

Public Participation Conventions in Constitutional Policymaking: Theory, Mechanisms, and Comparative Practices

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Abstract

Existing scholarship on public participation in constitutional policymaking has largely focused on procedural inclusion and formal consultation mechanisms, while paying limited attention to how participation conventions function as structured deliberative instruments capable of shaping constitutional legitimacy. Moreover, comparative studies tend to examine participation practices in isolation, without offering a systematic framework that integrates theory, institutional mechanisms, and cross-jurisdictional best practices. This article aims to address these gaps by examining public participation conventions as normative and institutional mechanisms within constitutional policymaking, emphasizing their theoretical foundations, operational processes, and comparative applications. The study employs a normative legal research method combined with a conceptual and comparative approach, drawing on constitutional theory, legal frameworks, and selected international case studies of participatory practices. The analysis demonstrates that public participation conventions, when designed as deliberative and inclusive forums, can enhance constitutional legitimacy by bridging formal legal authority and social acceptance. It further shows that effective conventions depend on structured processes, representative participant selection, transparent deliberation, and clear follow-up mechanisms to ensure that public input substantively influences constitutional outcomes. Comparative experiences reveal that innovations such as citizen assemblies, digital participation platforms, and independent facilitation significantly improve both the quality of deliberation and the legitimacy of constitutional policy decisions. The novelty of this study lies in proposing an integrated analytical framework that positions public participation conventions not merely as consultative tools, but as constitutive elements of democratic constitutional governance. By synthesizing theory, mechanisms, and comparative practices, this article contributes to the refinement of participatory constitutionalism and offers practical guidance for strengthening constitutional policymaking in diverse democratic contexts.

KEYWORDS: *Public Participation; Constitutional Policymaking; Participatory Constitutionalism*

Introduction

Public participation in the formation of constitutional policy has become a crucial topic in modern political science and legal studies. This concept emphasizes citizen involvement not only as policy recipients but also as active actors contributing to the decision-making process. Public participation requires more than just physical presence or voting in elections, but also encompasses various mechanisms of dialogue, consultation, and collaboration between the government and the public. Thus, the quality of a country's democracy can be measured by the extent to which public policies are formed through inclusive and transparent interactions, reflecting the interests of diverse community groups.¹

Public participation conventions are a formal mechanism designed to bridge the gap between citizens and policymakers. Within a constitutional framework, these conventions allow the public to provide input, express their aspirations, and evaluate draft policies more systematically. These conventions not only aim to strengthen the legal legitimacy of a policy but also foster a sense of citizen ownership over the decisions made. In many countries, public conventions have been used to discuss fundamental issues such as constitutional reform, amendments to the basic law, and the formulation of human rights principles.

Public involvement through conventions also creates new dynamics in the policy-making process. Public input often enriches the perspectives of policymakers who might previously have relied solely on technocratic analysis or political considerations. This mechanism provides opportunities for minority groups and civil society to express their interests, resulting in more representative and inclusive policies. This process also emphasizes the importance of public education to ensure citizens have a sufficient understanding of complex constitutional issues, ensuring that their participation is not merely symbolic but substantive.

However, the implementation of public participation conventions also faces various challenges. One is the gap in access to information between the government and citizens, which can limit the quality of public input. Furthermore, there is a risk of politicization of the convention process, where certain groups attempt to exploit participatory forums for narrow interests. Another challenge arises from limited resources, whether in terms of time, costs, or the capacity of facilitators to manage complex processes. Therefore, developing effective and sustainable mechanisms is crucial to ensure that public conventions are not merely formalities but actually impact decision-making.²

¹ Muhammad Nur Jamaluddin, "Perbandingan Partisipasi Rakyat Dalam Pembentukan Dan Perubahan Konstitusi Indonesia, Thailand, Dan Afrika Selatan: Suatu Penelitian Awal," *Jurnal Poros Hukum Padjadjaran* 2, no. 2 (2021): 316–41, <https://doi.org/10.23920/jphp.v2i2.368>.

