

MEANINGFUL PARTICIPATION IN LAWMAKING: A CASE STUDY OF THE 2025 TNI LAW AMENDMENT

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Abstract

More meaningful community participation must be applied in the preparation of laws and regulations so that the resulting legal products are responsive or autonomous. Meaningful participation is not applied in the drafting of the TNI Bill. The purpose of this research is to find out the arrangement of meaningful participation in the formation of legislation based on the PUU Law. In addition, it is also to find out the application of meaningful participation in the formation of Law No. 3 of 2025 (TNI Law). This research method is normative juridical with a statutory and conceptual approach, using legal material collection techniques with literature studies. The results showed that meaningful participation is regulated in Article 96 of the PUU Law and must be applied in the drafting of laws and regulations, including the drafting of the TNI law. However, meaningful participation has not been applied perfectly in the drafting of the TNI Law, because public participation in its drafting is still limited to hearing their opinions in public consultation activities, but the legislators do not seriously consider the opinions of civil society, and also do not provide an explanation for the reasons for not using their opinions. In addition, it is difficult for the public to access the academic papers and draft of the TNI Bill because they are not uploaded on the DPR's official website.

Keywords: Revision of TNI Law, Meaningful Participation, Formation of Legislation.

INTRODUCTION

According to Mahanani and Maharani meaningful participation is a concept that emphasizes that every voice from individuals must be considered and listened to seriously, even able to influence government actions or decisions.¹ Meaningful participation has been adapted in the formation of regulations, precisely in Law No. 13

¹ Anajeng Esri Edhi Mahanani and Andina Elok Puri Maharani, "Urgensi Kewenangan Mahkamah Konstitusi Dalam Pengujian Dan Pengaduan Konstitusional Atas Undang-Undang Non-Meaningful Participation," *JIL: Journal of Indonesian Law* 5, no. 2 (2024): 199–229.

of 2022 concerning the Second Amendment to Law No. 12 of 2011 concerning the Formation of Legislation (hereinafter referred to as PUU Law). In the explanation of the PUU Law, it is stated that the amendment to Law No. 12/2011 was carried out to implement meaningful participation.

With the adaptation of meaningful participation, the formation of regulations must apply this concept. Failure to fulfill this concept makes the regulations formed formally defective. In this case, the Constitutional Court (MK) as the guardian of the constitution can declare that the law formation process does not fulfill the provisions of law formation as mandated in the 1945 Constitution. This action by the Constitutional Court can only be taken if a request for formal review of the law in question is submitted. This action by the Constitutional Court is very important to guarantee the constitutional rights of the people that could potentially be violated due to the existence of the law. This is because laws that do not involve the people are basically conservative or orthodox legal products. Such legal products are full of the political vision of the ruler and are instrumentalist positivist in nature. This means that the legal product is a tool for the ruler to carry out his own ideology and will or his group, which does not consider the will of the people.²

The revision of Law No. 34/2004 on the Indonesian National Army (TNI Bill) is considered closed and lacks public participation. Many students and legal experts consider that their criticism of the material changed in the TNI Bill has not been heard. In fact, they consider that the TNI Bill seeks to restore ABRI's dual function, especially Article 47 which stipulates that TNI soldiers can hold other civilian positions after completing the process of resignation or retirement from their positions. The article is considered to threaten civilian supremacy because civilian positions in other ministries / institutions are not limited to agencies whose fields are relevant to their competencies. Students' views on the TNI Bill led to demonstrations in various cities in Indonesia, such as Jakarta, Yogyakarta, Surabaya, Bandung, and so on.³

² Lintje Anna Marpaung, "Pengaruh Konfigurasi Politik Hukum Terhadap Karakter Produk Hukum (Suatu Telaah Dalam Perkembangan Hukum Pemerintahan Daerah Di Indonesia)," *Pranata Hukum* 7, no. 1 (2012): 1-14.

³ Tim Detik.com, "Gelombang Demo Tolak UU TNI Meluas Ke Berbagai Daerah," *Detik News*, March 25, 2025, <https://news.detik.com/berita/d-7840265/gelombang-demo-tolak-uu-tni-meluas-ke-berbagai-daerah>.

