a communication tool, but as a constitutional space that reinforces democratic legitimacy and participatory governance in contemporary law-making processes.

#### **IV. STRENGTHENING PARTICIPATORY LAW-MAKING THROUGH RESPONSIVE AND ACCOUNTABLE LEGAL FRAMEWORKS**

The strengthening of participatory law-making has become an increasingly urgent issue within contemporary constitutional democracies, particularly in response to the growing demand for transparency, accountability, and democratic legitimacy in legislative processes. In democratic states governed by the rule of law, legislation should not merely represent the political will of governing elites or parliamentary majorities, but must also reflect broader societal aspirations and constitutional values. Consequently, participatory law-making constitutes an essential mechanism for ensuring that legislative products possess not only formal legality but also substantive democratic legitimacy. In this regard, responsive and accountable legal frameworks play a crucial role in institutionalizing

---

<sup>40</sup> Armenia Androniceanu, "Transparency in Public Administration as a Challenge for a Good Democratic Governance," *ADMINISTRATIE SI MANAGEMENT PUBLIC*, no. 36 (May 2021): 149–64, <https://doi.org/10.24818/amp/2021.36-09>.

meaningful public participation and preventing the concentration of legislative power within limited political structures.<sup>41</sup>

The concept of responsive law, as developed by Philippe Nonet and Philip Selznick, emphasizes that law should function as an adaptive and socially responsive institution capable of accommodating public needs and evolving societal conditions. Responsive legal systems are characterized by openness, participation, and institutional accountability, rather than rigid formalism or authoritarian legalism. Within legislative processes, this perspective requires lawmakers to establish participatory mechanisms that genuinely enable citizens to influence public policy and legal outcomes. Accordingly, participatory law-making should not be reduced to procedural consultation or symbolic hearings, but must ensure that public input is substantively considered in legislative deliberations and reflected within enacted laws.

In the Indonesian context, the constitutional foundation for participatory law-making derives from the democratic principles embodied in the 1945 Constitution of the Republic of Indonesia, particularly the doctrine of popular sovereignty under Article 1 paragraph (2).<sup>42</sup> This constitutional principle establishes that state power ultimately originates from the people and therefore requires participatory governance mechanisms capable of facilitating public involvement in state affairs. Furthermore, Law Number 12 of 2011 concerning the Formation of Laws and Regulations, as amended by Law Number 13 of 2022, formally recognizes the right of the public to provide input during legislative formation.<sup>43</sup> However, despite such legal recognition, legislative participation in Indonesia frequently remains procedural and formalistic, with limited institutional

---

<sup>41</sup> Ramos et al., “Transforming Politics: Intersection of Judicial Power, Activism and Legislative Decline in Brazil.”

<sup>42</sup> Cristina Fasone, “Constitutional Courts and the «metabolic» Function of Constitutions. The Emergence of Constitutional Identities in the Case Law on the New European Economic Governance,” *Diritto Pubblico Comparato Ed Europeo*, 2019.

<sup>43</sup> HS Nugraha, A. Alfian, and N. Fitriani, “Meaningful Participation Dalam Pembentukan Undang-Undang Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang,” ... *Pengajar Hukum Tata ...*, no. Query date: 2026-05-05 17:52:16 (2024), <https://proceedingaphtnhan.id/index.php/paphtnhan/article/view/140>.

guarantees ensuring that public aspirations genuinely affect legislative outcomes.

The weakness of participatory law-making mechanisms often results in democratic deficits within legislative governance. In numerous legislative processes, public consultations are conducted only after draft laws have been substantially finalized, thereby limiting opportunities for meaningful public influence.<sup>44</sup> Moreover, legislative institutions frequently fail to provide adequate explanations regarding whether and how public input has been accommodated within final legislative products. This condition weakens public trust in democratic institutions and contributes to perceptions that legislation primarily serves political or economic interests rather than broader societal welfare.<sup>45</sup> Consequently, strengthening participatory law-making requires not only procedural openness but also substantive accountability from legislative institutions.