² Eko Rinaldo Damanik et al., "Krisis Partisipasi Publik Dalam Pembentukan Undang-Undang Di Indonesia: Problematika Hak Konstitusional Dan Pengabaian Aspirasi Rakyat Authors," *Innovative: Journal Of Social Science Research* 5, no. 2 (2025): 2518–40.

Case studies of best practices provide an effective means of understanding how public participation conventions can be implemented optimally. International experience demonstrates that the success of public conventions depends heavily on careful planning, government transparency, and active public participation. Countries that successfully implement public conventions often emphasize the principles of inclusivity, transparency, and accountability, ensuring that the convention's outcomes have concrete policy implications. Analysis of these case studies can provide practical guidance for other countries seeking to develop public participation mechanisms within a constitutional framework.

Furthermore, research on best practices highlights the importance of innovation in participatory methods. For example, the use of information technology to expand participation, or deliberative methods that encourage in-depth discussions among citizens. These innovations not only increase the number of participants but also the quality of the input provided. Thus, case studies of best practices serve not only as documentation of experiences but also as a source of learning for policymakers, academics, and the wider community seeking to strengthen participatory democracy.³

Theoretically, public involvement in constitutional policy can be understood through the framework of deliberative democracy, which emphasizes dialogue, rational argumentation, and collective legitimacy. Public participation conventions are a concrete manifestation of these principles, where decisions are not based solely on majority vote but also consider the interests of diverse groups. This approach bridges the gap between formal legal legitimacy and social legitimacy, resulting in stronger and more sustainable constitutional policies. Furthermore, this approach strengthens a political culture that encourages shared responsibility and awareness of citizens' rights and obligations.

Against this backdrop, this study aims to analyze the conventional mechanisms of public participation in constitutional policymaking and highlight best practices from various case studies. This research is expected to make academic and practical contributions, both in developing public participation theory and in providing recommendations for policymakers. By understanding successful practices and the challenges faced, public participation mechanisms can be optimized so that constitutional democracy is not only formal, but also substantive and responsive to societal needs. This approach is expected to strengthen citizen engagement, improve policy quality, and build stronger legitimacy within the constitutional context.⁴

³ Dewi Sartika Mokoagow, "Abusive Law Making (Analisis Penurunan Partisipasi Publik Dalam Proses Pembentukan Undang-Undang)," *Journal of Innovation Research and Knowledge* 4, no. 7 (2024): 4733–48.

⁴ Ana Fauzia and Fathul Hamdani, "Aktualisasi Nilai-Nilai Pancasila Dan Konstitusi Melalui Pelokalan Kebijakan Hak Asasi Manusia (HAM) Di Daerah," *Indonesia Berdaya* 2, no. 2 (2021): 157–66, <https://doi.org/10.47679/ib.2021136>.

Method

This research employs a normative approach as its primary method,⁵ emphasizing the analysis of legal provisions, constitutional principles, and academic literature related to public participation in constitutional policymaking. The normative approach was chosen because the focus of this research is to understand the legal basis, theory, and conceptual framework underlying the public participation convention mechanism. Thus, this method allows researchers to explore relevant laws, official documents, and legal doctrines, thereby providing a comprehensive overview of the regulations and principles underlying public participation practices.⁶

Furthermore, this normative research utilizes literature as the primary data source, including books, scientific journals, research articles, policy documents, and case study reports of best practices from various countries. The analysis was conducted qualitatively using a descriptive-analytical method, aiming to systematically describe the concepts, principles, and mechanisms of public conventions. This approach also allows for the identification of gaps between theory and practice, as well as a comparison between public participation models implemented in various jurisdictions. Thus, the research is not only theoretical but also relevant to actual practice on the ground.⁷

Furthermore, the normative method in this research is complemented by a comparative analysis technique of best practice case studies. The case studies were selected based on representative criteria, namely countries or regions that have successfully implemented public participation conventions effectively and inclusively. This comparative analysis aims to identify key success factors, challenges encountered, and the implications of best practices for the national context. The results of this normative approach are expected to provide systematic, evidence-based recommendations for the development of public participation mechanisms in future constitutional policy formation.

