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Can Crowdsourcing Revolutionize Constitutional Amendments in Indonesia? A Comparative Study of International Experiences

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Abstract

In the context of improving political systems and democracy, public participation in constitutional amendments has become increasingly important, but is often limited by existing mechanisms. In response to these limitations, Iceland and Estonia have implemented crowdsourcing models to engage the public in their constitutional amendment processes. This research aims to analyze the successes, challenges and potential of crowdsourcing in constitutional amendment, with a comparison between Iceland and Estonia, and its relevance for Indonesia. The findings show that while crowdsourcing has been successful in increasing public participation and transparency, significant challenges related to inequality in access to technology and the quality of public input remain. The novelty of this research lies in identifying the factors that influence the effectiveness of crowdsourcing in constitutional reform, as well as proposing an adaptation model for Indonesia that takes into account its social diversity and existing digital infrastructure. The research suggests that for the successful implementation of crowdsourcing in Indonesia's constitutional amendment, efforts are needed to create a more inclusive system and address existing digital inequalities.

Keywords

Constitutional Amendment; Crowdsourcing; Public Participation.

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Introduction

Constitutional amendment is one of the important mechanisms in maintaining the relevance and adaptation of the legal system to dynamic social, political, and economic changes.¹ In Indonesia, the constitutional amendment process has taken place several times since the 1998 reforms, with the aim of improving the governance system and strengthening the constitutional rights of citizens.² However, while the changes have been significant, the existing amendment mechanism still relies heavily on the traditional system of political representation, which tends to be limited to the participation of elites and politicians.³ This process, while legally valid, often does not fully reflect the diverse aspirations of the wider public, which can weaken the legitimacy of such amendments in the eyes of the public.⁴

Crowdsourcing, which utilizes the collective participation of the public through digital platforms, has become an increasingly popular method of public decision-making, including in the legal and government sectors.⁵ The concept offers the potential to engage the public more directly in the policy-making process, including in constitutional amendments. With digital platforms and social media,

¹ David E. Landau and Hanna Lerner, eds., *Comparative Constitution Making*, Research Handbooks in Comparative Constitutional Law (Cheltenham, UK ; Northampton, MA: Edward Elgar Publishing, 2019); B.S . Reddy, "Constitution Amendment – an Analysis of Amendment Process," *International Journal of Law and Social Sciences*, August 13, 2023, <https://doi.org/10.60143/ijls.v4.i1.2018.53>.

² Usman Rasyid et al., "Reformulation of the Authority of Judicial Commission: Safeguarding the Future of Indonesian Judicial Power," *Jambura Law Review* 5, no. 2 (July 31, 2023): 386–413, <https://doi.org/10.33756/jlr.v5i2.24239>; Novendri M. Nggilu, "Menggagas Sanksi Atas Tindakan Constitution Disobedience Terhadap Putusan Mahkamah Konstitusi," *Jurnal Konstitusi* 16, no. 1 (April 1, 2019): 43, <https://doi.org/10.31078/jk1613>; Donald L. Horowitz, *Constitutional Change and Democracy in Indonesia*, Problems of International Politics (Cambridge [England]; New York: Cambridge University Press, 2013).

³ Ahmad and Novendri M. Nggilu, "Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian of the Constitution," *Jurnal Konstitusi* 16, no. 4 (2019); Novendri M. Nggilu, Ramdhan Kasim, and Lisnawaty Badu, "Indonesian Constitutional Amendment 4.0 Era: Main Challenges and Future Prospect," *Journal of Legal, Ethical and Regulatory Issues* 23, no. Special Issue (2020).

⁴ Pan Mohamad Faiz, *Amendemen Konstitusi: Komparasi Negara Kesatuan Dan Negara Federal*, Cetakan ke-1 (Depok: Rajawali Pers, Divisi Buku Perguruan Tinggi, PT RajaGrafindo Persada, 2019); Reddy, "Constitution Amendment – an Analysis of Amendment Process"; Rosalind Dixon and Richard Holden, "Constitutional Amendment Rules: The Denominator Problem," in *Comparative Constitutional Design*, ed. Tom Ginsburg, 1st ed. (Cambridge University Press, 2012), 195–218, <https://doi.org/10.1017/CBO9781139105712.011>; Richard Albert, *Constitutional Amendments: Making, Breaking, and Changing Constitutions* (Oxford, United Kingdom ; New York: Oxford University Press, 2019).

⁵ Antoni Abat i Ninet, *Constitutional Crowdsourcing: Democratising Original and Derived Constituent Power in the Network Society*, Elgar Monographs in Constitutional and Administrative Law (Cheltenham, UK Northampton, MA: Edward Elgar Publishing, 2021); Kathryn Aten and Gail Fann Thomas, "Crowdsourcing Strategizing: Communication Technology Affordances and the Communicative Constitution of Organizational Strategy," *International Journal of Business Communication* 53, no. 2 (April 2016): 148–80, <https://doi.org/10.1177/2329488415627269>; Carlos Bernal, "How Constitutional Crowdsourcing Can Enhance Legitimacy in Constitution Making," in *Comparative Constitution Making*, ed. David Landau and Hanna Lerner (Edward Elgar Publishing, 2019), <https://doi.org/10.4337/9781785365263.00017>.

citizens can provide their input, ideas, and voice in a more open and transparent decision-making process.⁶ In certain countries, such as Iceland, crowdsourcing has been used in constitutional reform to allow the public to play a more active role in formulating changes to the country's basic law.⁷

In Indonesia, despite the rapid development of digital technology, the use of crowdsourcing for constitutional amendments is still limited. This raises questions about the extent to which crowdsourcing can be adapted in the Indonesian context, which has complex and diverse socio-political dynamics. Can crowdsourcing be a solution to overcome the limitations of public participation in the constitutional amendment process? This research seeks to explore the potential use of crowdsourcing in Indonesia's constitutional amendment by comparing it with the experiences of countries that have adopted similar approaches.