One of the fundamental requirements for responsive and accountable legislative governance is transparency in law-making processes. Transparency enables citizens to access legislative information, monitor policy developments, and evaluate governmental decisions. Without transparency, public participation becomes ineffective because citizens lack sufficient information necessary for informed engagement. In this regard, public access to draft legislation, parliamentary discussions, legislative agendas, and policy impact assessments constitutes an essential component of democratic accountability. The principle of transparency is also closely connected to the constitutional right to information, which serves as a prerequisite for effective public participation in democratic governance.

---

<sup>44</sup> WN Hanum and N. Firmandayu, "Testing the Implementation of 'Meaningful Participation' as an Operational Concept in Lawmaking: Indonesia's Extractive Regulations Case," *Journal of Property, Planning and ...*, no. Query date: 2026-05-06 12:27:26 (2026), <https://doi.org/10.1108/JPEL-10-2025-0069/1358994>.

<sup>45</sup> C. R. Ortega, "The Law Is Elastic but Does Not Bend: A Literal Interpretation of European Union Chemical Legislation Could Leave Health and the Environment Unprotected," *European Journal of Risk Regulation* 14, no. 3 (2023): 612–25, Scopus, <https://doi.org/10.1017/err.2023.41>.

In addition to transparency, accountability represents another essential pillar of participatory law-making. Legislative accountability requires lawmakers and governmental institutions to justify their policy decisions and respond to public concerns in a clear and rational manner.<sup>46</sup> Accountability mechanisms may include public hearings, legislative reporting obligations, judicial review procedures, and institutional oversight systems designed to ensure that legislative power is exercised responsibly. The absence of accountability mechanisms often enables arbitrary legislative practices, procedural manipulation, and exclusionary decision-making processes that undermine democratic legitimacy.

The development of digital governance and communication technologies has created significant opportunities for strengthening participatory law-making through more accessible and inclusive engagement mechanisms. Digital platforms enable broader dissemination of legislative information and facilitate real-time interaction between citizens and governmental institutions. Online consultations, digital hearings, electronic petitions, and interactive legislative platforms may potentially increase civic participation and reduce barriers associated with geographical distance or institutional exclusivity. Furthermore, digital technologies may improve transparency by allowing public monitoring of legislative developments and parliamentary activities more effectively than conventional mechanisms.

However, digital participation alone cannot guarantee meaningful participatory governance without adequate institutional frameworks capable of transforming online engagement into substantive policy influence. In many cases, digital participation remains fragmented, reactive, and disconnected from formal legislative procedures. Citizens may actively express opinions through social media or online campaigns, yet such engagement frequently lacks formal recognition within institutional decision-making structures. Consequently, responsive legal frameworks are required to integrate digital

---

<sup>46</sup> Samuel Chukwuma Ndema, "Federalism and Intergovernmental Relations: A Case for the American-Type Federal System in Nigeria," *International Journal of Social Sciences and Humanities* 11, no. 1 (2024).

participation into official legislative mechanisms in ways that ensure public input is systematically considered and publicly accounted for.

The role of constitutional courts and judicial institutions is also significant in strengthening participatory law-making. Judicial review mechanisms serve not only to assess the constitutionality of legislative substance but also to evaluate whether legislative procedures comply with democratic principles and constitutional participation requirements. In Indonesia, the Constitutional Court has increasingly emphasized the importance of meaningful participation in legislative formation, particularly through decisions concerning formal judicial review. The Court's recognition of participation rights—including the right to be heard, the right to have opinions considered, and the right to receive explanations regarding legislative decisions—represents an important constitutional development toward participatory constitutionalism. These judicial interpretations reinforce the idea that democratic legitimacy depends not merely on procedural enactment but also on the inclusiveness and responsiveness of legislative processes.

Nevertheless, strengthening participatory law-making also requires addressing structural challenges that limit equal participation within democratic systems. Economic inequality, limited legal literacy, digital divides, and unequal access to political influence often result in asymmetrical participation in legislative discourse. Powerful political actors, business groups, and organized interests may possess greater access to lawmakers compared to marginalized communities or ordinary citizens. Consequently, participatory governance must be accompanied by institutional safeguards that ensure inclusiveness and equal opportunities for civic engagement. Without such safeguards, participatory mechanisms risk reproducing existing inequalities rather than democratizing legislative processes.

