

Adequacy of Public Information for Meaningful E-Participation in Policy-Making: Human Rights-Based

Inna Junaenah

Faculty of Law, Universitas Padjadjaran, Indonesia

Email: inna.junaenah@unpad.ac.id

Abd Shukor Mohd Yunus

Universiti Teknologi MARA, Malaysia

Email: shux.yunus@gmail.com

Normawati Hashim

Universiti Teknologi MARA, Malaysia

Email: nwati.hashim@gmail.com

Abstract

Within the first two years of COVID-19's exposure, countries around the world mitigated, among other things, social mobility control, resulting in other limitations on fundamental rights, such as freedom of movement and peaceful assembly. Within the rights restrictions, the desire of citizens to satisfy their desire for information and exercise their right to free expression was insatiable. The authors argue that citizens deserve access to sufficient information in order for them to have a meaningful right to participate. At the same time, electronic means can be an additional feature to channel public participation in policy-making. Regrettably, the primary platform adopted in Human Rights laws in operationalizing the right to participate in public affairs remains minimal to coexist meaningful e-participation embarked on the adequacy of the right to information based on Human Rights (HR) standards. This study aims to answer how a justification for meaningful e-participation in law-making can be defined. It also queries which framework can provide sufficient public information based on a rights-based approach. The study leverages the convention of civil and political rights (ICCPR) as the primary legal instrument for a qualitative doctrinal approach. The study suggests that adequate information should be in one package with e-participation to optimize the enjoyment of the right to participate in policy-making.

Keywords: *Law-Making, meaningful e-Participation, Right-Based, Right to Information*

I. INTRODUCTION

The United Nations has reported that countries worldwide have responded to the COVID-19 outbreak in various ways, one of which is by providing digital data. The

UN also differentiated the online information for 2018 and 2020 by sector.¹ Based on such surveys, various countries provided archived information, from large to minor sectors, in health, education, labor, social protection, and the environment, while new imposing data in the justice sector increased.² It emphasizes that electronic service delivery information has been more significantly incorporated and is necessary. In support of such a presentation, UNESCO contends that adequate information can help ‘Save Lives, Build Trust, and Bring Hope’ in response to the global health crisis.

In contrast, this approach was not reflected when the Indonesian Government withheld information without adopting reasoning linked to handling the coronavirus (COVID-19). In an attempt to prevent panic, it is believed that not all information can be shared with the public. Regardless of the practical impact caused by this concealed information, Herlambang Wiratraman suggests this situation is inconsistent with Article 28F of the 1945 Constitution of the Republic of Indonesia and Law Number 14/2008 regulating Public Information Openness.³ Such a sample and the necessity for adequate information lead to the argument that the States should indulge in adequate digital infrastructure to secure the public’s right to information (RTI), particularly in anticipation of potential problems during health crises.⁴

At the same time, mobility control was unavoidable to justify the response in dealing with virus exposure.⁵ It impacted people’s fundamental rights, such as freedom of movement and peaceful assembly, which are largely restricted.⁶ Ironically, as seen by Human Rights Watch, at least 83 governments used the COVID-19 disaster as an excuse to rationalize violating citizens’ freedom of expression and peaceful assembly in response to issues other than health concerns.⁷ Assaulting, detaining, prosecuting, and sometimes killing critics; dispersing peaceful protests; shutting down news outlets are just a few ways the apparatus repressed a wide range of other activities. In parallel, several Governments enacted ambiguous laws that stigmatized speech they claimed was harmful to public health. Governments, guided by a narrative of social distance, have neglected to engage in the more robust face-to-face participatory process traditionally associated with law-making. Participation has obtained some denial, while civic rooms experienced were pressed worldwide.⁸

1 *E-Government Survey (Full Report)*, by United_Nations (2020).

2 *Ibid.*

3 Herlambang Perdana Wiratraman, “Does Indonesian COVID-19 Emergency Law Secure Rule of Law and Human Rights?” (2020) 4:1 *J Southeast Asian Hum Rights* 306.

4 *The Right to Information in Times of Crisis : II . The Right to Information During a Health Emergency*, by UNESCO (Paris, 2020).

5 Suliman A Gargoum & Ali S Gargoum, “Limiting Mobility During COVID-19, When and to What Level? An international Comparative Study Using Change Point Analysis” (2021) 20:July 2020 *J Transp Heal* 101019, online: <<https://doi.org/10.1016/j.jth.2021.101019>>.

6 HRW, “Covid-19 Triggers Wave of Free Speech Abuse”, *Hum Rights Watch* (February 2021), online: <<https://www.hrw.org/news/2021/02/11/covid-19-triggers-wave-free-speech-abuse> Accessed on 25 June 2021>.

7 *Ibid.*

8 United_Nations, *supra* note 1.

Three allied institutions⁹ identified that 112 countries declared emergency conditions, 62 countries treated the measures affecting expressions, 156 countries took the measures affecting assembly, and 62 countries reflected means which affect privacy.¹⁰ The report concludes that the Government's responses to the pandemic, focusing on emergency laws, affect civic freedoms and human rights.¹¹ Such a situation is viewed as resistance to transparency and accountability principles, which should allow broader society to channel their goals as a sort of influence over the Government's actions to develop laws and regulations.¹²

Governments have employed multiple means to suppress media and social media exposure regarding the pandemic condition. They threatened critics with repression using pre-pandemic techniques. They used legislation and other methods to prosecute those who spread false information about public health or other matters that the Government deemed inappropriate.¹³ Similarly, the struggle for public engagement and academic freedom has increased tremendously in recent years, as disclosed in countries such as Indonesia, Brazil, Thailand, and Hungary.¹⁴ Also, in Malaysia, reduced opportunities to engage in rule-making were exacerbated by the declaration of a national emergency on January 11, 2021, which lasted seven months. The declaration allowed former Prime Minister Muhyiddin Yassin access to Malaysia's parliament and political interference while reserving extra state powers.¹⁵

Many countries maintain a parliamentary session during the legislative-making process. In many cases, the process is conferred by the officer in charge, whereas Governments have used the crisis to pass broad emergency laws, rule by decree, and suspend constitutional principles.¹⁶ In Indonesia, for example, Job Creation Law (JC Law) No. 6 of 2020¹⁷ used the omnibus bill approach through a quick procedure, and the thousands-page law only took from April 2 to October 5, 2020 to be passed.¹⁸

9 International Center for Not for Profit Law, European Center for Not-for-Profit Law, and UN-Human Rights Special Procedures, see in *COVID-19 Civic Freedom Tracker*, by ICNL (2020).

