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The Dynamics of Public Participation in the Process of Formulating the Indonesian Criminal Code

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Abstract

The Draft Criminal Code (RKUHP) has been approved by the People's Representative Council and the Government to become law. However, this ratification has left many problems in the formation process, one of which is in terms of community participation, which is considered to be minimal. This research departs from one key question: Has the community participation been implemented in the discussion process of the RKUHP until the draft is ratified in the DPR Plenary Session? The research method used is the normative juridical research method. The results show that there has been a neglect of community participation in the formation process, which caused the RKUHP to receive criticism and rejection. The government then responded by inviting those who disagreed to review the law to the Constitutional Court.
Keywords: Participation, Criminal law, Making law

Introduction

One of the significant constitutional events that occurred at the end of 2022 was the joint agreement between the Indonesian House of Representatives (*Dewan Perwakilan Rakyat*, DPR) and the government to pass the Draft Criminal Code (*Rancangan Kitab Undang-Undang Hukum Pidana*, RKUHP) into law. This agreement was reached during the DPR's Plenary Session held on December 6, 2022.

Subsequently, the RKUHP, which had received joint approval, was officially enacted by the President of the Republic of Indonesia on January 2, 2023, to become Law No. 1 of 2023 concerning the Criminal Code (*Kitab Undang-Undang Hukum Pidana*, KUHP). This marked the culmination of a long and complex journey of Indonesia's criminal law reform.[1]

However, the issue of Indonesia's Criminal Code does not conclude with the passage of the RKUHP into law. Two sides merit attention. First, the decision to enact the RKUHP deserves appreciation, as the legislative process aimed at reforming the national criminal law has been ongoing for an extended period. According to the

[1] Randy Pradityo, *Menuju Pembaharuan Hukum Pidana Indonesia: Suatu Tinjauan Singkat,* Jurnal Legislasi Indonesia, Vol. 14 No. 02 - June 2017: 140.

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National RKUHP Alliance, efforts to reform the criminal law and establish an independent Criminal Code for Indonesia were initiated as early as the First National Law Seminar held in Semarang in 1963.[2] Yet, despite these efforts, the desired outcome was never achieved, with even 18 members of the drafting team passing away during the process.

Moreover, the existing Criminal Code is a legacy of the Dutch colonial government. The original legal product, named *Het Wetboek van Strafrecht*, was established in the Netherlands in 1830 and has been imposed nationwide in Indonesia since 1918, continuing to this day.[3] Additionally, the Dutch-inherited Criminal Code does not align with the prevailing legal norms within society. As expressed by Moh. Mahfud MD in March 2021, the presence of the Criminal Code in Indonesia has displaced the entirety of the archipelago's existing legal systems, from customary law to religious criminal law, eroding local values in the process. Given these considerations, enacting the RKUHP is undoubtedly an achievement to be proud of. Not only does it end the lengthy debate surrounding its discussion in the DPR, but also provides Indonesia with a Criminal Code whose substance is aligned with the noble values that exist within society.

On the other hand, the joint decision by the DPR and the government also warrants criticism, as it was made despite substantial criticism and opposition from the public.[4] This is particularly concerning, as the law will apply to and bind all individuals in Indonesia.

In terms of the process, one of the perennial issues that has sparked controversy is the matter of public participation. Referring to the Constitutional Court's Decision No. 91/PUU-XXIII/2020, meaningful public participation must meet three criteria: the right to be heard, the right to have opinions considered, and the right to receive an explanation or response to the opinions expressed.[5]

A question then arises: were these three prerequisites for meaningful public participation fulfilled during the RKUHP deliberation process? This paper explores the implementation of public participation in the RKUHP deliberation process, from

[2] Aliansi Nasional RKUHP, *Sekilas Sejarah dan Problematika Pembahasan RKUHP,* *https://reformasikuhp.org/sekilas-sejarah-dan-problematika-pembahasan-rkuhp/*.

[3] Bunyana Sholihin, *Supremasi Hukum Pidana di Indonesia,* Jurnal UNISIA, Vol. XXXI No. 69 September 2008: 262.

[4] Antoni Putra, KUHP, *Uji "Checklist", dan Jaminan Partisipasi Masyarakat,* Kompas.id, 11 Februari 2023, https://menjadi-lebih.kompas.id/baca/opini/2023/02/09/kuhp-uji-checklist-dan-jaminan-partisipasi-masyarakat.