The constitutional amendment process in Indonesia has often been conducted by the legislature, which has a dominant role in determining changes to the 1945 Constitution.⁸ While there are mechanisms to engage the public through socialization and limited forums, direct public participation in the formulation and decision-making stages remains very limited.⁹ For example, while there is room for the public to provide input to the MPR, such input is not always received systematically and does not always reflect the diversity of opinions from all levels of society. This shows that despite Indonesia's democratic spirit, the constitutional amendment process still tends to be exclusive and focused on the political elite.¹⁰

On the other hand, crowdsourcing offers an approach that allows for broader and more direct public participation.¹¹ However, although this concept has been applied in several countries, its application in constitutional amendment is still rarely discussed, especially in the context of developing countries such as Indonesia. The main question in this research is whether crowdsourcing can be adapted as an effective method in Indonesia's constitutional amendment, and if so, what are the challenges? How can the experiences of other countries that have trialed crowdsourcing for constitutional amendments provide useful insights for the Indonesian context? This research aims to explore these issues in more depth.

⁶ Tofigh Maboudi and Ghazal P. Nadi, "Crowdsourcing the Egyptian Constitution: Social Media, Elites, and the Populace," *Political Research Quarterly* 69, no. 4 (December 2016): 716–31, <https://doi.org/10.1177/1065912916658550>.

⁷ Alexander Hudson, "When Does Public Participation Make a Difference? Evidence From Iceland's Crowdsourced Constitution," *Policy & Internet* 10, no. 2 (June 2018): 185–217, <https://doi.org/10.1002/poi3.167>.

⁸ Jimly Asshiddiqie, "Building a Constitutional Awareness Culture to Create a Democratic Law State," *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 8, no. 1 (2023).

⁹ Novendri M. Nggilu, *Hukum Dan Teori Konstitusi, (Perubahan Konstitusi Yang Partisipatif Dan Populis)* (Yogyakarta: UII Press, 2014); Ahmad Ahmad, Fence M. Wantu, and Novendri Nggilu, *Hukum Konstitusi: Menyongsong Fajar Perubahan Konstitusi Indonesia Melalui Pelibatan Mahkamah Konstitusi* (Yogyakarta: UII Press, 2020).

¹⁰ Fahmi Ramadhan Firdaus, "Partisipasi Publik Dalam Pembentukan Undang-Undang: Perspektif Perbandingan 5 (Lima) Negara Demokratis," *Jurnal Konstitusi* 21, no. 2 (June 1, 2024): 203–25, <https://doi.org/10.31078/jk2123>.

¹¹ Bernal, "How Constitutional Crowdsourcing Can Enhance Legitimacy in Constitution Making"; Pascal Soepper, "Crowdsourcing as a Means for Participatory Legislation," in *Law and Technology in a Global Digital Society*, ed. Georg Borges and Christoph Sorge (Cham: Springer International Publishing, 2022), 351–77, https://doi.org/10.1007/978-3-030-90513-2_17.

The use of crowdsourcing in public policymaking and decision-making has been researched in a variety of contexts,¹² ranging from lawmaking to social problem solving. A study in Iceland shows that crowdsourcing has been used to formulate constitutional amendments through the 2011 Icelandic Constitution, where citizens were given the opportunity to participate in the process of formulating the draft constitution through an online platform.¹³ This experience shows that crowdsourcing can increase public engagement in decision-making that has a direct impact on society. In addition, other countries such as Estonia and Switzerland have also tried to integrate crowdsourcing into their policymaking, albeit with a different focus.¹⁴

However, despite a number of positive examples, the application of crowdsourcing in constitutional amendments still faces some obstacles. Previous studies have noted that while digital platforms enable wider participation, challenges related to legitimacy, representation, and political influence remain major obstacles. On the other hand, other studies have also shown that the success of crowdsourcing depends heavily on the design of the platform used, as well as mechanisms to ensure that the resulting votes reflect the diversity of people's opinions.¹⁵ In the Indonesian context, there is no research that specifically explores how crowdsourcing can be adapted in constitutional amendments, even though Indonesia's social and political challenges may provide different dynamics compared to countries that have done so.

While there have been a number of studies on the use of crowdsourcing in public policy-making and constitutional reform, the literature on the application of crowdsourcing in constitutional amendment in developing countries, particularly Indonesia, is limited. Most of the existing research focuses on developed countries

¹² Araz Taeihagh, "Crowdsourcing: A New Tool for Policy-Making?," *Policy Sciences* 50, no. 4 (December 2017): 629–47, <https://doi.org/10.1007/s11077-017-9303-3>; Ceray Aldemir and Eyüp Şen, "A Model Proposal for Local Governments to Increase Citizen Involvement in the Age of Information Society and E-Government: Crowdsourcing," in *Advances in Public Policy and Administration*, ed. Cenay Babaoğlu, Elvettin Akman, and Onur Kulaç (IGI Global, 2021), 172–90, <https://doi.org/10.4018/978-1-7998-4978-0.ch010>.

¹³ Katrín Oddsdóttir, "Iceland: The Birth of the World's First Crowd-Sourced Constitution," *Cambridge Journal of International and Comparative Law* 3, no. 4 (2014): 1207–20, <https://doi.org/10.7574/cjicl.03.04.246>; Liam O'Farrell and Katrín Oddsdóttir, "Where Is the New Constitution? Activist Art and the Politics of Space in Iceland," *Environment and Planning C: Politics and Space* 41, no. 7 (November 2023): 1333–50, <https://doi.org/10.1177/23996544231201632>; Elisa Lironi, "Crowdsourcing a Constitution," in *The Routledge Handbook of Collective Intelligence for Democracy and Governance*, by Stephen Boucher, Carina Antonia Hallin, and Lex Paulson, 1st ed. (London: Routledge, 2023), 159–65, <https://doi.org/10.4324/9781003215929-10>.

¹⁴ Soepper, "Crowdsourcing as a Means for Participatory Legislation"; Rosa Borge, Joaquim Brugué, and David Duenas-Cid, "Technology and Democracy: The Who and How in Decision-Making. the Cases of Estonia and Catalonia," *El Profesional de La Información*, June 6, 2022, e310311, <https://doi.org/10.3145/epi.2022.may.11>.