10 *Ibid.*

11 *Ibid.*

12 Ikhwanudin & Retnowati WD Tuti, "Implementation of Public Participation in the Establishment of Rules of Laws and Regulations in Legislature the House of Representatives of the Republic of Indonesia During the Covid 19 Pandemic" (2021) 5:2 Jhss (Journal Humanit Soc Stud 190-197 at 193).

13 HRW, *supra* note 6.

14 Daniel Munier, "Repression of Indonesia's Higher Education Community Threatens Future Progress", (2022), online: *Sch Risks Netw* <<https://www.scholarsatrisk.org/2022/05/repression-of-indonesias-higher-education-community-threatens-future-progress/>>.

15 anonymous BBCNews, "Malaysia declares Covid state of emergency amid political challenges", (2021), online: *BBC News Asia* <<https://www.bbc.com/news/55625448>>.

16 Mr Clément Voule, "States Responses to Covid 19 Threat Should not Halt Freedoms of Assembly and Association? - UN Expert on the Rights to Freedoms of Peaceful Assembly and of Association, Mr. Clément Voule", *OHCHR* (14 April 2020), online: <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25788&LangID=E>>. Accessed on 25 June 2021>.

17 Dimas Jarot Bayu, "Draf RUU Omnibus Law Ibu Kota Negara Rampung, Hanya Ada 30 Pasal", *katadata.co.id* (19 February 2020), online: <<https://katadata.co.id/agustiyanti/berita/5e9a495b77b32/draf-ruu-omnibus-law-ibu-kota-negara-rampung-hanya-ada-30-pasal>>.

18 <https://www.dpr.go.id/uu/detail/id/442>

In establishing such a law by amending 82 laws grouped into eleven categories, insufficient participatory measures have been undertaken.¹⁹ Omnibus bills, like the JC Law 2020, are frequently rushed through working groups with less scrutiny than standard methods. Indeed, Kruts notes impactful indications on omnibus bill enactment; individual legislators, on the other hand, are rarely aware of the specifics because they would “take it or leave it.” Through a formal judicial review, the Constitutional Court ruled that the JC Law was conditionally unconstitutional in Verdict No. 91/PUU-XVIII/2020.²⁰ Somehow, the Government re-enact the JC Law by justification in the revision of the Legislation Making Law No. 12 of 2011 through the Law No. 13 of 2022; The second sample of the rapid legislation-making process, which was proposed between February 2, 2022 and come into force on June 16 2022. The third sample is the Capital City Law (UU *Ibu Kota Negara-IKN*) No. 3 of 2022, which went through the law-making process only from November 3, 2021 to January 18, 2022.²¹

Despite being subject to such prohibitions that are legalized due to the State’s policies, the situation could not evidently undermine the freedom to express one’s voice, as they shifted from physical attendance to virtual methods. Although these rights have been constrained, various webinars and viral social media discourses discussed public reactions to this policy-making process. It is impossible to forestall the desire of citizens to satisfy people’s inquisitiveness with access to information and the right to free expression. An example of this argument may be necessary to highlight this point. In March 2020, Janine C Hacker et al. collected approximately 3 million tweets revealing people’s use of web-conferencing systems (WCS), including Zoom, during the COVID-19 crisis. According to Hacker et al., due to COVID-19 mitigation efforts, WCS flourished as a social technology that enabled access to various tasks and contacts that had earlier been “locked away.”²² Such issues explain why, when advocating for women’s rights, Mr. Guterres encourages global cooperation, specifically meaningful involvement, to include equal and full involvement in the discussion, peacebuilding, and political developments as countries progress toward peace.²³

Boosting public information, as seen, does not always ensure freedom of expression can safeguard increasing participation in policy-making on its own. The

19 RH/JR, “PP Turunan UUCK Terkait Tata Ruang dan Pertanahan Saling Terkait”, online: *Kementeri Agrar dan Tata Ruang/ Badan Pertanah Nas* <<https://www.atrbpn.go.id/?menu=baca&kd=P9q3KhTQgfsX4zmoosTWDkemodQJgFan6RFDbjfcFYF1u1NWD6v+98FCB0LebrXf>>.

20 *Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020*, [2020] Mahkamah Konstitusi Republik Indonesia 1–327.

21 DPR-RI, “RUU Ibu Kota Negara”, (2022), online: *Progr Legis Nas* <<https://www.dpr.go.id/uu/detail/id/368>>.

22 Janine Hacker et al, “Virtually in this together-how web-conferencing systems enabled a new virtual togetherness during the COVID-19 crisis” (2020) 29:5 *Eur J Inf Syst* 563–584, online: <<https://doi.org/10.1080/0960085X.2020.1814680>>.

23 António Guterres, “Remarks by Secretary-General António Guterres at the UN Security Council Open Debate on Women, Peace and Security. Thursday, 21 October 2021”, (2021), online: *UN-Women* <<https://www.unwomen.org/en/news/stories/2021/10/speech-sg-guterres-security-council-open-debate-on-women-peace-and-security>>.

RTI and the right to participate (RTP), as two interdependent political rights, should work in tandem to ensure adequate information and meaningful participation in policy-making, particularly in parliamentary acts. Therefore, this study interchangeably uses the term “policy” in referring to the policy broadly and legislation-making as the primary focus.