In a study conducted by Yosarie et al, they have criticized the TNI Bill because its substance is considered to threaten human rights guarantees, the implementation of democracy, and the rule of law. Because there are several articles in the draft TNI Bill that increase the chances of these threats, such as the expansion of the role of the military in the civilian sphere which can threaten civilian supremacy, the increased risk of abuse of power due to unequal power relations, and the uncertainty of the TNI's security defense function.⁴ Yosarie et al also emphasized that the TNI Bill, which increases the role of the military in the civilian sphere, has expanded the TNI's authority beyond its limits. The research above is almost the same as the author's panellation, but the author is more focused on discussing the application of meaningful participation in changing the TNI Law.

Demonstrations over the TNI Bill were long and large-scale. Nevertheless, the government passed the law on March 26, 2025 and promulgated it through Law No. 3 Year 2025 on the Amendment to Law No. 34 Year 2004 on the Indonesian National Army (TNI Law). Sufmi Dasco Ahmad, Deputy Speaker of the House of Representatives, stated that the process of forming the TNI Bill had followed existing regulations and opened up space for public participation, while the accelerated discussion process was intended for budget efficiency.⁵ In this case, there is a difference in interpretation of meaningful participation between the community and the legislators. This occurs because of confusion regarding the mechanism for measuring community involvement and the extent to which community opinion affects the substance of the law. From these problems, researchers are interested in further discussing the application of meaningful participation in the formation of Law No. 3 of 2025.

Based on this background, the researcher is interested in discussing more deeply how the regulation of meaningful participation in the formation of legislation based on Law No. 13 of 2022 Second Amendment to Law No. 12 of 2011 concerning the Formation of Legislation (PUU Law)? and how the application of meaningful participation in the

⁴ Ikhsan Yosarie et al., *Kertas Kebijakan: Mengawal Reformasi Tentara Nasional Indonesia Melalui Penolakan Usulan Perubahan Dalam Revisi Undang-Undang Nomor 34 Tahun 2004 Tentang Tentara Nasional Indonesia* (Jakarta: Imparsial, 2023).

⁵ Immanuel Christian, "Revisi UU TNI: Proses Terbuka Dan Sesuai Mekanisme," *Alinea.Id*, March 17, 2025, <https://www.alinea.id/peristiwa/revisi-uu-tni-proses-terbuka-dan-sesuai-mekanisme-b2nkz9RrO>.

formation of Law No. 3 of 2025 Amendment to Law No. 34 of 2004 concerning the Indonesian National Army (TNI Law)?

By conducting this research, it is expected to find out the implementation of meaningful participation in the preparation of legislation in Indonesia, especially the formation of the TNI Law.

METHOD

This research is included in the type of normative legal research, which is research that examines the internal aspects of positive law.⁶ This research can also be interpreted as a method of analysis based on applicable laws and regulations related to the legal issues being discussed. The approaches used in this research include: First, a legislative approach which is an assessment using positive law, this is used because this research discusses the regulation and application of meaningful participation in the process of forming regulations using various laws and regulations, such as the PUU Law, TNI Law, DPR Regulation No. 1 of 2020 concerning Rules of Procedure, etc. Second, a conceptual approach which is a research study using doctrines, principles, theories, and concepts in legal science. This approach is used to analyze the urgency of implementing meaningful participation in the drafting of laws and regulations, such as the concepts of meaningful participation, popular sovereignty, and so on.

In normative legal research such as this research, data collection is carried out using literature study techniques. The explanation of the literature study itself is an examination of written information related to law obtained from various literatures and is indeed needed in normative research. Furthermore, the processing of legal materials is carried out in several stages starting from recording, identifying, classifying, and systematizing between one legal material and another. Then, the analysis is carried out with a qualitative analysis method. This is done by interpreting the various legal materials studied.⁷

⁶ Nanda Dwi Rizkia and Hardi Fardiansyah, *Metode Penelitian Hukum (Normatif Dan Empiris)* (Bandung: Penerbit Widina Media Utama, 2023).

⁷ Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020).