[5] Antoni Putra, *Implikasi Putusan Inkonstitusional Bersyarat dalam Putusan Mahkamah Konstitusi,* Jurnal Konstitusi Volume 20 No. 1, 2023: 60.

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its discussion to its passage in the DPR's Plenary Session. The research method employed is normative juridical research.[6]

Discussion

A. Public Participation in the Legislative Process

1. Public Participation

Public participation, or "involvement," "engagement," or "participation," refers to the condition in which all members of a community are involved in determining actions or policies that concern their interests. Henk Addink defines participation as the active involvement of group members in a group's processes.[7] Thus, participation is a necessary, even obligatory, condition in a state that adheres to the principle of popular sovereignty.

Public participation[8] is the active involvement of individuals or groups in determining public policies or legislation, providing a platform for society to negotiate during the policy formulation process, particularly in matters that directly impact their lives. Robert B. Gibson states: "The demand for public participation was once the exclusive preserve of radicals challenging centralized and arbitrary power. Many radical critics continue to believe that the resolution of present problems requires the active participation of all individuals in making the decisions which affect their lives."[9]

In line with Robert B. Gibson's perspective, Mas Achmad Santosa adds that participatory public decision-making ensures that decisions genuinely reflect the broader community's needs, interests, and desires.[10] Similarly, Lothar Gundling asserts that public participation is important in democratizing decision-making.[11]

[6] Helmi Chandra SY, *Perluasan Makna Partisipasi Masyarakat dalam Pembentukan Undang-Undang Pasca Putusan Mahkamah Konstitusi*, Jurnal Konstitusi 19, No. 4, 2022: 770.

[7] Henk Adding, *Sourcebook Human Rights and Good Governance, Asialink Project on Education in Good Governance and Human Rights* 2010: 36.

[8] In the formation of laws, public participation is necessary to ensure that the laws created gain social legitimacy, as law is the source of all virtuous norms that support the good will of society. However, in reality, politics often intervenes in the formation and implementation of laws. See: Antoni Putra, " *Pembentukan Peraturan Perundang-undangan yang Baik dalam Revisi Undang-Undang Tentang Komisi Pemberantasan Korupsi*," Supremasi Hukum: Jurnal Penelitian Hukum, Volume 30, No. 2, August 2021: 115.

[9] R.B. Gibson, *The Value of Participation, in P.S. Elder (edit.), Environmental Management and Public Participation,* (Ottawa: Canadian Environmental Law Research Foundation of the Canadian Environmental Law Association, 1981): 7.

[10] Mas Achmad Santosa, *Good Governance dan Hukum Lingkungan*, (Jakarta: Indonesian Center for Environmental Law (ICEL), 2001): 138.

[11] Lothar Gundling, *Public Participation in Environmental Decision Making, Trends in Environmental Policy and Law*, (Switzerland: IUCN Glamd, 1980)134-136.

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The term "participation" implies the involvement or engagement (in overseeing, controlling, and influencing) of the public in the legislative process, from planning to evaluating the implementation of regulations.[12] In public participation, decision-making that binds all citizens effectively achieves an equal relationship between the government and the people, as public participation in the policy-making process is common in democratic countries.

At least four concepts relate to public participation in the legislative process, as outlined by Hamzah Halim and Kemal Ridindo Syahrul Putera:[13]

1. Participation as Policy: This concept views participation as a consultative procedure where policymakers seek input from the public as subjects of the regulation.
2. Participation as Strategy: This concept considers participation a strategy to garner public support for the credibility of government policies.
3. Participation as a Communication Tool: This concept sees participation as a communication tool for the government (as public servants) to understand the public's desires.
4. Participation as a Dispute Resolution Tool: This concept views participation as a means of resolving disputes and building understanding amid existing mistrust and confusion in society.[14]

2. Public Participation in the Legislative Process

In the context of law-making in Indonesia, the authority to enact laws is constitutionally vested in the House of Representatives (DPR) with the joint approval of the President, as stipulated in Article 20, paragraphs (1) and (2) of the 1945 Constitution. Legally, this construction grants these two institutions exclusive power to create laws. Maria Farida Indrati emphasizes that the most crucial aspect is that the appropriate state legislation or authorized official must enact every type of legislation. If an unauthorized legislation creates a piece of legislation, it can be annulled or declared null and void by law.[15] In this framework, the complex issues faced by society are expected to be resolved through representative institutions whose members are elected by the public. These representative bodies are meant to bridge and convey the people's aspirations in the governance process. Generally, these institutions have legislative functions (including determining the state budget),

[12] The definition is based on the online version of Kamus Besar Bahasa Indonesia (KBBI).