P.C. Enwereji and D.E. Uwizeyimana describe how electronic media can be used to supplement a variety of participation methods in strengthening democracy and for marginalized and vulnerable groups.²⁴ Isnenningtyas Yulianti and Nurrahman Aji Utomo, studying Toraja and Bali, are involved in the person with disabilities situation, which can be aggravated in indigenous society to dampen their participation chances.²⁵ UNFPA also prioritizes women’s participation because their social roles place them in a privileged position to impact the planning and implementation of initiatives significantly. UNFPA urges residents to be vigilant and to share their knowledge to detect the beginning of an outbreak and improve their health conditions.²⁶ Nonetheless, these reports fall short of outlining the necessity of adequate information to uphold their campaign.

The other writings also endorse the RTI, whose primary mission is to enable communities to participate and is promoted throughout these works. In their work, Sougato Baroi and Shawkat Alam underline a sample from Bangladesh’s Right to Information Act of 2009 (the RTI Act) to increase the public’s access to information. As a result, accountability and the empowerment of citizens to participate in decision-making that shapes the socio-economic lives of people could emerge.²⁷ However, most of their concern is focused more on the factors that skip accessibility of information; thus, they do not make this concern a consistent priority in their approach to human rights. It is essential to take note of Alessandra Spadaro, who promotes that governments should take Human Rights Law into account to diminish the effects of the COVID-19 pandemic.²⁸ However, the RTI and RTP in decision-making linkage are barely explained in the right to engage in decision-making. Where applicable, promoting enhanced health information tethered by health crisis mitigation falls short of establishing how people can exercise their freedom of expression by channeling their comments into policy formulation. Therefore, it is important to consider several fundamental concepts and theories that can assist this

24 PC Enwereji & DE Uwizeyimana, “Enhancing Democracy Through Public Participation Process During Covid-19 Pandemic: a Review” (2021) 18:4 *GenD Behav Abstract*, online: <<https://www.ajol.info/index.php/gab/article/view/203457>>.

25 Isnenningtyas Yulianti & Nurrahman Aji Utomo, “Unraveling Disability Participation in Indigenous Peoples” (2019) 3:2 *J Southeast Asian Hum Rights* 360–376.

26 *Covid-19: a Gender Lens Protecting Sexual and Reproductive Health and Rights, and Promoting Gender Equality*, by UNFPA (Bangladesh, 2020).

27 Harold Sougato Baroi & Shawkat Alam, “Can an Open Access Approach be the Solution to Better Implementation of the Right to Information Act in Bangladesh?” (2018) 19:1 *Asia Pacific J Hum Rights Law* 45–68, online: <<https://researchers.mq.edu.au/en/publications/can-an-open-access-approach-be-the-solution-to-better-implementation>>.

28 Alessandra Spadaro, “COVID-19: Testing the Limits of Human Rights” (2020) 11:2 *Eur J Risk Regul* 317–325, online: <<file:///C:/Users/User/Downloads/covid-19-testing-the-limits-of-human-rights.pdf>> at 324–325.

study in developing a molded framework on the right to information adequacy for meaningful e-participation in policy-making from the HR perspective.

A policy should be based on good governance doctrines such as transparency and participation, even if it takes the form of a decree and legislation. In this point, participation is an essential component of democracy and a manifestation of the right to participate in public affairs, as recognized by international human rights law. For e-participation in policy-making to be meaningful, information must be adequate and based on human rights norms.

Overall, few studies have been conducted to narrowly apply the Human Rights-Based Approach (HRBA) to the combination of RTI and RTP in policy-making. In the absence of the availability to redirect and manage the response to information, we assert that a insufficient quality of information connotes an incomplete fulfillment of the RTI's standards.

We argue that adequate information can make e-participation in policy-making meaningful as those features are alignment factors to urge e-governance. The physical distance propagated during the outbreak can no longer be used to vindicate rushing legislation-making, as any layout of meetings can become manageable. It aims to answer the query based on meaningful e-participation in law-making. In addition, this study intends to develop meaningful e-participation in policy-making base on HR standards and then further shape its combination with the critical need for adequate public information. Since not every policy is formulated in legislation, this study emphasizes legislation-making to enhance the impact on public participation in its decision-making process by gaining and channelling information through electronic media.

It is noticeable that the exposure of information during the production of laws and regulations can offer the public access to information to stimulate and share political education in the formulation thereof.²⁹ In the new adaptation aftermath of the COVID-19 pandemic, effective e-participation in legislation may increase public confidence in policy-making and implementation. We also argue that inadequate public information will hinder awareness of public participation. In other words, if meaningful public participation is not achieved, it will undermine. Therefore, this study is significant as it can address such concerns. Due to a lack of public engagement, some program managers and policymakers will receive minimal input from recipients. This situation, in turn, can undermine the program's effectiveness and sustainability. It is not surprising that Magdalena Sepúlveda believes that involvement ensures social cohesiveness and generates political support for programs.³⁰ Therefore, the study contributes as a basic guideline for information providers and the same responsibility for facilitating agency of public participation to develop a systematic protocol in transferring public involvement in policy-making.

29 Ikhwanudin & Tuti, *supra* note 12 at 196.

30 Magdalena Sepúlveda, "The Rights-Based Approach to Social Protection in Latin America From Rhetoric to Practice." (2014) Soc Polit Ser at 29.

As a practical matter, this study employed a qualitative doctrinal method to comprehend the law or its relationship to other legal rules or concepts.³¹ Consequently, the primary source of analysis will be the human rights instrument, with the ICCPR and its implementing norms and guidelines as a yardstick. Documents such as judicial decisions and articles written by legal scholars are included in this material, which is considered authoritative in the legal field.³² Several reports are also considered, primarily in several Southeast Asia (SEA) countries, highlighting the status of legal recognition to guarantee the RTI in fostering meaningful e-participation.