Concept and Theoretical Basis of Public Participation Convention

Public participation conventions are a mechanism of deliberative democracy that allows citizens to play an active role in the policy-making process, including constitutional policy. These conventions differ from conventional consultation mechanisms or public forums because they have a formal, procedural, and sometimes cross-sectoral structure, resulting in more systematic input and a more valid basis for policy legitimacy. In a constitutional context, public participation conventions

⁵ Dian Ekawaty Ismail et al., *Metode Penelitian Hukum: Teori, Aplikasi, Dan Inovasi Dalam Penelitian Hukum*, ed. Tiara Oktaviana Namira Daud (Ruang Karya, 2025).

⁶ Ali Imran Nasution and Rahmat Bijak Setiawan Sapii, "Aktualisasi Konsep Meaningful Participation Dalam Pembentukan Peraturan Perundang-Undangan," *Jurnal Surya Kencana Dua: Dinamika Masalah Hukum Dan Keadilan* 9, no. 2 (2022): 202, <https://doi.org/10.32493/SKD.v9i2.y2022.26207>.

⁷ MS Buana and E Vikalista, "Public Participation in Ex-Ante and Ex-Post Preventive Supervision of Legislation," *National Civil Liberties* 5 (2023).

emphasize broad public involvement so that any policies or amendments reflect the public interest and prevailing democratic values.⁸

Theoretically, the concept of public participation can be viewed from the perspective of deliberative democracy, as proposed by thinkers such as Jürgen Habermas and John Rawls. Deliberative democracy emphasizes that the legitimacy of a policy derives not solely from a majority vote, but also from a process of rational discussion, open argumentation, and collective consensus. Within this framework, public conventions serve as a means for citizens to express their aspirations, validate ideas, and engage in discussions with policymakers and other stakeholders. Thus, public conventions not only strengthen legal legitimacy but also foster a sense of citizen ownership over the decisions made.

The normative basis for public participation conventions is often found in constitutions, laws, or implementing regulations that emphasize citizens' right to participate in public decision-making. Some countries have established specific provisions governing conventions as official forums for the public to provide input on constitutional changes or strategic public policies. This legal basis ensures that public input has formal status and can significantly influence the decision-making process, rather than remaining merely symbolic.⁹

In addition to legal aspects and deliberative democracy theory, public participation conventions can also be analyzed through the perspective of citizen participation theory. This theory emphasizes the importance of inclusivity, equal access, and citizen empowerment so they can contribute effectively. In the context of the convention, this means that participation mechanisms must be designed in such a way that various groups, including minorities, women, and marginalized communities, have equal opportunities to express their views and aspirations. This way, the convention's outcomes will be more representative and balanced.

In practice, public participation conventions can take various forms, ranging from deliberative forums and citizen assemblies to technology-based public consultations. Each model has distinct characteristics and procedures, but all emphasize active citizen involvement, structured discussion processes, and clear documentation of results. Citizen panels, for example, involve randomly selected citizens to represent the population, resulting in more objective input and reflecting diverse community perspectives. This approach has been shown to improve the quality and legitimacy of policies in various countries.¹⁰

Public participation conventions also serve as a political education tool for the public. Active participation in conventions not only provides an opportunity to express

⁸ N Suryana et al., "Basic Concepts and Theories of Educational Participation," *Journal of Innovation, Evaluation and Learning Development* 2, no. 2 (2022): 61–67.

⁹ Fathul Hamdani et al., "Advancing Democratic Engagement in Indonesia's Treaty Ratification Process," *Rechtsidee* 11, no. 2 (2023), <https://doi.org/10.21070/jihr.v12i2.1007>.