[13] Hamzah Halim, Syahrul Putera dan Kemal Ridindo, *Cara Praktis Menyusun dan Merancang Peraturan Daerah (Suatu Kajian Teoritis dan Praktis Disertai Manual): Konsepsi Teoretis Menuju Artikulasi Empiris,* (Jakarta: Kencana Pranada Media Group, 2010): 108.

[14] *Ibid.*

[15] Maria Farida Indrati in *dissenting opinion* Putusan Perkara No. 79/PUU-XII/2014 tentang Pengujian Formil Undang-Undang tentang MPR, DPR, DPD dan DPRD: 209.

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oversight, and budgeting functions, serving as a means of political education.[16] Through their role as conveyors of public aspirations and interests, the DPR is positioned to synthesize various societal interests, transforming them into collective priorities deemed relevant to be articulated and pursued.[17]

In addition to the issue of which institutions hold the authority to create laws, as mentioned above, there are standards that lawmakers must adhere to when drafting legislation. These standards are encapsulated in the principles of good legislative drafting.

Bayu Dwi Anggono identifies three critical aspects that must be considered in the legislative process: 1) The principles of good legislative drafting, 2) A sound national legal policy, and 3) An adequate system for judicial review of the legislation.[18] Legislative drafting requires attention to the foundational principles, particularly concerning the legal and material content of the legislation.[19]

Dwi Anggono asserts that the creation of laws should not merely be a formal procedure driven by those in power but based on constitutional mandates and collective legal needs, which should be reflected in the content of the law, collaboratively drafted by the President and the DPR.[20] When addressing matters outside those prescribed in the Constitution, legislators must define the scope of the legislation.[21] Although there has yet to be a consensus among legal scholars on this scope, the material content of the law can be determined. [22]

Soerjono Soekanto also outlines several arbitrary conditions for legislation, including legal compliance, ensuring transparency in the legislative process, and granting citizens the right to propose specific suggestions. He states: "Legislation is an instrument to achieve both spiritual and material welfare for society and individuals through preservation or innovation. This means that to prevent arbitrary legislation or to avoid laws becoming dead letters, certain conditions must be met,

[16] Joko Riskiono, *Pengaruh Partisipasi Publik dalam Pembentukan Undang-Undang: Telaah atas Pembentukan Undang-Undang Penyelenggaraan Pemilu,* (Jakarta: Perkumpulan Untuk Pemilu dan Demokrasi (Perludem), 2016): 27.

[17] Faisal Akbar Nasution, *Kata pengantar dalam* Joko Riskiono, *Pengaruh Partisipasi Publik dalam Pembentukan Undang-Undang: Telaah atas Pembentukan Undang-Undang Penyelenggaraan Pemilu, (*Jakarta: Perkumpulan Untuk Pemilu dan Demokrasi (Perludem), 2016): xviii.

[18] *Bayu Dwi Anggono, Asas Materi Muatan yang Tepat dalam Pembentukan Undang-Undang, Serta Akibat Hukumnya: Analisis Undang-Undang Republik Indonesia yang Dibentuk pada Era Reformasi (1999-2012),* Disertasi, (Jakarta: FH UI, 2014): 33.

[19] *Ibid.*

[20] *Ibid.,* 26.

[21] *Ibid.*

[22] *Ibid., 27.*

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including openness in the legislative process and the provision of rights for citizens to submit specific proposals."[23]

Saifudin highlights two crucial reasons why legislators must observe the principles of good legislative drafting:

1. The public's demand that the resulting laws be enforceable, in line with the principles of equality before the law, reflective of public aspirations, and
2. There is a need for effectiveness in achieving the law's objectives, implementation, and enforcement. [24]

Adhering to these principles is also emphasized by Anita S. Krishnakumar, who argues that doing so can prevent the judiciary from usurping legislative power through judicial review of problematic laws.[25]

The legislative process in Indonesia's constitutional history can be traced back to the Proclamation of Independence on August 17, 1945. Since then, Indonesia has experienced four different constitutional periods: the 1945 Constitution, the Constitution of the Republic of the United States of Indonesia, the Provisional Constitution of the Republic of Indonesia, and the 1945 Constitution, which has undergone four amendments.[26]