The authors outline this report into four major parts. The initial part is the introduction entailing the background, review of the previous studies, research questions, and significance of the study. The following part introduces the Human Rights-based (HRB) standard to the RTI, shaped by benchmarking meaningful e-participation in policy-making. Afterward, the study discusses public information adequacy for meaningful e-participation in policy-making, integrated into the phases of “Before,” “During,” and “After” decision-making of a policy. The last part wraps the discussion with the conclusion.

II. HR-B STANDARDIZATION TO THE RIGHT TO INFORMATION

1. Participatory Policy-Making

The terminology “policy” has a broad definition that encompasses the principles guiding government activity, as well as a broad application in legislation, regulation, and administrative procedure.³³ Policy-making is defined in this study as any norms guiding public behavior that impact public life and hence attain legitimacy. For the majority of the cases, it exists in the form of primary law or a parliamentary Act. During the Covid 19 pandemic, the conditions impacted numerous government measures by releasing numerous decrees in reaction to cases. Still, the parliament function should have passed the policy substance to some extent. Even when it is present, the parliament constellation and consensus in countries around the world show a government circle but rarely an opposition ring. Such a setting might decrease democracy by the signal of so-called “legal autocrats,” as reported in countries such as Venezuela, Poland, Hungary, and Russia, which have orchestrated democracy and

31 Mark Van Hoecke, “Legal Doctrine: Which Method(s) for What Kind of Discipline?” in Mark Van Hoecke & François Ost, eds, *Eur Acad Leg Theory Monogr Ser* (Oxford, Portland, Oregon: Hart Publishing, 2011) 10 at 7.

32 Emma Smith & Jr Smith Jr, *Using Secondary Data in Educational and Social Research* (UK: McGraw-Hill Education (UK), 2008) at 11.

33 *Policy making*, by Christoph Knill & Jale Tosun, Working Paper 01/2008 (Konstanz, 2008).

law methods to destroy both.³⁴ The trend began almost before the global lockdown policies.

A public policy must seek public participation to fulfill democratic character in ensuring that interaction between representatives and their constituents is built beyond legislative representation. Public engagement is vital to the inclusive multilateralism needed for 21st-century global governance.³⁵ Chen Jim of Tsinghua University's Research Center emphasized that the approach should be blended with social justice so that progressions are implemented not only for elite firms and developed countries, but also for less developed regions.³⁶ The process attempts to explore the new normal and reconsider global innovation trends, prospects, and complexities in the post-COVID-19 era, as well as to energize strategic thinking and explore opportunities to promote innovation and sustainability. Beside this, due to the decline in cases after the identification of the Delta and Omicron Variants, movement restrictions are gradually becoming less rigid.

Lindgren and T. Persson complement the participatory-governance strategy, which encourages greater involvement of consolidated interests in policy-making and can promote enlightened comprehension. It is opined that while the amount of information received by any person or individuals varies, all parties may have equal and adequate access to related information.³⁷ It makes perfect sense since organizations can assist to make policy subject matters more transparent and accessible to their associates.³⁸ According to Lindgren and T Persson, the need for influential understanding is associated with the goal of ensuring that all citizens have equal and adequate opportunities to make unbiased decisions on critical political issues.

2. RTI and RTP: HR-B

In democratic societies, it is widely acknowledged that citizens have the right to be sufficiently informed to participate in the Government effectively. It follows that access to certain information, which satisfies the RTI, is a prerequisite for democracy, i.e., government transparency and accountability.³⁹ Ainul Jaria Maidin argues, similarly to McDonagh, that providing the public with all pertinent information empowers them to participate, whether they might prepare objections or not. A rights-based strategy necessitates that defined participation mechanisms go through a

34 Kim Lane Scheppele, "Legal autocrats are on the rise. They use constitution and democracy to destroy both", *ThePrint* (10 December 2019) Opinion, online: <<https://theprint.in/opinion/legal-autocrats-are-on-the-rise-they-use-constitution-and-democracy-to-destroy-both/332799/>>.

35 United Nations, *supra* note 1.

36 UN, "New Webinar Series Explores the Role of Creativity and Innovation in the Post-COVID New Normal", *United Nation* (2021), online: <<https://www.un.org/en/academic-impact/new-webinar-series-explores-role-creativity-and-innovation-post-covid-new-normal>>.

37 Karl-Oskar Lindgren & Thomas Persson, "Opportunities for Participation and Access to Information: Adequate and Equal?" in *Particip Gov EU* (Springer, 2011) 66 at 67.

38 *Ibid.*

39 Maeve McDonagh, "The Right to Information in International Human Rights Law" (2013) 13:1 *Hum Rights Law Rev* 25-55 at 53.

social protection initiative cycle, from design to evaluation.⁴⁰ Thanks to Sepúlveda, it is explained that the UN-High Commissioner for Human Rights (HCHR) differs between the right to participate in public affairs in an electoral and a non-electoral context, shedding light on the right to participate in policy-making.⁴¹ The criterion is derived from the ICCPR, the General Comments for Article 25 CPR, the Human Rights indicator, and the Office of the United Nations High Commissioner for Human Rights (OHCHR) guidelines.

a. ICCPR

Article 19.2 acknowledges the right to obtain, receive, and deliver thoughts and knowledge in any form, regardless of national boundaries, in written and verbal or printed expression, in a work of art, or via any other medium of one's choosing. The ICCPR stipulates that the substance of the RTI is to build freedom of expression for everyone. The OHCHR recognizes that the RTI has two aspects, i.e., it is both a human right within its own right and a tool that enables individuals to assert other human rights. The 1946 UN-General Assembly Resolution 59(1) promotes information freedom as a fundamental human right and the foundation for all of the other liberties to which the United Nations is committed.⁴²

This study emphasizes “everyone” as the right holder, which must be inferred as any human being, regardless of their status as a state citizen. It also requires a broader interpretation of the means of expression to ensure that sign language for individuals with disabilities is included in addition to oral and written information channels. The modern interpretation of the OHCHR is also valuable. It highlights the idea that the RTI applies to the creation and distribution of official data, regardless of if they are using administrative publicity or more advanced statistical applications. Because of this, official statisticians are very important to the RTI and other human rights.⁴³

Distinguished from Article 3 on the right to free elections, Optional Protocol No. 1 to the ICCPR allows for exploratory democracy while acknowledging the right to participate in public socio-economic rights, even if multi-policy-making impacts livelihood. It is one of the subjects that may be proposed and discussed in policy-making in conjunction with socioeconomics. On the other hand, the General Comments for Article 25 of the ICCPR strengthen the loophole regarding the right to participate in non-electoral contexts distinct from electoral practice. These ideas are incorporated into the guidelines for integrating the right to participate in public affairs.⁴⁴

If the legislation specifies explicitly, legitimate exclusions are possible for publicly available official information. Aside from that, the UHCHR wants official

40 *Ibid* at 38.