¹⁵ Aldemir and Şen, "A Model Proposal for Local Governments to Increase Citizen Involvement in the Age of Information Society and E-Government"; Lironi, "Crowdsourcing a Constitution"; Santosh Kumar and Mohammad Faisal, "Exploring the Issues and Challenges in Crowdsourcing: An Empirical Investigation," in *AI Technologies for Information Systems and Management Science*, ed. Lalit Garg et al., vol. 1071, Lecture Notes in Networks and Systems (Cham: Springer Nature Switzerland, 2024), 531–44, https://doi.org/10.1007/978-3-031-66410-6_42; Lisa Schmidhuber, Dennis Hilgers, and Krithika Randhawa, "Public Crowdsourcing: Analyzing the Role of Government Feedback on Civic Digital Platforms," *Public Administration* 100, no. 4 (December 2022): 960–77, <https://doi.org/10.1111/padm.12811>.

with well-established digital systems. Meanwhile, Indonesia, as a country with a large population and high social complexity, has its own challenges in implementing this method. Research that comprehensively discusses the potential application of crowdsourcing in Indonesia's constitutional amendment is scarce, indicating a large gap in the literature.

This research will fill this gap by exploring the possibilities and challenges faced by Indonesia in implementing crowdsourcing for constitutional amendments. In addition, by comparing the experiences of countries that have implemented crowdsourcing in their constitutions, this research can provide a new perspective that is more relevant to Indonesia's condition. Through an international comparative approach, this research is expected to provide deeper insights into how crowdsourcing can be adapted to increase public participation in Indonesia's constitutional amendment process. The specific objectives of this research are, first, to analyze the experiences of countries that have used crowdsourcing in their constitutional amendments, such as Iceland and Estonia, and how these experiences can provide valuable lessons for Indonesia. Secondly, to explore the challenges faced by Indonesia in adopting this method in terms of technical, social, and political aspects. Third, to identify policies that Indonesian policymakers can adopt to optimize the use of crowdsourcing in the constitutional amendment process.

This research offers a significant contribution because it raises a topic that is still rarely discussed in the literature, namely the application of crowdsourcing in constitutional amendments in developing countries, especially Indonesia. With the development of technology and social media, crowdsourcing is becoming an increasingly relevant method to strengthen democracy and increase public participation. This research is expected to make a new contribution to the study of constitutional reform by providing an innovative perspective on how crowdsourcing can be adapted in Indonesia's complex and diverse legal system.

The justification for this research also lies in the importance of creating a more inclusive and representative legal system in Indonesia. In the context of Indonesia's legal system, which is heavily influenced by political and social dynamics, this research can pave the way for reforming the ways of participation in policy-making and constitutional amendment. The results of this research have the potential to become an important reference for Indonesian policymakers in designing a constitutional amendment process that is more open and involves the wider public.

Methods

To achieve the objectives of this research, the approach used is a comparative approach.¹⁶ The comparative approach is relevant because the object of this research is to see how the crowdsourcing process, as a new method in constitutional reform in Iceland and Estonia, has succeeded in increasing public participation in the constitutional reform process. In addition, this comparative approach is also expected to illustrate the challenges and strategies used in implementing

¹⁶ Irwansyah Irwansyah, *Penelitian Hukum: Pilihan Metode & Praktik Penulisan Artikel* (Yogyakarta: Mirra Buana Media, 2020).

crowdsourcing in constitutional reform, which will then become a consideration for its application in Indonesia in the future. To support this research, the technique used in collecting data or legal materials is carried out through literature studies, especially various books and reputable international journals that explain and describe the application of crowdsourcing methods in constitutional reform in Iceland and Estonia, which have recorded success in producing participatory and inclusive constitutions. The data and legal materials that have been collected are then processed and presented prescriptively.¹⁷

Results and Discussion

1. Constitutional Amendment and Crowdsourcing

Constitutional amendment is an important process in the country's legal system, which allows the constitution to evolve along with social, economic, and political changes.¹⁸ The constitution, as the legal basis governing the life of the nation, must be flexible in order to remain relevant to the dynamics of the times.¹⁹ In Indonesia, constitutional amendment has been a frequently discussed topic in the context of political reform and better governance. However, this process is often limited by various factors, such as limited public participation and complex legislative mechanisms.²⁰ Therefore, it is important to consider new ways of engaging the public, one of which is through crowdsourcing.

Crowdsourcing, which refers to the process of gathering ideas or inputs from a large number of people through digital platforms,²¹ has emerged as a solution to broaden public participation in policy-making. In the context of constitutional amendments, crowdsourcing offers an opportunity for the public to directly contribute to formulating or amending the country's basic norms.²² This process not

¹⁷ Nurul Qamar Farah Syah Rezah, *Metode Penelitian Hukum Doktrinal Dan Non-Doktrinal* (Makassar: Social Politik Genius, 2020).

¹⁸ Faiz, *Amendemen Konstitusi*; Landau and Lerner, *Comparative Constitution Making*; Reddy, "Constitution Amendment – an Analysis of Amendment Process"; Xenophōn I. Kontiadēs and Alkmēnē Phōtiadou, eds., *Routledge Handbook of Comparative Constitutional Change*, Routledge Handbooks (London ; New York, NY: Routledge, Taylor & Francis Group, 2021).

¹⁹ Yaniv Roznai, *Unconstitutional Constitutional Amendments: The Limits of Amendment Powers*, First published in paperback, Oxford Constitutional Theory (Oxford, United Kingdom New York, United States of America: Oxford University Press, 2019); Yaniv Roznai, "Constitutional Amendability and Unamendability in South-East Asia," *Journal of Comparative Law* 14, no. 1 (2019): 188–204.

²⁰ Ahmad and Novendri M. Nggilu, "Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian of the Constitution"; Ahmad, Wantu, and Nggilu, *Hukum Konstitusi: Menyongsong Fajar Perubahan Konstitusi Indonesia Melalui Pelibatan Mahkamah Konstitusi*; Novendri M, Nggilu, Ramdhan Kasim, and Lisnawaty Badu, "Indonesian Constitutional Amendment 4.0 Era: Main Challenges and Future Prospect."

²¹ Aisyah Romauli Harahap and Luki Wijayanti, "Penerapan Crowdsourcing Dalam Interaksi Komunitas Informasi Di Indonesia: Systematic Literature Review," *Lentera Pustaka: Jurnal Kajian Ilmu Perpustakaan, Informasi Dan Kearsipan* 8, no. 2 (December 31, 2022): 95–108, <https://doi.org/10.14710/lenpust.v8i2.46649>; Schmidhuber, Hilgers, and Randhawa, "Public Crowdsourcing."