Before these amendments, the 1945 Constitution needed to provide a comprehensive framework for the legislative process. It only stipulated that the President could enact laws with the DPR's approval. A bill proposed by the President needed to gain DPR approval before it could be submitted.[27]

Following the four amendments to the 1945 Constitution, the enactment of laws now requires the joint approval of the DPR and the Government. Saldi Isra (2010) explains that the phrase "joint approval" in the Constitution grants dual authority in the legislative process, leading to three key points:

1. No law can exist without the joint approval of the President and the DPR.
2. If the President or the DPR rejects a proposed law, it cannot be resubmitted during the current legislative session.
3. The authority to approve a bill as law lies jointly with the DPR and the President.[28]

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[23] Soerjono Soekanto, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*, 10th Edition (Jakarta: Rajawali Pers, 2011): 13.

[24] Saifudin, *Partisipasi Publik dalam Pembentukan Peraturan Perundang-undangan*, (Yogyakarta: FH UII Press, 2009): 2.

[25] Anita S. Krishnakumar, *Representation Reinforcement: A Legislative Solution To A Legislative Process Problem*, Harvard Journal on Legislation, Vol.46, (2009): 1.

[26] Abdul Gani Abdullah, *Pengantar Memahami Undang-Undang tentang Pembentukan Peraturan Perundang-Undangan*, Jurnal Legislasi Indonesia - Volume 1 No. 2 - September 2004: 2.

[27] *Ibid.*

[28] Saldi Isra, *Pergeseran Fungsi Legislasi, Menguatnya Model Legislasi Parlementer dalam Sistem Presidensial Indonesia*, (Jakarta: Rajawali Pers, 2010): 6.

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The formation of laws is essentially a political policy created by the DPR together with the President. This policy arises from a formal agreement between the DPR and the Government to regulate all aspects of social, national, and state life.[29] For regulations that are positioned below the level of laws, the authority to create them lies independently with their respective creators, whether they arise from a delegation by the law or from their own initiative. Examples include Government Regulations, Presidential Regulations, and other regulations that have a hierarchical position.

Jimly Asshiddiqie highlights the critical role of laws in a country, referring to the concept of a "legislation-state," which John Robert describes as "the legislation-state that is, the state engaged continually in making laws, unmaking them, and amending them".[30]

In the legislative process, human rights issues must be considered during the drafting stage and once a regulation is in force. This consideration is vital because upholding human rights results from the social and political dynamic supported by applicable legislation. The legislative law-making process must meet legal formalities and satisfy philosophical, juridical, and sociological requirements.[31] Moreover, the resulting legal product must have social and political legitimacy to be enforced effectively and genuinely.[32]

To meet these requirements, the legislative process must involve meaningful public participation. Legally, public participation in legislative drafting is accommodated through the principle of transparency, as adopted in Law No. 12/2011 on Legislative Drafting, as amended by Law No. 15/2019 (the Law on Legislative Drafting). The Explanatory Notes to Article 5 of the Law on Legislative Drafting describe participation as a condition where the legislative drafting process, from planning, drafting, discussion, and approval to promulgation, is conducted transparently and openly. This principle of openness ensures that all members of society have the broadest possible opportunity to contribute to the legislative process.

The importance of public participation in law-making is further reinforced by Article 96 of the Law on Legislative Drafting, which grants the public the right to be involved in the legislative process.

Article 96 of the Law on Legislative Drafting stipulates that:

1. The public has the right to provide input, either orally or in writing, in the legislative process.

[29] Maria Farida, *Laporan Kompodium Bidang Hukum Perundang-Undangan*, (Jakarta: Badan Pembinaan Hukum Nasional, 2008): 11.
[30] Jimly Asshiddiqie, *Perihal Undang-Undang*, (Jakarta: Konstitusi Press, 2006): 10.
[31] *Ibid.*
[32] *Ibid.*

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2. Oral and written input, as referred to in paragraph (1), can be provided through: a. public hearings; b. working visits; c. socialization activities; and/or d. seminars, workshops, and discussions.
3. The public referred to in paragraph (1) includes individuals or groups with an interest in the substance of the draft legislation.

To facilitate public participation, as referred to in paragraph (1), every draft legislation must be easily accessible to the public.

In addition to the Law on Legislative Drafting, the crucial role of public participation in the legislative process has also been affirmed by the Constitutional Court through its ruling in Case No. 91/PUU-XVIII/2020. The Court emphasized that public participation in the legislative process must be more meaningful to ensure genuine public involvement and engagement.