41 Magdalena Sepúlveda, *The Rights-Based Approach to Social Protection in Latin America From Rhetoric to Practice*, social pol ed (Santiago, Chile, 2014) at 21.

42 UNOHCHR, *Human Rights Indicators: A Guide to Measurement* (2012) at 47.

43 *Ibid*.

44 *Guidelines for States on the effective Implementation of the Right to Participate in Public Affairs A/HRC/39/28*, by UN-OHCHR (2018).

information to be easy to find and understand so that people can take part in making decisions and support other human rights.⁴⁵ It is admissible to impose limitations on the rights guaranteed by Article 19.2. Conversely, a public health emergency does not justify weakening democratic practices.

Maeve McDonagh investigates the conceptual underpinnings of the United Nations High Commissioner for Human Rights. Among his analyses, the study stated that the right to information is an intrinsic-fundamental right recognized by the ICCPR and is adjacent to the enjoyment of all other rights.⁴⁶ International human rights instruments must be interpreted in dynamic, liberal, evolutionary, progressive, and comparative mindsets. The RTI is a constitutional right with a political nature and a pivotal role in safeguarding democracy.⁴⁷

It is helpful to borrow the context of business law emphasized throughout Section 1125 of Title 11 of the United States Code. According to this Section, adequate information craves a) information of a kind, b) sufficient detail, and c) reasonably practicable.⁴⁸ Article 11(a)(1) also enables society, or those affected by the proposed law, to prepare their behavior and actions in response thereto. The minimum requirement for a person to participate in the decision-making process is access to adequate information, which these three characteristics satisfy. This priceless investment appears identical to what is commonly known as “enlightened understanding,” which Lindgren and T. Persson advocate.⁴⁹

Along with accessing information and channeling participation electronically, information communication technology (ICT) utilization is highly accessible. Walton considers that the technological and political paradigms are in place for citizens to meaningfully participate in governance, which may be deemed a sustainable direct democracy in the modern sense.⁵⁰ The electronic method allows technical effort to achieve a condition for meaningful participation. In this matter, the Constitutional Court of the Republic of Indonesia contributes to emphasizing “the right to be heard,” “the right to be considered,” and “the right to be explained,” which shall be opened to allow meaningful participation in legislative decision-making.⁵¹

Due to the challenges posed by a large population, Sweden argues that technology can connect people over long distances, whereas today’s world makes diversity more visible than ever.⁵² Moreover, as seen by Walton, technology enables

45 UNOHCHR, *supra* note 42 at 47.

46 McDonagh, *supra* note 39 at 53.

47 Roy Peled & Yoram Rabin, “The Constitutional Right to Information” (2011) 42 *Columbia Human Rights Law Rev* 357-378.

48 11_USCode_§1125, “11 U.S. Code § 1125 - Postpetition Disclosure and Solicitation”, online: *Leg Inst* <https://www.law.cornell.edu/uscode/text/11/1125#a_1>.

49 Lindgren & Persson, *supra* note 37.

50 Douglas C Walton, “Is Modern Information Technology Enabling the Evolution of a More Direct Democracy?” (2007) 63:5-6 *World Futures* 365-385.

51 2020 *Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020*, *supra* note 20.

52 Hope Sweeden, “Technology and The Social Contract: Is a Direct Democracy Possible Today?” (2013) 7:3 *Susquehanna Univ Polit Rev*, online: <https://scholarlycommons.susqu.edu/supr/vol7/iss1/3?utm_source=scholarlycommons.susqu.edu%2Fsupr%2Fvol7%2Fiss1%2F3&utm_medium=PDF&utm_campaign=PDFCoverPages%0A>.

any actor to analyze current patterns, look back at historical data, and determine the likelihood of specific outcomes.⁵³ Those arguments inspire optimism that a direct democracy by segmented agenda-setting is possible even in physical distance circumstances.

b. General Comment

In the General Comment (GC) on ICCPR No. 10 (GCCPR No. 10) at 2, it is obvious that not all States Parties have provided exhaustive information on all aspects of freedom of expression, as required by Article 19.2. of the ICCPR. In paragraph 3, for instance, insufficient attentiveness has laid to the fact that, due to the development of contemporary mass media, adequate safeguards are required to avoid media control that would infringe on everyone's right to freedom of speech.⁵⁴

It is also vital to comprehend General Comment No. 34 on Article 19 of the ICCPR (GCCPR No. 34), regarding maintaining freedom of speech and expression. Paragraph 2 of the GCCPR No. 34 highlights that regardless of how the information is arranged, public institutions must provide access to their credibility and production schedule.⁵⁵ Noting the public bodies, paragraph 7 of such a GC contains the executive, legislative, and judicial divisions of the State's organs at any level (national, regional, or municipal) and any public or governmental units that can be employed in the State party's obligation output.⁵⁶ Additionally, Paragraph 18 underlines that the designation of such units may include other agencies when those entities are performing a public role.