²² Lironi, "Crowdsourcing a Constitution"; Marco Bani, "Crowdsourcing Democracy: The Case of Icelandic Social Constitutionalism," *SSRN Electronic Journal*, 2012,

only accelerates the gathering of information and inputs but also increases the sense of ownership and legitimacy of the outcome of constitutional reform.²³ Crowdsourcing allows every individual, regardless of social or geographical status, to participate in important discussions that determine the direction of the country.²⁴

The successful application of crowdsourcing in various government sectors around the world demonstrates the great potential of this method in constitutional reform. In this case, the role of information technology is crucial to creating an inclusive and open space for public dialogue. Technology provides greater access for the public to engage in policy-making, not only as policy recipients but also as policy makers.²⁵ In the context of Indonesia, which has a large and diverse population, the use of crowdsourcing can be an alternative in improving the quality of democracy and the constitutional amendment process.

2. Global Experiences of Crowdsourcing in Constitutional Amendments *Iceland: Constitutional Amendment Through Crowdsourcing*

The implementation of crowdsourcing in Iceland's constitutional amendment process marks an important milestone in the development of a more inclusive and participatory system of governance. The process began in 2010 after Iceland experienced significant repercussions from the global financial crisis that fueled public discontent with a government and political system perceived as unresponsive and lacking in transparency. In response to public distrust, the Icelandic government decided to involve the public directly in the formulation of constitutional changes.²⁶ This decision led to an innovative approach to politics, utilizing crowdsourcing through digital platforms to gather input from citizens. Iceland became one of the first countries to implement this method, allowing its citizens to make suggestions and vote on changes they deemed important to the constitution via the internet.²⁷

A digital platform called 'Constitutional Forum' became the main medium for this process, allowing citizens to submit suggestions or comments on desired constitutional changes.²⁸ The process was conducted in two main stages: firstly, the collection of suggestions in the form of texts, which were then reviewed by a team of

<https://doi.org/10.2139/ssrn.2128531>; Bernal, "How Constitutional Crowdsourcing Can Enhance Legitimacy in Constitution Making"; Hudson, "When Does Public Participation Make a Difference?"

²³ Ronald Van Crombrugge, "Belgium and Democratic Constitution-Making: Prospects for the Future?," *Netherlands Journal of Legal Philosophy* 46, no. 1 (January 2017): 13–36, <https://doi.org/10.5553/NJLP/221307132017046001003>; Novendri M, Nggilu, Ramdhan Kasim, and Lisnawaty Badu, "Indonesian Constitutional Amendment 4.0 Era: Main Challenges and Future Prospect."

²⁴ Abat i Ninet, *Constitutional Crowdsourcing*; Soepper, "Crowdsourcing as a Means for Participatory Legislation."

²⁵ Aten and Thomas, "Crowdsourcing Strategizing"; Schmidhuber, Hilgers, and Randhawa, "Public Crowdsourcing."

²⁶ Hudson, "When Does Public Participation Make a Difference?"

²⁷ Bani, "Crowdsourcing Democracy"; Oddsdóttir, "Iceland."

²⁸ Delia Popescu and Matthew Loveland, "Judging Deliberation: An Assessment of the Crowdsourced Icelandic Constitutional Project," *Journal of Deliberative Democracy* 18, no. 1 (April 19, 2022), <https://doi.org/10.16997/jdd.974>; Alexander Hudson, *The Veil of Participation: Citizens and Political Parties in Constitution-Making Processes*, 1st ed. (Cambridge University Press, 2021), <https://doi.org/10.1017/9781108878685>.

legal and constitutional experts; and secondly, the drafting of the selected changes for the public to vote on. The uniqueness of this process lies in the use of social media as a communication channel to disseminate information and encourage active participation from the public, especially through platforms such as Facebook and Twitter.²⁹ In addition, open meetings were also held to discuss the results of crowdsourcing and formulate consensus on the necessary changes, strengthening the element of transparency and greater public involvement in the political process.³⁰

The constitutional amendment process recorded a number of significant achievements, one of which was a very high level of participation from the public, with around 25% of Iceland's population contributing input, a much higher rate than in traditional political systems.³¹ The process also resulted in several constitutional changes that better reflect the aspirations of the wider society, such as the protection of human rights, government transparency, and the recognition of the right to clean water as a natural resource that cannot be owned by private companies. Some changes that were considered controversial were also successfully considered, showing how crowdsourcing can accommodate important and relevant social issues.³² However, while this process is considered a step forward in democratization and transparency, there are some criticisms that need to be addressed. One of them is the inequality in participation, where younger and more digitally connected groups in society are more dominant in providing input. This leads to an imbalance in representation, especially for older communities or those living in remote areas.³³ In addition, while crowdsourcing allows for broad public participation, the quality of the input received does not always fulfill the substantial needs of formulating constitutional amendments. Many of the proposals submitted were technical or superficial, without regard to the depth of analysis required to address complex issues in the constitution, such as the regulation of the relationship between the state and the church or the existing power structure.³⁴

In this context, Iceland's crowdsourcing process provides valuable lessons for other countries, including Indonesia, which has greater diversity. While crowdsourcing can broaden public participation, the challenges of achieving fair

²⁹ Hudson, "When Does Public Participation Make a Difference?"; Hudson, *The Veil of Participation*; Alexander Hudson, "Political Parties and Public Participation in Constitution Making: Legitimation, Distraction, or Real Influence?," *Comparative Politics* 53, no. 3 (April 1, 2021): 501–24, <https://doi.org/10.5129/001041521X15966512980176>.

³⁰ Hudson, "When Does Public Participation Make a Difference?"

³¹ Bani, "Crowdsourcing Democracy"; Bernal, "How Constitutional Crowdsourcing Can Enhance Legitimacy in Constitution Making"; Hudson, "When Does Public Participation Make a Difference?"

³² Popescu and Loveland, "Judging Deliberation"; Oddsdóttir, "Iceland"; Hélène Landemore, "Inclusive Constitution-Making: The Icelandic Experiment," *Journal of Political Philosophy* 23, no. 2 (June 2015): 166–91, <https://doi.org/10.1111/jopp.12032>; O'Farrell and Oddsdóttir, "Where Is the New Constitution?"