This more meaningful public participation should meet at least three prerequisites:

1. The right to be heard
2. The right to have one's views considered
3. The right to receive an explanation or response to the views presented (right to be explained)

Such public participation is mainly intended for those directly affected by or concerned with the draft legislation under discussion. In the context of the five stages of law-making, meaningful public participation should be ensured, at a minimum, during the stages of:

1. Submission of the draft law.
2. Joint discussion between the DPR and the President, and, where applicable, between the DPR, President, and Regional Representative Council (DPD) as stipulated in Article 22D, paragraphs (1) and (2) of the 1945 Constitution.
3. Joint approval between the DPR and the President.[33]

B. The Dynamics of Public Participation in the Formation of the Criminal Code (KUHP)

Several vital aspects must be considered in the legislative process, especially those related to public policy and the interests of society. The laws and regulations enacted will impact the entire population of Indonesia, making meaningful public participation in the legislative process an essential element that must be ensured.[34]

However, the dynamics surrounding formulating the Criminal Code (KUHP) reveal that such meaningful public participation has not been optimally

[33] The Legal Considerations of the Constitutional Court in Putusan Perkara No. 91/PUU-XVIII/2020 tentang Pengujian Formil Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja: 393.

[34] Salahudin Tunjung Seta, *Hak Masyarakat dalam Pembentukan Peraturan Perundang-undangan,* Jurnal LEGISLASI INDONESIA Vol. 17 No. 2 - June 2020: 157.

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implemented. For instance, during the Public Hearing (RDPU) held by Commission III of the Indonesian House of Representatives (DPR RI) on November 14, 2022, with the National Alliance of KUHP, it was explicitly stated by Commission III that the DPR, as the people's representative, was not obligated nor had the time to respond to the input provided by the Alliance. The commission also considered the RDPU held as an act of generosity on the part of the DPR, thereby asserting the right to accept or reject the input based on the discretion of political parties.

This scenario highlights at least two significant misunderstandings by the DPR regarding meaningful public participation. First, public input, whether through RDPU or other mechanisms, is not a benevolent act by the DPR but a form of public participation guaranteed under Article 96 of Law No. 12 of 2011 on the Formation of Legislation, as amended by Law No. 13 of 2022 (Law on Legislative Procedures). In this context, the DPR's obligation is not only to listen to the input provided but also to consider and provide explanations or responses to the input, as stipulated by the three prerequisites for meaningful public participation emphasized by the Constitutional Court in Decision No. 91/PUU-XVIII/2020.

Second, the DPR places the sovereignty of the people below the sovereignty of political parties, assuming that public input will only be considered if endorsed by political parties. In this context, the DPR disregard the fact that Indonesia is a state based on the sovereignty of the people, as enshrined in Article 1 paragraph (2) of the 1945 Constitution, not based on the sovereignty of political parties.

Regarding participation, the public only sometimes expects their input on related articles to be accepted and accommodated. Instead, they seek clarity on the follow-up to the input they have provided. If accepted, this should be reflected in the draft law. If not, the public must explain why their input was not accommodated. Unfortunately, such transparency rarely occurs, even though the Constitutional Court has stated that one of the conditions for meaningful public participation is the right to receive explanations regarding the input provided.

In response to criticism and opposition to the ratification of the KUHP, the Government took a more pragmatic approach by suggesting that those who disagree should seek judicial review at the Constitutional Court. This response pattern is also evident in the legislative process of other laws, such as Law No. 11 of 2020 on Job Creation.

Even with the Job Creation Law being declared formally flawed by the Constitutional Court through Decision No. 91/PUU-XVII/2020, which also mandated that revisions be made with meaningful public participation, the Government continued to neglect the importance of such participation. This is evidenced by the issuance of Government Regulation instead of Law No. 2 of 2022 on Job Creation.

The suggestion of judicial review, as proposed by the Government, is indeed a constitutionally regulated recourse, whether concerning the process that fails to

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meet formal requirements or substantive issues that result in constitutional harm or conflict with the Constitution. However, the question arises as to the extent to which judicial review can improve the legislative process in the DPR. This question is particularly relevant given that formal review often fails to leave any lasting impact, even when formal requirements still need to be met during the legislative process.