Paragraph 18 brings up the access to information rights, which includes the media's access to information (ATI) on public issues. Everyone must also ascertain whether state officials, private individuals, or entities control or have access to personal data. In the case that an individual's records contain misleading personal information or were compiled or maintained in violation of the law, that individual should have the ability to have their records revised. In addition, paragraph 18 refers to Article 27, which states that any judgment by a State Party which might have a profound effect on the culture and life of a minority group must be made after sharing relevant information and consulting with those affected.⁵⁷

In an equivalent subheading under GC 34, paragraph 19 urges States Parties to attach government information of interest to the public in the public sphere to adhere to the right of access to information. It requires searching for ways to ensure that such information can be accessed in an "easy, prompt, effective, and practical manner".⁵⁸

⁵³ Walton, *supra* note 50.

⁵⁴ UN_HRC, "CCPR General Comment No. 10: Article 19 (Freedom of Opinion), 29 June 1983", (1983), online: <<https://www.refworld.org/docid/453883f80.html>>.

⁵⁵ UN_HRC, "General Comment No. 34, Article 19, Freedoms of Opinion and Expression, 12 September 2011, CCPR/C/GC/34", (2011), online: *Gen comment No 34 Artic 19* <<https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>>.

⁵⁶ *Ibid*.

⁵⁷ *Ibid* at Para 18.

⁵⁸ UN_HRC, *supra* note 55.

A legal requirement appears essential to guarantee the availability of procedures whereby anyone can obtain information, for instance, by enacting freedom of information legislation. The processes should ensure that inquiries are handled expeditiously and following Covenant-compliant guidelines. Fees for requesting information should not be excessive to produce an unjustifiable barrier to access. Any denial of access to information by authorities must be justified. Refusals to grant access to information and failings to respond to requests must be provided to be appealed.⁵⁹

The RTI is linked in several different ways throughout paragraphs 18 and 19. Prior to that, it is vital to acknowledge the UN-General Comments on the right to participate in public affairs. As defined in paragraph 5, the management of public affairs is an all-encompassing concept that includes responsibilities in the legislative, executive, and administrative branches. It incorporates a wide range of government administration and formulating and implementing policies on all levels, including global, national, regional, and local.⁶⁰

The UN-General Comment concerning the two related rights covers a significant scope of interpretations, as was intended. First, the information produced by the State's Organs pertains to every authority. The legislative body provides information to the general public in an effort to elicit feedback during the drafting of a proposed bill. Second, adequate information is a *condition sine qua non* and a legal obligation for the state authorities to allow public consultation for those who will be affected by the State's decision. Third, sufficient information following General Comment No. 10 is characterized by 1) simple, 2) prompt, 3) effective, and 4) practical access in the context of a legal procedure. When a case's refusal to provide information hinders a person from participating in policy-making, an appeals process should be provided.⁶¹

c. HR Indicators

The UN-OHCHR provided a detailed guidebook in 2012 in response to the rising need to enhance an actor's capacity to implement human rights.⁶² The instructional system classifies HR indicators into the following three categories: structural, process, and outcome.⁶³ The right to freedom of opinion and expression, which includes the RTI, is not an exception to this right. It may accentuate the structural aspect, inspiring legislation that guarantees related rights. At the same time, this is a matter that should ideally arise in conjunction with the ratification of the relevant international treaties.

Moreover, it endorses the use of information technology to ensure people's access to information. The process aspect stipulated that the proportion offered by government information disclosed by the media, as well as an investigation and

⁵⁹ *Ibid* at Para 19.

⁶⁰ UN_HRC, "General Comment No. 25: the Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service (Art. 25), UN Doc. CCPR/C/21/Rev", (1996), online: <<https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>>.

⁶¹ UN_HRC, *supra* note 54.

⁶² UNOHCHR, *supra* note 42 at iv.

⁶³ *Ibid*.

adjudication protocol, must be made available to the public.⁶⁴ The human rights-based approach asserts the need for common measures to seek and support restitution in the event of a violation or denial of rights, particularly by invoking the right to remedy, due process, and knowledge.⁶⁵ Ultimately, the outcome factors the desire for information equality for everyone, including those with lingual barriers.⁶⁶

d. Human Rights-Based (HRB)

The guideline developed by the United Nations Population Fund (UNFPA) can also be systematically associated. It suggests conducting an instrumental examination that is unique, necessary, and specific in order to ascertain whether a human rights-based approach (HRBA) is present, as defined by the following:

1. Human rights expectations of rights holders and associated human rights liabilities of duty-bearers are outlined, followed by the prompt, inherent, and systemic drivers of the non-realization of rights;
2. Examining the capacities of right holders to demand their rights and responsibility bearers to meet their obligations, followed by the development of a program to invent measures of improving these competencies;
3. Monitoring and evaluating outcomes and processes derived from human rights principles and standards; and
4. The recommendations of international human rights institutions and mechanisms supply the groundwork for broad programs and initiatives.⁶⁷

The above HRB standard is generalized. On a national scale, an HRBA may be considered and applied if it is framed by legal designations and entitlements, institutional capacity, monitoring and evaluation, and attribution of international norms, proposals, and mechanisms incorporated in the programs. To confirm such a combination, a certainty of rules is required, which permits primarily consistent, equal protection of the acclaimed rights. The need for civil and political rights, especially the RTI and RTP, may complete its contextuality.

On January 10, 2022, the OHCHR released a report concerning freedom of opinion and expression. In ensuring the respect for and protection of the right to access information, which should be incorporated into national normative frameworks for promoting its accessibility maintained by public agencies, OHCHR recommends various items that may be considered HRB standards for RTI.⁶⁸ The standards can be perceived as a) legal recognition of the RTI, b) Attainable

64 UNOHCHR, *supra* note 42.

65 *Ibid* at 13.

66 *Ibid* at 97.

67 UNFPA, *A Human Rights-Based Approach to Programming: Practical Implementation Manual and Training Material* at pp 8-11.