Furthermore, responsive legal frameworks should incorporate mechanisms for evaluating the social impact of legislation before and after enactment. Regulatory impact assessments, public consultations, and participatory policy evaluations may contribute significantly to improving legislative quality and accountability. Such

mechanisms enable lawmakers to anticipate social consequences, identify potential public objections, and ensure that legislation aligns with constitutional values and societal needs. In this context, participatory law-making functions not only as a democratic principle but also as an instrument for improving legislative effectiveness and legal certainty.

From a broader constitutional perspective, strengthening participatory law-making reflects the transformation of modern constitutionalism from representative democracy toward participatory democracy.<sup>47</sup> While representative institutions remain essential within constitutional systems, contemporary democratic legitimacy increasingly requires continuous public engagement beyond periodic elections. Citizens are no longer satisfied with passive representation but demand direct involvement in decisions affecting their rights, freedoms, and social conditions. Therefore, participatory governance should be institutionalized as a permanent constitutional practice rather than an occasional political concession.

The future of democratic law-making depends upon the ability of legal systems to establish responsive, transparent, and accountable participatory frameworks capable of accommodating societal transformation in the digital era. Strengthening participatory law-making requires comprehensive legal reforms, institutional adaptation, judicial protection of participation rights, and democratic political culture that values openness and civic engagement. Through such reforms, legislative processes may achieve stronger constitutional legitimacy, greater public trust, and more effective realization of democratic governance principles within contemporary constitutional states

## V. CONCLUSION

The study concludes that meaningful participation constitutes a fundamental constitutional requirement in democratic law-making processes, particularly within the context of rapid digital media transformation that has redefined the relationship between citizens

---

<sup>47</sup> Jonathan Gienapp, "Written Constitutionalism, Past and Present," *Law and History Review* 39, no. 2 (May 2021): 321–60, <https://doi.org/10.1017/S0738248020000528>.

and legislative institutions. Although Indonesia's constitutional and statutory frameworks formally recognize public participation as an essential element of legislative formation, its implementation remains largely procedural and insufficiently responsive to substantive democratic engagement. This study demonstrates that while digital media has exponentially expanded the technical avenues for public engagement in Indonesia's legislative processes, these spaces remain largely symbolic rather than substantive. This democratic deficit is fundamentally a crisis of media law and governance rather than a mere procedural flaw in law-making statutes. Current Indonesian media regulations, including the Electronic Information and Transactions Law (UU ITE) and broadcasting rules, are heavily preoccupied with content restriction and cybersecurity, completely omitting legally binding standards that compel legislative bodies to transparently accommodate and respond to online public input. Therefore, achieving truly meaningful participation requires a paradigm shift in Indonesia's legal framework: moving beyond standard constitutional rhetoric and toward the concrete reform of digital media laws. Media regulations must be reconstructed to mandate structural transparency, secure digital safe spaces for policy discourse, and institutionalize legally binding mechanisms for digital public consultations. Without these media-specific legal safeguards, public participation in the digital era will continue to be reduced to a formalistic and performative ritual.

## **ACKNOWLEDGMENTS**

The author would like to express sincere gratitude to Geofani Milthree Saragih from Akasa Law Studies for the valuable assistance, support, and contribution provided in the preparation and writing process of this manuscript. The author also highly appreciates the academic insight and constructive support that contributed significantly to the completion of this research.

## COMPETING INTEREST

The author(s) will be asked to sign this statement once the submission has been accepted.