RESULT AND DISCUSSION

1. Arrangements for Meaningful Participation in Law Formation Based on Law No. 13 of 2022 Second Amendment to Law No. 12 of 2011 on the Formation of Legislation

Meaningful participation is a concept related to the active participation of the community in the process of forming laws and regulations.⁸ By implementing this concept, it is hoped that it can provide a wider space for the community to determine the politics of law. MK sees meaningful participation as a constitutional right. Popular sovereignty applied in the Indonesian government system is interpreted to have mandated the application of meaningful participation in the formation of laws. Not only that, meaningful participation is actually also guaranteed in Article 27 Paragraph (1) and Article 28C Paragraph (2) of the 1945 Constitution. Both of which guarantee the right of citizens to participate in the administration of government for the benefit of the nation and state.⁹

Meaningful participation is a manifestation of the principle of openness in the law-making process. The principle of openness itself is based on article 5 letter g UU PUU refers to transparency in every process of forming legislation so that all levels of society have the opportunity to provide input. Based on article 5 of the PUU Law, this principle is included in the principles that must be contained in the process of drafting legislation.

A regulation is considered to have implemented meaningful participation if it fulfills at least three conditions, which include: First, the right to be heard. Second, the right to have their opinions considered (right to be considered). And finally, third, the right to obtain an explanation of the opinion that has been conveyed (right to be explained). Meaningful participation is adapted in the process of forming laws and regulations in Indonesia as a follow-up to the Constitutional Court Decision No. 91/PUU-XVIII/2020. This follow-up can be seen in the amendment of Article 96 of the PUU Law.

⁸ Caroline Gabriela Pakpahan, Muhammad Fawwaz Farhan Farabi, and Rianjani Rindu Rachmania, "Quo Vadis: Konsep Meaningful Participation Sebagai Implikasi Putusan MK No. 91/PUU-XVIII/202 Dalam Menunjang Hak Konstitusional," *SALAM: Jurnal Sosial Dan Budaya Syar-I* 10, no. 4 (2023): 1285–1308.

⁹ Entol Zaenal Muttaqin and Sahrul Hikam, "Konsep Meaningful Participation Dalam Proses Legislasi Di Indonesia Pasca Putusan Mahkamah Konstitusi Nomor 91/PUU XVIII/2020," *Amnesti: Jurnal Hukum* 6, no. 1 (2024): 62–80.

Article 96 paragraph 1 of UU PUU guarantees the right of the public to provide input either orally and/or in writing at every stage of the Formation of Laws and Regulations. The input can be done either directly or online. In relation to the formation of laws, the public has the right to provide input both at the planning, drafting, discussion, ratification, and enactment stages. People who can provide input are mainly people who are directly affected and also have an interest in the content material of the regulation.

To make it easier for the public to provide input in the law-making process, the legislator must ensure that academic papers and bills can be easily accessed by the public. In addition, they must also inform the public regarding the formation of the law. To ensure that the public can provide input, legislators also conduct public consultation activities by holding public hearings, working visits, seminars, workshops, discussions, and/or other public consultation activities (Article 96 paragraph 6 of UU PUU). The results of the event must be used by the legislator as a consideration in every law-making process. The legislator will then provide an explanation to the public regarding the results of the discussion of public input that has been given. Article 96 paragraph 9 of PUU Law states that further rules regarding community participation will be regulated in DPR Regulations, DPD Regulations, and Presidential Regulations.

Nonet and Selznick explain the importance of community participation in the preparation of laws and regulations. According to them, drafting laws and regulations that involve the community will make the results accepted by the community because they are in accordance with the values contained in the community. In addition, the regulations formed will be effective in their enforcement. Furthermore, according to Setiadi et al. the regulations formed will be more beneficial to society. These benefits include:¹⁰ First, it increases the legitimacy and quality of laws and regulations. Second, increasing the chances of achieving the objectives of its implementation. Third, increasing public obedience to the implementation of regulations. Finally, it expands the form of partnership with the community. The explanation of the benefits of community participation is slightly different from the opinion of Handoko et al. According to him,

¹⁰ Wicipto Setiadi et al., "The Urgency of Implementing Meaningful Participation in Forming Laws in Indonesia," *International Journal of Social Science and Human Research* 07, no. 03 (2024): 1710–16, <https://doi.org/10.47191/ijsshr/v7-i03-27>.