¹⁰ Sofwan Sofwan, "Urgensi Partisipasi Publik Dalam Pembentukan Peraturan Daerah," *JATISWARA* 37, no. 1 (2022): 118–26, <https://doi.org/10.29303/jtsw.v37i1.364>.

opinions but also enhances public understanding of complex constitutional issues. Through direct involvement, citizens become more aware of their rights and obligations within a democratic system and gain a deeper understanding of the policy-making process. This, in turn, strengthens the quality of democracy and fosters a sustainable participatory culture.

However, the concept of a public participation convention is not without challenges and criticism. Some critics highlight the risks of domination by certain groups, the politicization of the forum, and the limited capacity of citizens to understand complex issues. Furthermore, technical and logistical challenges, such as providing competent facilitators, equitable access to information, and managing lengthy deliberative processes, often hinder convention implementation. Therefore, convention design must consider the principles of transparency, representativeness, and effectiveness to truly achieve participatory goals.¹¹

Overall, the theoretical foundations and concepts of public participation conventions demonstrate that these mechanisms are crucial instruments in modern democracies. Conventions not only bridge the gap between government and society, but also strengthen constitutional legitimacy, improve policy quality, and foster a culture of inclusive participation. By understanding the theory, legal basis, and practice of various convention models, policymakers and academics can design effective, adaptive, and sustainable participatory mechanisms, thereby making the constitutional policymaking process more responsive to societal needs.

Mechanism and Process of Public Participation Convention in the Formation of Constitutional Policy

Public participation conventions have mechanisms designed to ensure that the deliberative process is structured, transparent, and inclusive. Generally, these mechanisms begin with the planning stage, which involves defining the issue, selecting participants, and preparing materials. Thorough planning is key to ensuring the convention achieves its participatory goals and produces relevant recommendations. At this stage, facilitators and organizers are responsible for providing comprehensive and easily understood information to all participants, ensuring that participation is substantive and not merely symbolic.¹²

The second stage is the participant selection process, which can be done through various methods such as:

1. Random selection: Ensuring fair and inclusive representation of society.
2. Representation based on interest groups: For example, civil society organizations, minority groups, or certain professionals.

¹¹ A Farhani, "Public Participation in Legislation in Indonesia According to the Syura Concept" (Disertasi, Universitas Islam Negeri Ar-Raniry, 2024).

¹² Nur Jamaluddin, "Perbandingan Partisipasi Rakyat Dalam Pembentukan Dan Perubahan Konstitusi Indonesia, Thailand, Dan Afrika Selatan."

3. Combination of methods: Combining randomization and formal representation to maintain a balance between objectivity and strategic interests.

Once participants are identified, the next stage is information delivery and orientation. Participants are provided with materials on the issues to be discussed, relevant regulations, and the constitutional principles underlying the policy. This process is crucial to ensure all participants have a sufficient understanding, leading to a more productive and rational discussion. Material is often delivered through expert presentations, panel discussions, and interactive learning modules.

The fourth stage is public deliberation, the core of the convention mechanism. In this stage, participants discuss in a structured forum to explore various perspectives, present arguments, and consider policy implications. Deliberations are typically divided into small groups and plenary sessions to allow all voices to be heard. The primary goal of this process is to reach consensus or at least refine the most representative input to become policy recommendations.

Some important principles in the deliberation stage include:

1. Inclusivity: All groups in society have the opportunity to participate.
2. Transparency: The deliberation process and documentation of the results are publicly accessible.
3. Information balance: All participants have equal access to relevant data and analysis.
4. Neutral facilitation: The facilitator is tasked with keeping the process objective and impartial.¹³

The fifth stage is the development of recommendations. After deliberation, the results of the discussions are compiled into a systematic document containing recommendations, policy priorities, and constitutional considerations. This document is then submitted to policymakers as official input. The recommendations from the convention have strategic value because they originate from a participatory process involving multiple perspectives, thereby enhancing the legitimacy and quality of policies.