## REFERENCES

- Abraham, M. M. "A Legal Analysis on Navigating Facial Recognition Technology in India's State Surveillance Framework." *Championing Civil Rights in the Digital Era*, 2026, 57–75. Scopus. <https://doi.org/10.4018/979-8-3693-3920-6.ch003>.
- Achmad Ruslan. *Teori Dan Panduan Praktik Pembentukan Peraturan Perundang-Undangan Di Indonesia*. Yogyakarta: Rangkang Education, 20011.
- Albert, Richard, ed. "Revolutionary Constitutionalism: Law, Legitimacy, Power." *Italian Journal of Public Law* 12, no. 1 (2020). <https://doi.org/10.5040/9781509934607>.
- Allezard, Laurianne. "Beyond Constitutional Identity: Thinking Identity in Constitutional Law." *European Law Open*, October 28, 2025, 1–24. <https://doi.org/10.1017/el0.2025.10027>.
- Amirul Huda Musyafa Samudra and Ninuk Wijiningsih. "Perbandingan Pelaksanaan Fungsi Legislasi Antara Dewan Perwakilan Rakyat Di Indonesia Dan Representatives Di Uruguay: Comparison of the Legislative Functions Between the House of Representatives in Indonesia and the Representatives in Uruguay." *Reformasi Hukum Trisakti* 6, no. 3 (August 2024): 1146–56. <https://doi.org/10.25105/refor.v6i3.21180>.
- Androniceanu, Armenia. "Transparency in Public Administration as a Challenge for a Good Democratic Governance." *ADMINISTRATIE SI MANAGEMENT PUBLIC*, no. 36 (May 2021): 149–64. <https://doi.org/10.24818/amp/2021.36-09>.
- Arfa'i, Arfa'i, Bahder Johan Nasution, and Febrian Febrian. "Aktualisasi Pancasila sebagai Sumber Hukum dalam Pembentukan Undang-Undang." *Undang: Jurnal Hukum* 3, no. 2 (December 2020): 377–407. <https://doi.org/10.22437/ujh.3.2.377-407>.

- Ariezkyandy, I. *Kajian Yuridis Tentang Pembentukan Peraturan Pemerintah Pengganti Undang-Undang*. Repository.unja.ac.id, 2024. <https://repository.unja.ac.id/69183/>.
- Aryo Wasisto and Achmadudin Rajab. "Dampak Putusan MK Nomor 80/PUU-XX/2022 Terhadap Kewenangan Komisi Pemilihan Umum Dalam Penataan Daerah Pemilihan." *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan* 14, no. 1 (2023).
- Babu, Nirmal Varghese, and E. Grace Mary Kanaga. "Sentiment Analysis in Social Media Data for Depression Detection Using Artificial Intelligence: A Review." *SN Computer Science* 3, no. 1 (January 2022): 74. <https://doi.org/10.1007/s42979-021-00958-1>.
- Baer, S. "To Listen and to Belong. A Personal Take on Constitutionalism at Work Today." *German Law Journal* 26, no. 2 (2025): 350–60. Scopus. <https://doi.org/10.1017/glj.2025.10>.
- Baggio, Roberta Camineiro, Paulo Eduardo Berni, and Alexandre Carpenedo. "Authoritarian Legality and Constitutional Jurisdiction in Chile: Continuities and Ruptures in the Formation of Constitutionalism from the 1990s." *Beijing Law Review* 15, no. 03 (2024): 1158–77. <https://doi.org/10.4236/blr.2024.153070>.
- Bakhsh, F., S. Abbasi, WA Abbasi, and ... "Judicial Activism vs. Judicial Restraint in Developing Democracies: A Comparative Study." *Social Science Review* ..., no. Query date: 2026-03-10 17:09:40 (2025). <https://policyjournalofms.com/index.php/6/article/view/1079>.
- Barnard-Naudé, J. "FORM AND SUBSTANCE IN THE CONSTITUTIONAL COURT: WHITHER CONTRACT LAW'S POLICY AFTER APARTHEID?" *South African Law Journal* 138 (2021): 569–98. Scopus. <https://doi.org/10.47348/SALJ/v138/i3a6>.