³³ Hudson, *The Veil of Participation*; Hudson, "When Does Public Participation Make a Difference?"

³⁴ Hélène Landemore, "What Is a Good Constitution? Assessing the Constitutional Proposal in the Icelandic Experiment," in *Assessing Constitutional Performance*, ed. Tom Ginsburg and Aziz Huq, 1st ed. (Cambridge University Press, 2016), 71–98, <https://doi.org/10.1017/CBO9781316651018.003>; Hudson, "When Does Public Participation Make a Difference?"; Landemore, "What Is a Good Constitution?"

representation and ensuring the quality of in-depth input remain important concerns. The implementation of crowdsourcing in constitutional amendments, if applied in other countries, should be accompanied by efforts to improve digital access more evenly across regions so that all levels of society can participate fairly and constructively.

Estonia: Crowdsourcing in Constitutional Amendments

Estonia, a small country in Northern Europe known for its sophisticated digital governance system, is also utilizing crowdsourcing in its constitutional reform process. In 2012, Estonia started a conversation on constitutional amendments to create a legal document that is more in line with the demands of the digital age and the needs of an increasingly connected society.³⁵ Through this initiative, Estonia sees technology as a tool to increase transparency in government and strengthen public participation in political decision-making. As part of this reform, Estonia launched a digital platform that allows citizens to provide input on the proposed constitutional changes, with the aim that the amendments can better reflect the aspirations of the wider public. Crowdsourcing was chosen as a method to directly engage citizens in the process, utilizing Estonia's familiar e-democracy platforms, including the well-established electronic voting system.³⁶

The process of crowdsourcing constitutional amendments in Estonia was implemented through an online platform called 'e-Estonia,' which provided a space for citizens to submit proposed changes, provide comments, and participate in discussions on constitutional issues. One important feature of this system is the integration of online participation and the electronic voting system that has been widely implemented in Estonia.³⁷ Through this platform, any citizen with a digital signature can vote on decisions relating to constitutional amendments. The process consists of several stages: first, the government provides information on topics that require changes in the constitution; second, citizens are given the opportunity to submit their proposals, including open discussions on larger issues such as digital rights and personal data protection; third, after discussions and voting have taken place, the results of crowdsourcing are presented to members of parliament and the legislature for further discussion and ratification.³⁸

Crowdsourcing in Estonia has proven successful in increasing public participation in the political process, even enabling participation from citizens living

³⁵ Ülle Toode, "The People's Assembly: Testing the Collaborative (e)-Democracy," *Online Journal of Communication and Media Technologies* 10, no. 2 (March 17, 2020), <https://doi.org/10.29333/ojcm/7836>; Bernal, "How Constitutional Crowdsourcing Can Enhance Legitimacy in Constitution Making."

³⁶ Bernal, "How Constitutional Crowdsourcing Can Enhance Legitimacy in Constitution Making."

³⁷ Toode, "The People's Assembly."

³⁸ Stefan Griller and Elisabeth Lentsch, eds., *Emu Integration and Member States' Constitutions* (Hart Publishing, 2021), <https://doi.org/10.5040/9781509935819>; Katre Luhamaa, Merike Ristikivi, and Marija Vlajković, "The External Influence on Constitutional Identity," in *Law, Culture and Identity in Central and Eastern Europe*, by Cosmin Cercel, Alexandra Mercescu, and Mirosław Michał Sadowski, 1st ed. (London: Routledge, 2023), 212–39, <https://doi.org/10.4324/9781003346890-13>.

abroad.³⁹ This success strengthens the digital government system that Estonia has built, allowing for more transparent and accountable decision-making. One of the significant outcomes of this process was the recognition of digital rights and the right to privacy as part of the country's constitution, demonstrating Estonia's responsiveness to the times, particularly in the area of personal data protection. This proposal emerged as a result of crowdsourcing that involved a lot of public discussion on technology and privacy issues, reflecting that crowdsourcing can result in constitutional amendments that are more in line with the needs of a digitally connected society.⁴⁰

Estonia's experience with crowdsourcing provides important lessons on how digital technologies can broaden public participation and increase transparency in political processes.⁴¹ However, the lessons from Estonia also underscore the importance of ensuring equitable access to technology and maintaining the security and confidentiality of personal data in this process. In the context of a country like Indonesia, which has greater social and geographical diversity, the Estonian experience can be adapted to take into account the differences in existing digital infrastructure. Therefore, it is important to plan carefully and address challenges related to inequality in access to technology so that crowdsourcing can be implemented inclusively and effectively, creating a more democratic governance system that is responsive to the needs of the whole society.

Comparative Analysis

Global experience shows that crowdsourcing has great potential to accelerate and enrich the constitutional amendment process by involving direct participation from the public. Iceland was one of the first countries to adopt this method to formulate a new constitution after facing the financial crisis in 2008. The process began with the election of constituent assembly members through a direct citizen participation process, followed by the use of digital platforms to gather public input. Iceland opened a dedicated website that allowed citizens to suggest changes or additions to the draft constitution submitted by the constitutional committee. This experience highlights the importance of openness in the political process and shows how crowdsourcing can provide opportunities for individual citizens to participate directly in fundamental political decisions. However, despite Iceland's success in creating a more inclusive constitutional process, a number of challenges remain. One of the biggest problems is the imbalance in participation between different social groups. Although Iceland has a relatively small population and more cultural homogeneity than other countries, there remains an imbalance of representation in

³⁹ Soepper, "Crowdsourcing as a Means for Participatory Legislation."

⁴⁰ Borge, Brugué, and Duenas-Cid, "Technology and Democracy"; Bernal, "How Constitutional Crowdsourcing Can Enhance Legitimacy in Constitution Making."

⁴¹ Soepper, "Crowdsourcing as a Means for Participatory Legislation"; Lironi, "Crowdsourcing a Constitution"; Bernal, "How Constitutional Crowdsourcing Can Enhance Legitimacy in Constitution Making."

the input received. Certain groups, such as the younger generation or those who are more technologically skilled, are more actively participating through digital platforms, while other groups, such as those living in remote areas or who do not have adequate access to technology, tend to be less engaged. This issue confirms that while crowdsourcing opens up spaces for participation, ensuring equitable involvement of all social groups remains a major challenge.