The final stage is evaluation and follow-up. Evaluation includes assessing the effectiveness of the convention, the level of participation, and the impact of recommendations on policy. Follow-up is crucial to ensure that public input extends beyond the document and actually influences the decision-making process. In some countries, this mechanism is complemented by feedback forums, publication of convention outcomes, and monitoring of the implementation of recommendations.¹⁴

Overall, the mechanisms and processes of public participation conventions demonstrate complexity, but also great potential for improving the quality of

¹³ Mokoagow, "Abusive Law Making (Analisis Penurunan Partisipasi Publik Dalam Proses Pembentukan Undang-Undang)."

¹⁴ Mokoagow, "Abusive Law Making (Analisis Penurunan Partisipasi Publik Dalam Proses Pembentukan Undang-Undang)."

constitutional democracy. By following clear stages and prioritizing the principles of inclusivity, transparency, and rational deliberation, conventions can become strategic instruments for integrating public aspirations into public policy. This mechanism model can also be adapted to suit national contexts, so that public participation is not merely a formality but a genuine contribution to the legitimacy and effectiveness of constitutional policy.¹⁵

Case Studies of Best Practices of Public Participation Conventions in Various Countries

The analysis of best practices case studies provides a concrete illustration of how public participation conventions can be effectively applied in the context of constitutional policymaking. These case studies are important because they demonstrate success factors, challenges, and innovative participatory mechanisms that can be adapted in other countries. The primary focus of the case studies is to understand practices that successfully foster substantive citizen engagement, generate relevant recommendations, and enhance policy legitimacy.¹⁶

One widely studied example of best practice comes from Ireland, where a constitutional convention was established to address sensitive issues such as civil rights and same-sex marriage. The Irish process involved randomly selected participants representing the population, legal experts, and government representatives. The convention's results then formed the basis for official recommendations submitted to a national referendum. The convention's success was demonstrated by the high level of participation, the quality of deliberation, and the legitimacy of the results, widely accepted by the public.

Another case study comes from Canada, which implemented a citizens' assembly model to discuss electoral system reform. This model emphasized in-depth discussions in small groups and plenary sessions, the provision of comprehensive information by experts, and independent facilitation to maintain the neutrality of the process. The assembly's results served as official guidance for legislators and significantly influenced reform policy. This approach demonstrates that a structured deliberative mechanism can produce rational and widely accepted recommendations.

Additionally, in Australia, public conventions apply to environmental and spatial planning issues. Some best practices in Australia include:¹⁷

¹⁵ Buana and Vikalista, "Public Participation in Ex-Ante and Ex-Post Preventive Supervision of Legislation."

¹⁶ Sarah Moore, "Digital Government, Public Participation and Service Transformation: The Impact of Virtual Courts," *Policy & Politics* 47, no. 3 (2019): 495–509, <https://doi.org/10.1332/030557319X15586039367509>.

¹⁷ Ran Hirschl and Alexander Hudson, "A Fair Process Matters: The Relationship between Public Participation and Constitutional Legitimacy," *Law & Social Inquiry* 49, no. 4 (2024): 2074–101, <https://doi.org/10.1017/lsi.2023.82>; Igor A. Kravets, "Deliberative Popular Constitutionalism and Constitutional Changes: Forms, Procedures and Technologies in Comparative Constitutional Theory and Practice," *Gosudarstvo i Pravo*, no. 12 (2023): 48,

1. The use of digital technology to expand the participation of people who find it difficult to be physically present.
2. Multi-stakeholder engagement including local governments, NGOs, and indigenous community groups.
3. Complete and public documentation of deliberation results, so that transparency is maintained.
4. Clear follow-up from the government to ensure public recommendations are implemented.

In the European Union, the European Citizens' Panels also serve as an example of best practice in a supranational context. This mechanism allows citizens from different member states to discuss and provide input on common policies, such as climate change or migration. The mechanism's distinctive features are:

1. Inclusivity across countries and cultures.
2. An information-based discussion prepared by a panel of experts.
3. Recommendations that influence EU political and regulatory decisions.