Since the establishment of the Constitutional Court, the formal review of the Job Creation Law has only yielded results, and even then, the Government's response needed to be more moderate. Rather than complying with the Constitutional Court's decision, the Government responded by issuing a Regulation in Lieu of Law, normatively an undemocratic form of legislation.

Moreover, formal review in the Constitutional Court often becomes a mere checklist exercise, as it only considers whether formal requirements were met. This issue was highlighted by Bivitri Susanti in her expert testimony in Case No. 82/PUU-XX/2022 concerning the formal review of Law No. 13 of 2022 on the Second Amendment to Law No. 12 of 2011 on the Formation of Legislation.

Substantive aspects of formal requirements are rarely assessed. For instance, in terms of public participation, the Constitutional Court previously ruled in Decision No. 91/PUU-XXIII/2020 that public participation must meet three prerequisites: the right to be heard, the right to have one's opinions considered, and the right to receive explanations or responses to the opinions given.

As a result, the claim of "fictional" public participation by legislators arises. For example, during the evidence stage in a formal review, legislators (DPR) submitted records of RDPU with various civil society organizations as evidence. However, the DPR's claim did not clarify whether these organizations supported or opposed the legislation. In this context, the RDPU held with these organizations served merely as a justification that public participation had taken place. In contrast, the input provided by these organizations should have been considered. This situation leads to public disillusionment or reluctance to provide input when a draft law under discussion in the DPR receives criticism and opposition.

C. Respecting the Public's Right to Participate

The vital role of public participation becomes increasingly necessary, especially as the representative institutions' function to bridge and convey the people's aspirations often falls short. The theoretical implementation of these functions is straightforward, but challenges arise in practice. The public only sometimes accepts decisions, only sometimes presentative bodies. It is essential to understand that laws are not created in a vacuum but within the dynamics of a complex society. Consequently, the public, whom the law will impact, faces various

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limitations in accepting its presence.[35] Laws formed without public participation can lead to controversy, criticism, and rejection. This underscores the importance of public participation in the legislative process.

Public participation is crucial in lawmaking, particularly in forming the Penal Code (KUHP). The public's primary concern is that their input must be accommodated and their contributions are respected. If public input is accepted and accommodated, there is no issue. However, if not, the public would feel respected if the lawmakers (the government and the DPR) provided written or verbal explanations for why their input was not considered. If this approach were adopted, criticism and rejection of the legislative process would be significantly reduced.

Regarding the issue of formal review at the Constitutional Court, we must acknowledge that formal review could have been more effective in improving the legislative process. The difficulty in getting formal review requests granted and the Court's tendency to minimally assess the formal requirements claimed by the petitioners are problematic. The Court often only considers whether the formalities were carried out without assessing the quality of these formal requirements. To ensure that formal review appears to be something other than a checklist exercise, a more in-depth assessment of the quality of the formal requirements in the legislative process, especially those claimed to be unmet, is necessary.

In the case of public participation, for instance, the Constitutional Court should assess the extent of public involvement. If the lawmakers mention certain groups or civil society organizations, the Court should explore the arguments provided and determine whether they were accommodated. If not, the critical question is whether these groups or organizations received an explanation. This approach would ensure that, regardless of whether their input is accepted, the public and/or civil society organizations feel their participation is respected.

Moreover, public participation in lawmaking must be prioritized because laws require social legitimacy. The best way to achieve this legitimacy is through public participation in the legislative process. After all, law is the source of all virtuous norms that support the collective goodwill of society.

Conclusion

Based on the discussion above, the issues surrounding Indonesia's Penal Code (KUHP) do not involve enacting the Draft Penal Code (RKUHP) into law. The disregard for public participation in the legislative process by the House of Representatives (DPR) and the Government has led to widespread criticism and rejection of the KUHP. The Government's pragmatic response to this disregard, which suggests that those who disagree should seek judicial review at the Constitutional

[35] Robert B. Saidiman, et.al, *Legislative Drafting for Democratic Social Change*, (London: *A Nual for Drafes The Hague Buston Kluwer Law Internasional Ltd.*, 2010): 5

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Court, reflects a broader pattern in responding to criticism and opposition while forming other laws. In reality, the public does not necessarily demand that their input be fully accommodated, but they expect respect for their contributions. Lawmakers (DPR and the Government) should create ample opportunities for public participation. When public input is accepted and incorporated, there are no issues. However, if it is not accommodated, lawmakers should provide written and verbal explanations for why the input was not accepted.

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