In addition, there are concerns that inputs received through crowdsourcing may not reflect a national consensus but instead be dominated by the opinions of certain more vocal groups. Some also doubt whether this process can truly reflect the needs of the majority or even more vulnerable minority groups. While crowdsourcing resulted in a new draft constitution, another challenge is the implementation and endorsement of the draft. Without strong political support and clear institutional legitimacy, the implementation of the outcome of the crowdsourcing process can be hampered. This suggests that its ultimate success depends not only on crowdsourcing but also on broader political and institutional support. Estonia, with its advances in digital technology, has been a successful example of applying e-government and crowdsourcing to increase public participation in policymaking. Although Estonia focuses more on public administration and government policy in general rather than constitutional amendments, the country has applied crowdsourcing in various aspects of public policy, from regulatory reform to local decision-making. The digital government system built by Estonia utilizes technology to promote transparency and public participation, which in turn increases the legitimacy of the resulting policies.

Like Iceland, Estonia also faces similar challenges related to digital inequality. Despite having a high internet penetration rate, certain parts of the country or social groups still face limitations in accessing digital technology. To address this challenge, Estonia has implemented inclusive policies that ensure that all citizens have equal access to technology and can engage in decision-making processes, regardless of their social status or geographical location. Experiences of Iceland and Estonia show that technology, particularly crowdsourcing, can play an important role in legal reform, including in drafting or amending constitutions. These two countries also prove that technology can strengthen the relationship between government and society. In Iceland, crowdsourcing led to increased public trust in the political and legal process, while in Estonia, the use of digital technology in government gave citizens a sense of ownership in the policies produced.

The challenges faced by both countries provide important lessons for other countries considering the use of crowdsourcing in constitutional amendments, including Indonesia. One of the key lessons is the need for careful planning to address challenges related to inequality of participation and differences in the ability to access digital technology. Success in implementing crowdsourcing depends not only on the technology but also on the country's social and political readiness to welcome and manage wider participation from the public. This is important so that the crowdsourcing process can truly reflect the needs and aspirations of all levels of society.

3. A Critical Assessment of Crowdsourcing as a Constitutional Reform Mechanism

Crowdsourcing as a mechanism for constitutional reform can be seen as an innovative solution that provides opportunities for people to participate directly in fundamental decision-making.⁴² One of the key strengths of crowdsourcing is its ability to gather ideas and input from a large number of people in a relatively short period of time.⁴³ In the context of constitutional amendments, this provides an opportunity for people to have their say on the changes they want, as well as ensuring that the resulting constitution truly reflects the wants and needs of the people.⁴⁴ This participatory process can enrich the resulting amendment with new ideas that may not have occurred to traditional politicians or policymakers. While crowdsourcing can improve the quality of public participation, a major challenge is how to ensure that the input received is a fair representation of the entire society.⁴⁵ One of the main concerns is that the crowdsourcing process may be dominated by certain groups that are more vocal or more educated, while more marginalized or underrepresented groups may struggle to provide input. In many countries, including Indonesia, the existing digital divide may exacerbate this problem, as groups living in remote areas or those who do not have adequate access to information technology will be marginalized in the process.⁴⁶ Therefore, while crowdsourcing offers opportunities to increase participation, there need to be greater efforts to ensure that all voices can be heard.

Another challenge is how to manage and filter input from a highly diverse public. When thousands or even millions of people provide input through digital platforms, the question arises of how to organize, analyze, and integrate that input in the final draft of constitutional amendments. This process requires a clear and systematic mechanism to avoid confusion and ensure that the input received is not only valued but also processed effectively. Without a good system in place, crowdsourcing can risk becoming an uncontrolled and disorganized process, which in turn can be detrimental to the quality of the end result.⁴⁷ The success of crowdsourcing depends not only on technology and participation mechanisms but also on support from existing political and legal institutions. Governments and legislative bodies must be willing to open up space for public participation and support the outcomes derived from crowdsourcing processes. Without strong

⁴² Hudson, "When Does Public Participation Make a Difference?"; Katharina Ruckstuhl et al., "Recognising and Valuing Māori Innovation in the High-Tech Sector: A Capacity Approach," *Journal of the Royal Society of New Zealand* 49, no. sup1 (November 29, 2019): 72–88, <https://doi.org/10.1080/03036758.2019.1668814>.

⁴³ Aten and Thomas, "Crowdsourcing Strategizing"; Aldemir and Şen, "A Model Proposal for Local Governments to Increase Citizen Involvement in the Age of Information Society and E-Government"; Abat i Ninet, *Constitutional Crowdsourcing*.

⁴⁴ Bernal, "How Constitutional Crowdsourcing Can Enhance Legitimacy in Constitution Making."

⁴⁵ Hudson, "When Does Public Participation Make a Difference?"

⁴⁶ Hudson, *The Veil of Participation*.

⁴⁷ Ibid.

political support, crowdsourcing may risk becoming just a democratic simulation that does not influence actual policies or amendments. Therefore, it is important for Indonesia to establish a clear legal framework and effective mechanisms to integrate crowdsourcing results into the constitutional amendment process.⁴⁸

One aspect that is often overlooked is how to address potential social polarisation in the crowdsourcing process. In a country with social and political diversity like Indonesia, there is a risk that crowdsourcing could become an arena for conflicting groups to dominate each other. This could cause the outcome of the crowdsourcing process to not reflect the national consensus or even exacerbate existing divisions. Therefore, it is crucial to design a crowdsourcing process that is not only inclusive but also capable of creating constructive dialogue among different groups. While crowdsourcing can speed up the collection of ideas and inputs, there are challenges in maintaining the quality of deliberation that takes place in the process.⁴⁹ Open and unconstrained public participation can lead to the spread of misinformation or even disinformation. Therefore, crowdsourcing processes should be equipped with moderation mechanisms that are able to identify and address inaccurate or harmful information. Good moderation will ensure that crowdsourcing results are based on true facts and rational arguments, not on opinions driven by personal or group interests.⁵⁰

While crowdsourcing can be a useful tool to increase participation, there is a risk that people involved in the process will only provide technical or cosmetic inputs without paying attention to the deeper substance of the changes. Therefore, it is important for crowdsourcing organisers to ensure that the discussions do not only focus on superficial changes but also on structural changes that can bring improvements to the community as a whole.⁵¹ While crowdsourcing offers various benefits in the context of constitutional reform, its success depends on how the process is designed and implemented. It requires the involvement of various parties, including the government, the legislature, the public, and legal experts, to ensure that the outcome of the crowdsourcing process truly reflects the interests of society at large and not just those of a particular elite or group.⁵² Managing crowdsourcing wisely and carefully will enable a more democratic and inclusive constitutional amendment process.