68 Report No. 55. *Freedom of opinion and expression: Report of the Office of the United Nations High Commissioner for Human Rights*, by UNGA (2022).

information procedure equally and inclusively, c) Complaint mechanism, d) Publicity activism, e) Capacity building of public agencies, and d) Optimizing ICT for information accessibility.

a) *Legal recognition on the RTI.* The first standard requires certainty of legislation protecting the designation of the right to information. Similarly, Magdalena Sepúlveda views the legal and institutional framework as critical to the human rights orientation.⁶⁹ Through legal recognition, the respected rights entitlements require elaborated formulations of right holders and duty bearers in a relevant legal and institutional setting. Where a restriction is necessary, it must adhere to legality, importance, and proportionality and prohibit discrimination standards.⁷⁰ In Southeast Asia, only Thailand, Indonesia, and Viet Nam, recorded in 2018, have a law constituting the RTI.⁷¹ Cited from Article19.org Report, these regional States are grouped into several statuses.

Table 1: Southeast Asia Countries’ Legal Status of RTI Law

No.	Countries	Countries with a right to information law	Countries with a pending right-to-information bill or initiative	Countries with no right to information law or initiative/No information available
1	Thailand	Official Information Act (1999)		
2	Indonesia	Public Interest Disclosure Act (2008)		
3	Viet Nam	Law on Access to Information (2016)		
4	Malaysia		The new Government has committed to adopting RTI law but retaining the Official Secrets Act (2018). Laws adopted in 2 provinces.	
5	Philippines		Executive Order on Freedom of Information (2016). FOI Bill pending in Congress for over ten years.	
6	Timor Leste		Decree-Law N. 43/2016 of October 14 on Rules Relating to Access to Official Documents	
7	Cambodia		Bill on access to information currently being considered by Government.	
8	Singapore			No known law or Bill
9	Brunei Darussalam			No known law or Bill
10	Myanmar			No information in the report
11	Lao People’s Democratic Republic			No known law or Bill

Source: Article19.org⁷²

69 Sepúlveda, *supra* note 30 at 19.

70 Report No. 55a. UNGA, *supra* note 68.

71 *The Right to Information Around the World*, by Article19Org.

72 Transparency, “Right to Know Day 2018: Progress on information access around the world”, (2018), online: *Article19.org* <<https://www.article19.org/resources/right-to-know-day-2018-progress-on-information-access-around-the-world/>>.

To keep in mind, the status of legal availability regulating public information may select specific countries to be noted. Even among those selected, only Thailand and Indonesia are sufficiently fair to be assessed regarding implementations and impacts since, according to Habib Zafarullah and Noore Alam Siddiquee, their laws have been implemented for more than ten years.⁷³ In addition to enshrining the right to access public information in its constitution, Indonesia is recognized as a leader in RTI legislation. It has developed profound access and enforcement of those laws.⁷⁴ Thailand, even earlier, in 1997, adopted a similar law. Such a selective focus would delineate the others to be touched. For instance, Singapore is barely perfect to be considered as the benchmark of this case.

Nevertheless, as reported by the UN, several aspects demonstrated by Singapore, which will later be mentioned, are leading. Overall, the SEA countries show a vigorous portrait. Therefore, the study results can be further insight for legal improvement, reform, and implementation of SEA countries.

- b) *Attainable information procedures equally and inclusively.*⁷⁵ This standard is crucial to legal recognition. This is because there is a possibility that discriminatory treatment may impede public service accessibility, allegedly due to the Government being dominated by political forces.⁷⁶ In Indonesia, even political parties are subject to RTI law.⁷⁷ Unfortunately, information generally is not sufficiently available in a proactive manner, mainly because of ineffective information management systems. In addition, the other alleged cause is a gap in capacities and skills within public bodies, which corresponds to the concern of standard e) capacity building of public agencies.⁷⁸ Similarly, Thai RTI legislation imposes hardly any penalties on authorities that fail to reveal information.⁷⁹ Under this standard, a legal framework shall avoid all prohibition that extends to any forms of discrimination, either direct or indirect. It attempts to include any action that, even when not intended to discriminate, has the effect of disregarding or impeding the equal recognition, satisfaction, or exercise of rights.⁸⁰ However, in Indonesia, the provisions also impose penalties on persons using the information in contravention, by which the legislation is gravely limiting their constitutionally protected right to access information.⁸¹ Further, the importance of a well-defined procedure is as significant as safeguarding the right to participate, which will be further proposed in another section.

73 Habib Zafarullah & Noore Alam Siddiquee, "Open government and the right to information: Implications for transparency and accountability in Asia" (2021) *Public Adm Dev* pad.1944, online: <<https://onlinelibrary.wiley.com/doi/10.1002/pad.1944>> at 2.

74 *Asia Disclosed: A Review of the Right to Information across Asia*, by Article 19 (2015) at 7, 10.

75 Report No. 55b. UNGA, *supra* note 68.

76 Fadillah Putra & M Faishal Aminuddin, "Democracy and Social Policy in Southeast Asia: A Comparative Process Tracing Analysis" (2020) *Democracy*:5 Putra, Fadillah, M Faishal Amin 2.