A comparative analysis of various case studies reveals several key success factors:¹⁸

1. Thorough planning: Includes determining strategic issues, allocating resources, and selecting participants.
2. Independent facilitation: Maintaining neutrality and smooth deliberation.
3. Process transparency: The public can access information, agendas, and deliberation results.
4. Participant representativeness: A combination of randomization and representativeness of specific groups.
5. Clear follow-up: Convention outcomes are integrated into real policies.

However, the case studies also highlight challenges that require attention. Some common obstacles include: limited time for deliberation, differences in participants' political literacy levels, the risk of politicization, and uncertainty about the implementation of convention outcomes. These challenges emphasize that the success of public participation conventions depends not only on their formal design but also on government commitment, community readiness, and the quality of facilitation.

Overall, the best practices case studies confirm that public participation conventions can improve the quality of constitutional policy if designed with inclusive, deliberative, and transparent principles. This analysis of international practices provides concrete guidance for other countries seeking to develop similar mechanisms, including an emphasis on public education, fair representation, and the integration of deliberation outcomes into decision-making. These best practices demonstrate that

<https://doi.org/10.31857/S102694520029375-3>; 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>.

¹⁸ Arrafi Bima Guswara and Ali Imran Nasution, "Dinamika Konstitusionalitas Undang-Undang Cipta Kerja Pasca Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020 Dan 54/PUU-XXI/2023," *JURNAL USM LAW REVIEW* 6, no. 3 (2023): 1052–72, <https://doi.org/10.26623/julr.v6i3.7844>.

participatory democracy can be implemented in practice, not merely in theory, and has the potential to substantially strengthen policy legitimacy and citizen engagement.

Evaluation and Recommendations for the Development of Public Participation Conventions in Indonesia

Evaluations of public participation convention practices in Indonesia demonstrate significant potential, but also face a number of challenges that need to be addressed. Public conventions in Indonesia have not been fully integrated into the constitutional policymaking process, resulting in limited or insignificant public input on final decisions. Several factors influencing the effectiveness of conventions include the government's readiness to accept input, public understanding of constitutional issues, and the facilitator's capacity to manage complex deliberative processes.¹⁹

In practice, evaluations show that public engagement in Indonesia still tends to be symbolic, for example through consultation forums that rarely accommodate substantive differences of opinion. Furthermore, participant representativeness is a critical issue, as most public forums are still dominated by specific groups or citizens with greater access to information and resources. Limited access to technology and information also poses a significant barrier to participation by citizens from remote areas or marginalized groups.

Based on international experience and evaluation of local practices, several strategic recommendations can be provided for developing public participation conventions in Indonesia:

1. Strategic issue planning: The government needs to identify relevant and far-reaching constitutional issues to be discussed in the convention.
2. Representative participant selection: Combining randomization methods and interest group representation so that the convention results reflect the views of the wider community.
3. Facilitator capacity building: Independent and trained facilitators are essential to maintain the neutrality and quality of deliberation.
4. Transparency of the process: All stages of the convention, from the agenda to the recommendations, must be publicly accessible to increase legitimacy.
5. Use of digital technology: Online platforms can expand the participation of citizens who cannot be physically present, thereby increasing inclusivity.²⁰
6. Integration of convention outcomes into policy: The resulting recommendations must have clear follow-up mechanisms so that public input truly influences policy.

¹⁹ A Baskoro, "Transformation of Legislation Quality: Regulatory Sandbox as a Means of Public Participation and Evaluation in the Formation of Legislation," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 13, no. 3 (2024).

²⁰ Samsiah Nelly, "Partisipasi Masyarakat Dalam Proses Pembuatan Kebijakan Publik," *Jurnal Sociopolitico* 6, no. 1 (2024): 86–94.