4. Crowdsourcing for Constitutional Amendment in Indonesia: Opportunities, Challenges, and Strategies

⁴⁸ Bernal, "How Constitutional Crowdsourcing Can Enhance Legitimacy in Constitution Making."

⁴⁹ Landemore, "Inclusive Constitution-Making"; Hélène Landemore, "When Public Participation Matters: The 2010–2013 Icelandic Constitutional Process," *International Journal of Constitutional Law* 18, no. 1 (May 21, 2020): 179–205, <https://doi.org/10.1093/icon/moaa004>.

⁵⁰ Hudson, *The Veil of Participation*.

⁵¹ Aldemir and Şen, "A Model Proposal for Local Governments to Increase Citizen Involvement in the Age of Information Society and E-Government"; Soepper, "Crowdsourcing as a Means for Participatory Legislation"; Bernal, "How Constitutional Crowdsourcing Can Enhance Legitimacy in Constitution Making."

⁵² Hudson, "When Does Public Participation Make a Difference?"; Abat i Ninet, *Constitutional Crowdsourcing*; Bernal, "How Constitutional Crowdsourcing Can Enhance Legitimacy in Constitution Making."

Indonesia, with its enormous social, cultural and political diversity, faces complex challenges in its quest for constitutional reform. The country, as the world's fourth most populous nation, has more than 1,300 ethnic groups, various religions, languages and traditions that make up its national identity.⁵³ This diversity, while a source of cultural richness, also brings challenges in creating a legal and constitutional system that can accommodate all interests and aspirations. In this regard, the use of crowdsourcing as a mechanism in Indonesia's constitutional amendment process offers enormous potential. Crowdsourcing opens up opportunities for the public to participate directly in political decision-making that has long-term impacts, giving a voice to various layers of society in the process of formulating the country's basic law.⁵⁴

Public participation through crowdsourcing can give greater legitimacy to proposed constitutional changes. One of the main opportunities of crowdsourcing is increased transparency in political decision-making. By involving the public directly, the constitutional change process can gain wider support from the public. When citizens feel that they have a contribution in determining the direction of change, they are more likely to accept and support the resulting amendments. In addition, crowdsourcing enables the identification of problems and needs that may not be reflected in the views of political elites or the government. For example, by involving the public in the process of drafting or amending articles in the constitution, the government can better understand the issues of basic rights, social justice and individual freedoms that citizens are concerned about.⁵⁵

The crowdsourcing process also has the potential to reduce the inequality of representation in Indonesia's political process. In many cases, certain groups, such as indigenous peoples, religious minorities, or those living in remote areas, often feel unrepresented in decision-making by the central government. By involving the wider community through crowdsourcing, the voices of these often overlooked groups can be heard. This has the potential to strengthen inclusivity in the political system and create a constitution that better reflects the diversity and needs of the entire society, without marginalising minority groups that are often less accessible in conventional political mechanisms.

One additional opportunity offered by crowdsourcing is efficiency and speed in the constitutional amendment process. In traditional political systems, the constitutional amendment process often takes a long time, involving many layers of

⁵³ Rachael Diprose, "Striking the Right Balance: Winding Back Indonesia's 'Big Bang' Decentralization," in *Constitutional Democracy in Indonesia*, ed. Melissa Crouch, 1st ed. (Oxford University Press/Oxford, 2022), 89–114, <https://doi.org/10.1093/oso/9780192870681.003.0005>; I D.G. Palguna and Bisariyadi, "Indonesia's Diversity: A Brief Constitutional Perspective," in *Courts and Diversity*, ed. Bertus De Villiers, Saldi Isra, and Pan Mohamad Faiz (Brill | Nijhoff, 2024), 17–54, https://doi.org/10.1163/9789004691698_003.

⁵⁴ Bernal, "How Constitutional Crowdsourcing Can Enhance Legitimacy in Constitution Making"; Soepper, "Crowdsourcing as a Means for Participatory Legislation."

⁵⁵ Abat i Ninet, *Constitutional Crowdsourcing*; Bani, "Crowdsourcing Democracy."

bureaucracy that sometimes hamper transparency and slow down needed reforms.⁵⁶ Crowdsourcing allows the public to provide direct input without having to go through multiple intermediaries, speeding up the decision-making process and reducing the time needed to respond to dynamic social, political and economic changes.⁵⁷ This is particularly important in the context of Indonesia facing changing social and economic challenges, where responsive constitutional reforms are urgently needed. In addition, the application of digital technology in crowdsourcing can modernise Indonesia's political system. The application of technology in the constitution drafting or amendment process can reduce the potential for fraud or manipulation that sometimes occurs in conventional politics. Greater transparency will increase public trust in the political process and state institutions, which in turn can strengthen Indonesia's democracy as a whole. Technology can also help broaden the reach of participation, providing opportunities for more citizens to get involved, including those who previously struggled to access formal political processes.⁵⁸

Despite the great opportunities, the implementation of crowdsourcing in Indonesia's constitutional amendment also faces significant challenges. One of the main challenges is the digital divide that still exists between different social groups.⁵⁹ Although internet penetration in Indonesia continues to increase, there are still inequalities in access, especially in remote areas and among older or less digitally educated communities.⁶⁰ This can create inequities in the participation process, where more technologically connected groups can dominate the process while other groups, who have limited access to technology, are marginalised. In addition, ethnically and culturally diverse Indonesia faces great challenges in drafting a constitution that accommodates all different interests and aspirations.⁶¹ While crowdsourcing can open up space for various voices, there is a risk that large groups or those with more access to technology may dominate the process. This can lead to the marginalisation of the voices of minority groups, whether ethnic, religious or social in nature. Therefore, clear and inclusive mechanisms need to be designed so that all voices, whether from majority or minority groups, have an equal place in the constitutional amendment process.⁶²

⁵⁶ Hudson, *The Veil of Participation*; Hudson, "When Does Public Participation Make a Difference?"