the benefits of participatory governance are building government legitimacy because it creates public trust, empowering the community, improving the quality of policies produced, and will reduce social inequality because marginalized groups participate in influencing policies.¹¹

Artioko mentioned that based on the doctrinal perspective, meaningful participation in the preparation of legal products aims to achieve several things, namely:¹² First, it creates high quality legal products because they come from strong collective intelligence. In this case, the community collectively analyzes the potential impact of the legal substance. Second, realizing a more inclusive and representative legislative power. Third, it increases public trust in legislators. Fourth, it increases responsibility and legitimacy in every government action. Fifth, the public better understands the role of legislative institutions. Sixth, it provides space for the public to convey their interests and aspirations. Finally, realizing a legislative body that applies the principle of openness and the principle of accountability.

In relation to democracy, it can be said that the application of meaningful participation is very important. Because public participation is the main thing to realize a better democracy. This is in line with Jean-Jacques Rousseau's idea that the object of legislation will always be general and not specific, because its substance acts for the general will. In this regard, the people will always have a good will for themselves.¹³ Therefore, according to Rousseau, society as the subject of the law must be the one to form it. In this case, the legislator will only act as a translator of the will of the community.

The application of meaningful participation in the preparation of legislation is also a form of implementing the principles of good governance, especially the principles of openness, public participation, and accountability.¹⁴ Because the application of

¹¹ Priyo Handoko, Anis Farida, and Hendrik Kurniawan, *Dasar-Dasar Pemerintahan Partisipatif Di Indonesia Pasca Amandemen UUD 1945* (Sidoarjo: Zifatama Jawara, 2025).

¹² Fiqih Rizki Artioko, "Pengadopsian Partisipasi Masyarakat Yang Bermakna (Meaningful Participation) Dalam Undang-Undang Nomor 13 Tahun 2022tentang Perubahan Kedua Undang-Undang Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan," *Al-Qisth Law Review* 6, no. 1 (2022): 52–83.

¹³ Seta Basri, "Critical Review Pertemuan 3: Demokrasi Rousseau," *Makalah Masalah-Masalah Demokrasi*, 2019.

¹⁴ Imam Asmarudin et al., *Asas Responsif Sebuah Pembaruan Asas-Asas Pembentukan Peraturan Perundang-Undangan* (Jakarta: Damara Press, 2024).

meaningful participation will make the drafting of regulations more open because it is easily accessible to the public. In addition, it will also open the widest possible space for the public to give their opinions. This condition will also make the resulting legal products more accountable and have legitimacy. This application will also create neutrality, namely equality, justice, and legal protection for the community.

2. Application of Meaningful Participation in the Formulation of Law No. 3 of 2025 Amendment to Law No. 34 of 2004 Concerning the Indonesian National Army

Meaningful participation must be applied in the process of forming legislation, including in the formation of the TNI Law. Based on Constitutional Court Decision No. 91/PUU-XVIII/2020, the application of meaningful participation is at least carried out at the stage of submitting a bill, joint discussion between the DPR and the president, and joint approval between the DPR and the president. As for analyzing the process of forming the TNI Law with meaningful participation arrangements in Article 96 of the PUU Law, it can be said that meaningful participation has not been fulfilled in the process.

Based on Article 96 paragraph 4 of the PUU Law, it can be explained that one of the applications of meaningful participation is to facilitate the public in accessing academic papers and draft laws so that they can easily provide input on the draft. This provision was not implemented by legislators because, from the planning stage to its ratification, the public experienced difficulties in accessing the academic papers and the draft TNI law. Both documents should have been uploaded on the DPR RI's official website, that is <https://puuekkukesra.dpr.go.id/>. However, the academic paper and draft TNI Law cannot be accessed on that page. The difficulty in accessing the draft TNI Law even occurred even a day before its discussion in the plenary session would take place.

The Civil Society Coalition explained that they had difficulty accessing the draft TNI Bill and only obtained the draft through distribution on WhatsApp.¹⁵ The difficulty of accessing the draft TNI Bill has made the public confused to respond to the substance that has changed. With the legislators not fulfilling their obligation to upload the draft

¹⁵ Shela Octavia and Jessi Carina, "RUU TNI Disebut Cacat Legislasi, Drafnya Tak Bisa Diakses Publik," *Kompas.Com*, March 20, 2025, <https://nasional.kompas.com/read/2025/03/20/08202011/ruu-tni-disebut-cacat-legislasi-drafnya-tak-bisa-diakses-publik>.