7. Public education: Political education programs and the dissemination of easy-to-understand information are necessary so that citizens can participate substantively.
8. Ongoing monitoring and evaluation: The convention process needs to be evaluated periodically to assess its effectiveness, quality of deliberation, and policy impact.²¹

Furthermore, the development of public participation conventions in Indonesia must take into account the political and social cultural context. Indonesian society has diverse cultures, languages, and varying levels of political literacy, so participation mechanisms must be flexible and adaptive. Multichannel approaches, a combination of face-to-face and online, as well as small forums and plenaries, can be used to ensure all voices are heard and valued.

Furthermore, collaboration between government, academics, and civil society organizations is essential. This cooperation can support the development of relevant materials, professional facilitation, and monitoring of the implementation of the convention's recommendations. The involvement of various parties also enhances the credibility and legitimacy of the process, making the convention's outcomes more readily accepted by the wider public and policymakers.

Overall, the development of public participation conventions in Indonesia must emphasize inclusive, transparent, and deliberative principles. Systematic implementation of recommendations, supported by facilitator capacity, public education, and digital technology, can strengthen participatory democracy and the legitimacy of constitutional policies. With this approach, public conventions become more than just formalities, but a tangible instrument for aligning policies with public aspirations.

Comparison of Public Participation in Constitutional Policy Formation: A Case Study of Japan and South Africa

Public participation in constitutional policy formation constitutes a critical indicator of democratic depth and constitutional legitimacy. The extent to which citizens are meaningfully involved in shaping constitutional norms reflects not only procedural openness but also the normative commitment of a constitutional system to democratic self-government.²² A comparative examination of Japan and South Africa reveals two distinct models of public participation that, while grounded in different

²¹ Natasya Putri Aulia et al., "Transformasi Public Hearing Di Indonesia : Peningkatan Partisipasi Publik Melalui E-Legislati Berbasis Kontrak Sosial Guna Mewujudkan Responsibilitas Kelembagaan Di Era 5.0," *Jurnal Restorasi Hukum* 8, no. 1 (2025): 49–72, <https://doi.org/10.14421/sc9wq661>.

²² Tofigh Maboudi and Ghazal P. Nadi, "From Public Participation to Constitutional Legitimacy: Evidence from Tunisia," *Political Research Quarterly* 75, no. 2 (2022): 441–57, <https://doi.org/10.1177/10659129211014279>.

political and historical contexts, offer valuable insights into how constitutional policymaking can balance efficiency, inclusivity, and legitimacy.

In Japan, public participation in constitutional policymaking is characterized by a structured and formalized approach embedded within administrative and legislative procedures. Public input is typically solicited through government-organized consultation forums, parliamentary committee hearings, and online submission mechanisms. Draft constitutional policies or proposed amendments are made publicly available, enabling citizens to provide written comments within defined timeframes. This model reflects a consultative conception of participation, where public engagement informs policymaking without displacing the legislature's ultimate decision-making authority.²³ Complementing these mechanisms, the Japanese government places strong emphasis on public education through official publications, seminars, and explanatory materials aimed at enhancing citizens' understanding of complex constitutional issues.

The principal strength of the Japanese model lies in its procedural regularity and informational clarity. Structured consultations facilitate the collection of focused and technically relevant input, thereby enhancing policy coherence and administrative efficiency.²⁴ However, this model has also attracted criticism for its limited inclusiveness. Participation tends to be dominated by individuals with higher levels of political literacy and institutional access, resulting in uneven representation and the marginalization of less organized or less informed social groups. As a consequence, public participation risks becoming formally inclusive yet substantively narrow.

By contrast, South Africa's approach to public participation in constitutional policymaking is grounded in an explicitly inclusive and consensus-oriented democratic ethos. The constitutional reform process culminating in the 1996 Constitution exemplifies this model, involving extensive community consultations, public hearings, and deliberative engagements across both urban and rural areas.²⁵ Participation was facilitated through mass media campaigns, community radio, and face-to-face meetings, ensuring accessibility across linguistic, geographic, and socio-economic divides. Civil society organizations and non-governmental actors played a pivotal role in mobilizing participation and mediating dialogue between citizens and political institutions.