⁵⁷ Bernal, "How Constitutional Crowdsourcing Can Enhance Legitimacy in Constitution Making."

⁵⁸ Aten and Thomas, "Crowdsourcing Strategizing."c

⁵⁹ The Ministry of Communication and Informatics of the Republic of Indonesia notes that around 40 per cent of Indonesia is not yet connected to the internet. Josua Sihombing, "Kemenkominfo Catat Sejumlah Wilayah Indonesia Belum Terkoneksi Internet," *Rri.Co.Id*, 2024.

⁶⁰ Fitri Kartiasih et al., "Inequalities of Indonesia's Regional Digital Development and Its Association with Socioeconomic Characteristics: A Spatial and Multivariate Analysis," *Information Technology for Development* 29, no. 2-3 (July 3, 2023): 299-328, <https://doi.org/10.1080/02681102.2022.2110556>.

⁶¹ Kurnia warman, Saldi Isra, and Hilaire Tegnau, "Enhancing Legal Pluralism: The Role of Adat and Islamic Laws within the Indonesian Legal System," *Journal of Legal, Ethical and Regulatory Issues* 21, no. 3 (2018); I Nyoman Nurjaya, "Is The Constitutional And Legal Recognition Of Traditional Community Laws Within The Multicultural Country Of Indonesia A Genuine Or Pseudo Recognition?," *Constitutional Review* 1, no. 2 (March 28, 2016): 49, <https://doi.org/10.31078/consrev123>.

⁶² Hudson, *The Veil of Participation*; Hudson, "When Does Public Participation Make a Difference?"

Another challenge faced in the implementation of crowdsourcing is related to the moderation and filtering of incoming inputs. In the context of Indonesia, which is full of social, cultural and political diversity, the crowdsourcing process is likely to produce very diverse, and even conflicting, views. Without an effective moderation system, the outcome of crowdsourcing can be disorganised, unfocused and unconstructive. Therefore, it is important to design a moderation system that is capable of filtering out irrelevant inputs, as well as ensuring that the inputs received are of high quality and can be integrated into an effective constitutional change process. In addition, the sharpening social and political polarisation also poses a major challenge to the use of crowdsourcing for constitutional amendment in Indonesia. As tensions over issues of identity, religion and ethnicity rise, the crowdsourcing process can easily be utilised by groups with specific political agendas to influence the final outcome. This risks exacerbating polarisation and weakening the integrity of the constitutional process itself. It is therefore crucial to create an environment conducive to constructive and inclusive dialogue, and minimise the potential for manipulation that could undermine the quality of the crowdsourcing outcome.⁶³

Political challenges cannot be ignored either. The constitutional amendment process in Indonesia is heavily influenced by political dynamics and the political interests of key actors, which sometimes conflict with the will of the people. While crowdsourcing offers an opportunity for more democratic public engagement, its success depends on strong political and institutional support. Without such support, the crowdsourcing process may be hampered by more powerful political interests, which may oppose the constitutional changes that the majority of the public actually wants.

Overcoming these challenges requires strategic planning and inclusive design in the implementation of crowdsourcing. A critical first step is ensuring that adequate digital infrastructure is accessible across all segments of society, including remote and digitally underserved areas. Expanding internet access and providing digital literacy training to communities less familiar with technology are essential to promoting equitable and meaningful participation in the constitutional amendment process. Equally important is the establishment of an effective and transparent moderation system. Such a system must be capable of filtering out irrelevant or misleading input while ensuring that every voice—regardless of background or technological access—is fairly considered. Independent and transparent oversight will be vital in safeguarding the integrity and legitimacy of the crowdsourcing process and its outcomes.

Efforts must also be made to foster constructive dialogue between groups with divergent views, thereby reducing social polarization that could obstruct the effective implementation of crowdsourcing. Creating spaces for open and inclusive discussions among stakeholders will help preserve diversity of opinion and prevent

⁶³ Bernal, "How Constitutional Crowdsourcing Can Enhance Legitimacy in Constitution Making"; Popescu and Loveland, "Judging Deliberation"; Landmore, "When Public Participation Matters."

manipulation within the process. Therefore, the successful application of crowdsourcing in Indonesia's constitutional amendment depends on inclusive planning, equitable access to participation, and a transparent system of oversight.

In addition, to address the digital divide—where state limitations in providing adequate digital infrastructure continue to pose a major barrier to participation—constitutional designers can adopt alternative public participation methods. These may include conventional formats such as in-person discussions or targeted feedback forums in areas with limited digital access. This approach ensures that citizens in remote regions experiencing internet or digital access challenges can still participate meaningfully in the constitutional amendment process through the crowdsourcing initiative.

With careful efforts and an inclusive strategy, crowdsourcing can be a very effective tool in strengthening Indonesia's democracy and creating a more representative and fair constitution for all levels of society. The constitutional changes that result from this process can reflect the needs and aspirations of the Indonesian people more deeply, while strengthening confidence in the existing political and democratic system.

Conclusion

The experience of crowdsourcing in constitutional amendment processes in Iceland and Estonia demonstrates the transformative potential of digital technology in expanding public participation and enhancing transparency within democratic governance. The key finding of this study affirms that crowdsourcing creates new deliberative spaces where citizens can contribute directly to fundamental legal reforms. The novelty of this research lies in its comparative analysis of two countries with distinct socio-political contexts and its identification of the critical components—such as digital infrastructure and moderation systems—that influence the success of crowdsourcing in constitutional reform.

In Indonesia, crowdsourcing holds significant promise as a participatory mechanism capable of deepening democracy and accommodating the country's vast social diversity. However, its implementation must address structural challenges, including digital inequality, representational imbalances, and social polarization. Strategic measures are therefore required, including equitable digital infrastructure development, enhanced technological literacy, transparent moderation mechanisms, and hybrid participation models tailored to regions with limited digital access. With inclusive planning and a commitment to participatory equity, crowdsourcing can serve not merely as a procedural innovation, but as a substantive instrument for constitutional reform that reflects the collective aspirations of the Indonesian people.

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