- Belov, Martin, and Aleksandar Tsekov. "The Constitutional Court of the Republic of Bulgaria as a Law-Maker." In *Judicial Law-Making in European Constitutional Courts*, 1st ed., by Monika Florczak-Wątor, 91–110. London: Routledge, 2020. <https://doi.org/10.4324/9781003022442-5>.
- Castillo-Ortiz, Pablo. "The Dilemmas of Constitutional Courts and the Case for a New Design of Kelsenian Institutions." *Law and Philosophy* 39, no. 6 (December 2020): 617–55. <https://doi.org/10.1007/s10982-020-09378-3>.
- Chang, M. "Taiwan's Constitutional Court: Judicial Activism and Politicization in a New Democracy." *Jackson School Journal of International Studies*, no. Query date: 2026-03-10 17:09:40 (n.d.). <https://jsis.washington.edu/ellisoncenter/wp-content/uploads/sites/25/2023/01/TaiwanConstitutionCourtJackson-School-Journal-Winter-2022.pdf>.
- Cristina Fasone. "Constitutional Courts and the «metabolic» Function of Constitutions. The Emergence of Constitutional Identities in the Case Law on the New European Economic Governance." *Diritto Pubblico Comparato Ed Europeo*, 2019.
- DARLIS, PM, YA VIVI, and E. Elviandri. "Meaningful Participation in the Formation of Regional Legal Products: An Ideal Model of Local Regulation In the Implementation of Regional Autonomy." *PENA JUSTISIA: MEDIA KOMUNIKASI ...*, no. Query date: 2026-05-06 12:27:26 (2024). <https://elibrary.ru/item.asp?id=81430519>.
- Dondokambey, Sarah Malena Andrea. "Penerapan Prinsip Partisipasi Masyarakat Bermakna (Meaningful Participation) Dalam Pembentukan Peraturan Daerah." *Lex Privatum XI*, no. 2 (2023).
- Elisabeth Nurhaini Butar-Butar. *Metode Penelitian Hukum, Langkah-Langkah Untuk Menemukan Kebenaran Dalam Ilmu Hukum*. Bandung: PT. Refika Aditama, 2018.
- Farhana, Farhana, Atik Nurwahyuni, and Saly Salim Alatas. "Pemanfaatan Digital Health untuk Meningkatkan Keberhasilan Pengobatan Pasien Tuberkulosis di Negara Berkembang : Literature Review: The Digital Health Utilization

- to Improve Successful Treatment of Tuberculosis Patient in Developing Countries : Literature Review.” *Media Publikasi Promosi Kesehatan Indonesia (MPPKI)* 5, no. 9 (September 2022): 1043–53. <https://doi.org/10.56338/mppki.v5i9.2542>.
- Febrina, N. “Tinjauan Yuridis Normatif Terhadap Perlindungan Hukum Kebebasan Pers Dalam Era Digitalisasi Media Di Indonesia.” *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, no. Query date: 2026-05-06 12:27:56 (2026). <http://ejournal.yayasanpendidikandzurriyatulquran.id/index.php/AlZayn/article/view/5571>.
- Gienapp, Jonathan. “Written Constitutionalism, Past and Present.” *Law and History Review* 39, no. 2 (May 2021): 321–60. <https://doi.org/10.1017/S0738248020000528>.
- Guntrum, L. G., and V. Lasso Mena. “Unmasking Digital Threats in the Pursuit of Human Rights and Environmental Defense in La Guajira, North Colombia.” *Information Communication and Society* 29, no. 1 (2026): 227–48. Scopus. <https://doi.org/10.1080/1369118X.2025.2503444>.
- Hanum, WN, and N. Firmandayu. “Testing the Implementation of ‘Meaningful Participation’ as an Operational Concept in Lawmaking: Indonesia’s Extractive Regulations Case.” *Journal of Property, Planning and ...*, no. Query date: 2026-05-06 12:27:26 (2026). <https://doi.org/10.1108/JPPPEL-10-2025-0069/1358994>.
- Haryanto, T. “Kriminalisasi Produk Pers Digital Dalam Perspektif Hak Asasi Manusia.” *INOMATEC: Jurnal Inovasi Dan Kajian ...*, no. Query date: 2026-05-06 12:27:56 (2026). <https://portalpublikasi.com/index.php/inomatec/article/view/798>.
- Haynes, A., S. Pearce, K. Kirby, D. Moritz, K. West, and ... “True Inclusion: Evaluation Protocol for an Approach to Increase Meaningful Participation of Children with Disability in Athletics.” *Frontiers in Public ...*, no. Query date: 2026-05-06 12:27:26 (2024). <https://doi.org/10.3389/fpubh.2024.1403866>.