TNI Bill, the public believes the draft TNI Bill that is spread on social media. Legislation makers actually blame the public for this condition. In fact, even after the TNI Bill was passed into Law No. 3 of 2025, the law has not been accessible on the DPR's official website.

Article 96 paragraph 1 of the PUU Law states that the public has the right to provide input either orally or in writing at every stage of regulation formation. The community in this case refers to those directly affected and also those who have an interest in the content material of the bill. In relation to the TNI Bill, the people who are directly affected are members of the military. Meanwhile, people who have an interest in the material are students, academics, community organizations, and other civil society. The public is considered to have an interest because the enactment of the TNI Law will directly or indirectly affect their lives. Meanwhile, as parties who have the ability to think critically, students and academics have a moral responsibility to oversee and control the administration of government, including in the formation of legislation.

Basically, community organizations, academics, and students have provided a lot of input in the drafting of the TNI Bill. This was done in several public consultation activities and outside the mechanisms specified in the PUU Law. An example of what was done in public consultation was the Civil Society Coalition whose input was heard at the public hearing meeting.¹⁶ This means that procedurally the government appears to have fulfilled the right to be heard, because it has listened to input from the public using the method specified in Article 96 paragraph 6. However, it can be said that materially meaningful participation has not been fulfilled, because the legislator did not seriously consider their opinions and did not provide an explanation for the input provided. In fact, this is the weakness of meaningful participation where although it is mandatory, there is no guarantee that the input provided will be seriously considered and accepted. This happens because meaningful participation does not contain the right to be accepted, but only the right to be heard and considered.

¹⁶ Ady Thea DA, "Koalisi Masyarakat Sipil Sodorkan 5 Catatan Kritis RUU TNI Ke Pimpinan DPR," *Hukum Online*, March 18, 2025, https://www.hukumonline.com/berita/a/koalisi-masyarakat-sipil-sodorkan-5-catatan-kritis-ruu-tni-ke-pimpinan-dpr-lt67d94d15d9b9b/?page=1&_gl=1*1u23ngp*_up*MQ..*_ga*MTU0NTM5ODQxLjE3NDYxNjY4OTY.*_ga_XVDEV3KKL2*MTc0NjE2Njg5NS4xLjEuMTc0NjE2Njk1OS4wLjAuMA..

One of the mechanisms used by the community to provide input into the drafting of laws is through demonstrations. Demonstrations are recognized as a way for people to express their opinions in public collectively.¹⁷ In the context of the TNI Bill, students and community organizations held demonstrations to reject the TNI Bill. These protests were held on a large scale and there were 58 cities where the protests took place.¹⁸ As an effort to fulfill the right to have their opinions considered, the public's dissatisfaction with the process of forming the TNI Bill should be seriously considered by the legislators. The legislators in this case also need to fulfill the public's right to obtain an explanation of the opinion given (right to be explained). By fulfilling this right, the public will be more accepting of the legislators' decision than if no explanation is given at all.¹⁹

While the demonstration was taking place, legislators accelerated the process of forming the TNI Law behind closed doors, holding a discussion meeting at the Fairmont Hotel Jakarta. The meeting gathered the Working Committee (Panja) of Commission I DPR RI with the Government. This meeting was considered closed because it was held outside of the DPR's general meeting time as stipulated in Article 254 paragraph 1 letter a of DPR Regulation No. 1 of 2020 on Rules of Procedure. The article determines that meetings are held on working days, while the meeting to discuss the TNI Law was held outside of working days and hours, specifically from 10:00 to 22:00 West Indonesia Time on Saturday, March 15, 2025. In addition, the meeting was held outside the DPR building, at the Fairmont Hotel in Jakarta. The hotel has tight security and does not allow the media or press to inform the public about the meeting process. In fact, the presence of the press is very important so that the discussion of the TNI Law becomes transparent and accountable.