This participatory architecture positions public involvement not merely as consultative but as constitutive of constitutional legitimacy. Constitutional outcomes in South Africa derive normative authority from the breadth and depth of deliberation

²³ Hiro Saito, "The Developmental State and Public Participation: The Case of Energy Policy-Making in Post-Fukushima Japan," *Science, Technology, & Human Values* 46, no. 1 (2021): 139–65, <https://doi.org/10.1177/0162243920905000>.

²⁴ Olha Zyhrii et al., "Law and Technology: The Impact of Innovations on the Legal System and Its Regulation," *Social Legal Studios* 6, no. 4 (2023): 267–75, <https://doi.org/10.32518/sals4.2023.267>.

²⁵ Cristina Murray, "A Constitutional Beginning: Making South Africa's Final Constitution," *University of Arkansas at Little Rock Law Review* 23, no. 3 (2001).

that precedes them, with final decisions reflecting negotiated consensus among government actors, political parties, and society at large.²⁶ Nevertheless, this inclusivity comes at a cost. The process is resource-intensive and time-consuming, requiring sustained institutional commitment and significant financial and organizational capacity. These demands may pose challenges for constitutional systems operating under constraints of time, stability, or administrative resources.

A comparative analysis of Japan and South Africa thus highlights a fundamental tension between structural efficiency and democratic inclusiveness in constitutional participation. Japan's model prioritizes procedural order, expertise, and efficiency, whereas South Africa emphasizes representation, deliberation, and social inclusion. In Japan, communities primarily function as sources of input within predefined institutional channels, while in South Africa they actively shape constitutional outcomes through sustained engagement. Neither model is normatively complete in isolation; each reflects trade-offs inherent in constitutional design.

Accordingly, this comparison suggests that no single model of public participation offers a definitive solution for constitutional policymaking. A hybrid approach that combines Japan's structured consultation mechanisms and emphasis on public education with South Africa's inclusive and deliberative practices may constitute a normative best practice. Such an integrative model would enhance both the quality and legitimacy of constitutional policy by ensuring informed participation while preserving broad social representation, thereby strengthening democratic constitutional governance in diverse contexts.

Conclusion

Public participation conventions have proven to be an effective mechanism for enhancing legitimacy, inclusiveness, and quality in constitutional policymaking. Analysis of international best practices shows that the success of a convention depends on clear planning, balanced participant representation, transparent deliberations, competent facilitation, and systematic follow-up of recommendations. In Indonesia, while there is significant potential for adopting this mechanism, challenges such as limited public understanding, gaps in access, and the symbolic nature of participation need to be addressed. With proper implementation, public participation conventions can bridge the relationship between government and society, making constitutional policy more responsive to public aspirations.

To strengthen public participation in constitutional policymaking in Indonesia, it is recommended to implement a structured public convention that combines inclusive participant selection methods, professional facilitation, a transparent process,

²⁶ Novendri Nggilu et al., "Can Crowdsourcing Revolutionize Constitutional Amendments in Indonesia? A Comparative Study of International Experiences," *Indonesian State Law Review* 8, no. 1 (2025): 35–57, <https://doi.org/10.15294/islrev.v8i1.20618>; Novendri M, Nggilu et al., "Indonesian Constitutional Amendment 4.0 Era: Main Challenges and Future Prospect," *Journal of Legal, Ethical and Regulatory Issues* 23, no. Special Issue (2020).

and clear follow-up mechanisms. Utilizing digital platforms can broaden participation, while public education programs can enhance citizens' understanding of constitutional issues. Furthermore, collaboration between government, academia, and civil society is crucial to ensure the convention process is credible, deliberative, and has a real impact. By implementing these practices, Indonesia can strengthen participatory democracy and produce constitutional policies that substantially reflect the aspirations of the people.

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