- Henrico, R. “Judicial Review in South Africa and India: Advancing Constitutionalism or Undue Activism?” *Obiter*, no. Query date: 2026-03-10 17:09:40 (2023). [https://doi.org/10.10520/ejc-obiter\\_v43\\_n4\\_a10](https://doi.org/10.10520/ejc-obiter_v43_n4_a10).
- Hillman, H. “Pass or Play: Should Regulators Address the Money Laundering Risks Posed by Cryptocurrencies Themselves or Await Legislative Reform?” *Journal of Business Law* 2024, no. 4 (2024): 301–28. Scopus.
- Hufendiek, Rebekka, Daniel James, and Raphael Van Riel, eds. *Social Functions in Philosophy: Metaphysical, Normative, and Methodological Perspectives*. 1st ed. Routledge, 2020. <https://doi.org/10.4324/9780429435393>.
- Huss, O. “The Social Construction of Anti-Corruption Technologies: Analysing the e-Participation Platform Rahvaalgatus. Ee in Estonia.” *Digital Media and Grassroots Anti-Corruption*, no. Query date: 2026-03-15 20:58:23 (2024). <https://www.elgaronline.com/edcollchap-oa/book/9781802202106/book-part-9781802202106-14.xml>.
- Indra, Mexsasai, Geofani Milthree Saragih, and Tito Handoko. “Pseudo-Judicial Review for the Dispute over the Result of the Regional Head Election in Indonesia.” *Lentera Hukum* 10, no. 1 (May 2023): 111. <https://doi.org/10.19184/ejhl.v10i1.36685>.
- Jakobsen, Uffe, Henrik Larsen, and Emma J. Stewart. “Introduction: Indigenous Self-Governance in the Arctic States.” *The Polar Journal* 14, no. 1 (January 2024): 1–8. <https://doi.org/10.1080/2154896X.2024.2342116>.
- Kasih, Osihanna Meita, and Irwan Triadi. “Penegakan Hak Asasi Manusia dalam Partisipasi Politik Warga Negara pada Pemilihan Umum di Indonesia: (Enforcement of Human Rights in Public Political Participation in General Elections in Indonesia).” *Indonesian Journal of Law and Justice* 1, no. 4 (April 2024): 14. <https://doi.org/10.47134/ijlj.v1i4.2369>.
- Koch, K., D. Rajan, L. Brearley, F. Khalid, S. Dalil, and ... “Clarifying Terms and Concepts: What Is Meant by Social Participation in Decision-Making for Health.” *Eurohealth*, no. Query date: 2026-05-06 12:27:26 (2024).

<https://iris.who.int/bitstream/handle/10665/376885/Euroheal-30-1-11-18-eng.pdf?sequence=1>.

Loughran, Thomas, Andrew Mycock, and Jonathan Tonge. "A Coming of Age: How and Why the UK Became the First Democracy to Allow Votes for 18-Year-Olds." *Contemporary British History* 35, no. 2 (April 2021): 284–313. <https://doi.org/10.1080/13619462.2021.1890589>.

Mannan, F., IM Ramzy, D. Rato, and ... "Exposing Discrepancies in Indonesia's Legislative Processes: Mengungkap Ketidaksesuaian Dalam Proses Legislasi Di Indonesia." *Indonesian Journal of ...*, no. Query date: 2026-04-26 16:45:04 (2024). <https://ijins.umsida.ac.id/index.php/ijins/article/view/1069>.

Muttaqin, EZ, and S. Hikam. "Konsep Meaningful Participation Dalam Proses Legislasi Di Indonesia Pasca Putusan Mahkamah Konstitusi Nomor 91/PUU XVIII/2020." *Amnesti: Jurnal Hukum*, no. Query date: 2026-05-06 12:27:26 (2024). <https://jurnal.umpwr.ac.id/index.php/amnesti/article/view/4091>.