¹⁷ Olivia Adelwais Mandang, "Penegakan Hukum Terhadap Pelaku Demonstrasi Bersifat Anarkis Yang Berakibat Pada Pengerusakan Barang Milik Negara," *Lex Administratum* 11, no. 5 (2023).

¹⁸ Santi Dewi, "Ini Sebaran 58 Titik Yang Lakukan Aksi Demo Penolakan UU TNI," *IDN Times*, March 27, 2025, <https://www.idntimes.com/news/indonesia/santi-dewi/ini-sebaran-58-titik-yang-lakukan-aksi-demo-penolakan-uu-tni>.

¹⁹ Setiadi et al., "The Urgency of Implementing Meaningful Participation in Forming Laws in Indonesia."

Discussion

Based on the explanation above, it can be concluded that meaningful participation is important in the process of forming regulations. However, there are challenges in its implementation because meaningful participation itself focuses more on procedural aspects than material aspects. This means that meaningful participation must be implemented, but input or criticism from the community is not required to be accepted. This happens because meaningful participation does not contain the right to be accepted, but only the right to be heard and have their opinions considered. However, with the right to obtain an explanation or answer to the opinion given, the public will be more accepting of the final decision of the legislator than if meaningful participation is not applied. Unfortunately, the right to an explanation or response to the opinion given was not fulfilled by the legislators. They do not provide explanations for the criticisms that have been submitted by the public.

Another challenge of implementing meaningful participation relates to the determination of the people who provide input. Given that the people selected to provide input are determined by the legislators, they may selectively choose those who support the draft regulation and exclude those who oppose it. This can happen because the process depends on the existing political configuration. This is in line with Mahfud MD's opinion that a political configuration will give birth to a character in its legal products as well.²⁰ In this case, a democratic political regime will produce responsive laws. Because a democratic political regime will try to meet the demands of both individuals and society. In this regime, the preparation of legal products involves the community by opening up space for broad public participation. Which means that the law is used by political power in government to implement the will of the community. In contrast, authoritarian political regimes will produce conservative or repressive laws. Repressive legal products are produced because the law is used by power holders for their will based on their vision by not involving public participation.

Based on the explanation above, it can also be concluded that in drafting the TNI Law, the legislators did not implement the element of meaningful participation. Although they

²⁰ Solikhul Hadi, "Pengaruh Konfigurasi Politik Pemerintah Terhadap Produk Hukum," *ADDIN* 9, no. 2 (2015).

had invited civil society to listen to their opinions, they did not fulfill the right to have their input considered and also the right to obtain explanations for their input. Such problems will continue to occur if a regime of power does not really intend to implement meaningful participation itself. This once again proves that the character of legal products is influenced by a political configuration, because it is the political configuration that determines the process of legal product formation.

CONCLUSION

The formation of laws and regulations is considered to have implemented meaningful participation in the event that it fulfills at least 3 rights, namely the right to be heard, the right to have one's opinion considered, and the right to obtain an explanation of the input provided. The regulation of meaningful participation is found in Article 96 of Law No. 13 of 2022 (PUU Law). Its application in a democratic country is a must because the formulation of laws and regulations that affect the people must be based on the will of the people. By applying meaningful participation, responsive legal products will be produced.

The author also concludes that the TNI Law is formally flawed because the formation process does not meet the procedures specified in the PUU Law, especially regarding the fulfillment of meaningful participation as part of the principle of openness. The legal consequences of the TNI Law that has been passed will only occur if there is an application for a formal review of the law against the 1945 Constitution to the Constitutional Court, then the Constitutional Court chooses to grant the application and declare the TNI Law has no binding legal force. Conversely, the legal consequences will not occur if no formal review application is submitted to the Constitutional Court or a formal application is submitted but the Constitutional Court makes a decision declaring the application inadmissible.

The researcher's recommendation is that the Constitutional Court's authority to conduct formal testing of laws against the 1945 Constitution should be the last resort taken to ensure that the formation of laws does not violate the constitutional rights of citizens. Therefore, the legislators, namely the DPR together with the Government, must

follow the procedures for the formation of laws specified in the PUU Law, especially with regard to fulfilling meaningful participation. This is because public participation is the key to forming responsive/autonomous legal products.

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