Ndema, Samuel Chukwuma. "Federalism and Intergovernmental Relations: A Case for the American-Type Federal System in Nigeria." *International Journal of Social Sciences and Humanities* 11, no. 1 (2024).

Nugraha, HS, A. Alfian, and N. Fitriani. "Meaningful Participation Dalam Pembentukan Undang-Undang Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang." ... *Pengajar Hukum Tata ...*, no. Query date: 2026-05-05 17:52:16 (2024). <https://proceedingaphtnhan.id/index.php/paphtnhan/article/view/140>.

Ortega, C. R. "The Law Is Elastic but Does Not Bend: A Literal Interpretation of European Union Chemical Legislation Could Leave Health and the Environment Unprotected." *European Journal of Risk Regulation* 14, no. 3 (2023): 612–25. Scopus. <https://doi.org/10.1017/err.2023.41>.

- Rachim, Kania Venisa, Christo Sumurung Tua Sagala, and Eddy Mulyono. "Omnibus Law dalam Konstitusi Indonesia: Studi Perbandingan Indonesia, Amerika Serikat, dan Filipina." *Ajudikasi : Jurnal Ilmu Hukum* 7, no. 1 (June 2023): 17–34. <https://doi.org/10.30656/ajudikasi.v7i1.6485>.
- Ramos, PRB, PNM Viana, DEC Camara, and EV Bezerra. "Transforming Politics: Intersection of Judicial Power, Activism and Legislative Decline in Brazil." *Beijing L. Rev.*, no. Query date: 2026-03-10 17:09:40 (2023). [https://heinonline.org/hol-cgi-bin/get\\_pdf.cgi?handle=hein.journals/beijlar14&ion=73](https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/beijlar14&ion=73).
- Riska, Apriani, and Rusdianto Sesung. "Digitalisasi Fidusia dan Kenotariatan: Solusi Hukum Modern di Era Cyber Digitalization of Fiduciary and Notarial Affairs: Modern Legal Solutions in the Cyber Era." *Jurnal Hukum Media Justitia Nusantara* 15, no. 1 (2025).
- Saifulloh, Putra Perdana Ahmad. "Rekonstruksi Pengaturan Hak Dipilih Pegawai Negeri Sipil Dalam Pemilihan Umum Legislatif Menurut UUD 1945." *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 11, no. 2 (August 2022). <https://doi.org/10.33331/rechtsvinding.v11i2.920>.
- Sampasa-Kanyinga, Hugues, Gary S. Goldfield, Mila Kingsbury, Zahra Clayborne, and Ian Colman. "Social media use and parent–child relationship: A cross-sectional study of adolescents." *Journal of Community Psychology* 48, no. 3 (April 2020): 793–803. <https://doi.org/10.1002/jcop.22293>.
- Šipulová, K. "The Twilight of Resilience? Reflections on the Limits of Judicial Activism in the Face of Democratic Decline." *Dissensus over Liberal Democracy: Insights from European Judges*, 2025, 257–66. Scopus. <https://doi.org/10.5040/9781509985036.ch-026>.
- Tarigan, YN, and A. Agusmidah. "The Use of the Concept of Regulatory Impact Assessment to Prevent the Practice of Autocratic Legalism in the Process of Legislative Formation in Indonesia." *Jurnal Ilmiah Wahana Pendidikan*, no. Query date: 2026-04-26 12:39:54 (2025). <http://jurnal.peneliti.net/index.php/JIWP/article/view/11709>.

Zakhour, Sherif. "The Democratic Legitimacy of Public Participation in Planning: Contrasting Optimistic, Critical, and Agnostic Understandings." *Planning Theory* 19, no. 4 (November 2020): 349–70. <https://doi.org/10.1177/1473095219897404>.

Zaslove, Andrej, Bram Geurkink, Kristof Jacobs, and Agnes Akkerman. "Power to the People? Populism, Democracy, and Political Participation: A Citizen's Perspective." *West European Politics* 44, no. 4 (June 2021): 727–51. <https://doi.org/10.1080/01402382.2020.1776490>.