77 Article 19, *supra* note 74 at 10.

78 *Ibid.*

79 Zafarullah & Siddiquee, *supra* note 73 at 8.

80 Sepúlveda, *supra* note 30 at 21.

81 Article 19, *supra* note 74 at 8.

- c) *Complaint mechanism*.⁸² One can understand that this standard is typical in the Rule of Law as the essential aspect of the rights-based approach in empowering individuals to assert the adequate protection of their rights and to hold public officials accountable for mistakes, abuse, or mismanagement.⁸³ Both Indonesia and Thailand provide both internal and external appeals procedures.⁸⁴
- d) *Publicity activism*.⁸⁵ This phrase is not initially labeled by the UN. Regardless, the idea is that States should assertively disclose information in the public interest, in an accessible format, continuously.⁸⁶ Transparency and information accessibility are also essential factors of accountability to eliminate corruption, abuse, mishandling, and political manipulation.⁸⁷
- e) *Capacity building of public agencies*.⁸⁸ This standard enables the venture to ensure that conditionalities (co-responsibilities) may avoid violating rights. The insertion of conditionalities frequently intensifies power imbalances between the beneficiary population and the program authorities, while simultaneously increasing the likelihood of abuse by agents responsible for enforcing the compliance of program administrators.⁸⁹ Nevertheless, it is concluded in Indonesia that RTI has not altered the ethos of many officials, who frequently linger hesitantly or refuse to provide information without attributing the law to justify their rejection.⁹⁰
- f) *Optimizing information communication technology (ICT) for information accessibility*.⁹¹ Recently, the criticalness of ICT has become more apparent. It is acknowledgeable that Indonesia and Thailand are beyond the world average in this matter.⁹² Nonetheless, Thailand demonstrates a paradox, as it excels in 'government effectiveness' while maintaining a poor track record in accountability.⁹³ In contrast, as mentioned earlier, that although Singapore is observed without RTI laws, its performance in maintaining an Online Service Index (OSI) is leading in the SEA sub-region. The UN appreciates in the 2022 report, that Singapore is outstanding, surpassing the world, regional, and sub-regional averages. Covering OSI as part of the e-Government Development Index (EGDI), Singapore obtained the highest position in 2022 among SEA countries, followed by Malaysia, Thailand, Brunei Darussalam, and Indonesia.⁹⁴

Interestingly, the UN method embeds e-participation, one of the OSI components, and includes the OSI as part of EGDI. Consistently, those three aspects gain Singapore the fourth position on the E-participation Index (EPI) after Japan, Australia, and Estonia. This profile inspires future research on how this country

82 Report No. 55c. UNGA, *supra* note 68.

83 Sepúlveda, *supra* note 30 at 31.

84 Zafarullah & Siddiquee, *supra* note 73.

85 Report No. 55d. UNGA, *supra* note 68.

86 Report No. 55d. *Ibid.*

87 Sepúlveda, *supra* note 30 at 30.

88 Report No. 55e. UNGA, *supra* note 68.

89 Sepúlveda, *supra* note 30 at 27.

90 Zafarullah & Siddiquee, *supra* note 73 at 7.

91 Report No. 55f. UNGA, *supra* note 68.

92 *2022 Online Service Index Table*, by UN_E-Government (2022).

93 Zafarullah & Siddiquee, *supra* note 73 at 9.

94 *The 2022 e-Government Development Index: Southeast Asia*, by UN (2022).

legitimizes its progressive policy and management without a specific parliamentary RTI act. Such a question would be relevant if Singapore, since post-2018, remained in a similar regulatory status.

It is a common understanding that any population-impacting program, policy, or strategy must embrace the right of both individuals and groups to make decisions that affect them.⁹⁵ This condition suggests that the pandemic is not an excuse to disregard the State's duty to develop a consolidated, controlled, transparent, participative, non-discriminatory, and responsible policy platform.⁹⁶ To alleviate the effects of emergencies, this should include policies and processes for reporting the actual conditions in line with the notion of transparency.⁹⁷ Incorporating those standards into the RTI satisfaction, integrated with the right to participate in policy-making, is a novel aspect of this approach.

Human rights necessitate an integrated strategy since they are interrelated, indivisible, and mutually reinforcing.⁹⁸ Polarisation or a lack of coherence across programs, participants, and government levels responsible for executing social policies will increase the risk that a particular policy will be unsuccessful and that the poor classes rights will be ignored.⁹⁹ The legal framework must also consider the principles of equality and non-discrimination. Besides, an exhaustive, coherent, and synchronized social protection strategy requires, in addition to the empowerment of individuals, the building of capacity to support the competence of duty bearers.

Additionally, monitoring and assessment may support apparatus and government units in performing their accountability and facilitating access to redress, remedies/claims, and reparations for those affected. It must also guarantee that RTI and RTP, as particular forms of CPR, will not be violated or denied. Participation and information are also bundled together. Therefore, a mechanism for filing complaints is required when rights are violated. Consequently, the fourth standard is significant. The attempt to attribute international norms, recommendations, mechanisms, and initiatives is remarkable in guaranteeing transparency, access to information, and prolonged participation. All in all, HRBA standards, as above-discussed, can endorse why an establishment of meaningful E-Participation in policy-making is critical.

By the above elaboration and samples, it is challenging to value that there is a benchmarking country(s) in the Southeast Asia (SEA) region that is fully satisfying the adequacy of public information in achieving meaningful e-participation characterized by Human Rights Law. Despite several countries adopting RTI laws, it is visible that several countries hardly meet international standards, including Thailand, which needs to update their respective law.¹⁰⁰ The SEA countries that remain, with executive decrees and regulations in ruling RTI issues, are also flawed from an HR law and

95 Sepúlveda, *supra* note 30 at 29.

96 Evyta Rosiyanti Ramadhani & Savira Anggraeni, "The Uncertainty of the Right to Health in Indonesia during Covid-19 Pandemic" (2022) 6:1 J Southeast Asian Hum Rights 55-71 at 67.

97 *Ibid.*

98 Sepúlveda, *supra* note 30 at 20.

99 *Ibid.*

100 Article 19, *supra* note 74 at 7.

constitutional perspective. It is grounded in paragraph 7 of the General Comment of CPR No. 34, regarding a suggestion on the responsibility of all power branches in State organizations to provide adequate public information.¹⁰¹ It would barely make sense if an executive branch stipulates other power branches, such as legislative and judicial institutions, to do so. Moreover, it is hard to indicate the State's intention to comply with international HR norms when the specific law is absent.

This article focuses on defining meaningful e-participation in law-making, making it difficult to determine a benchmark country. Based on prior results, a framework can only be provided by constructing adequate public information into a flow of e-participation. As adequate information enables society to practice the right to participation, an intent to develop legal reform may be complemented and embarked on by building a meaningful definition of e-participation in policy-making.

3. Establishing Meaningful E-participation in Policy-making

This section defines meaningful e-participation in policy-making as a composite of meaningful participation, e-participation, and policy-making elements. Various discourses emerge to shape what meaningful participation entails. Lindgren and Persson, for example, propose a package of effective participation strategies that could be realized if all communities had an equal and abundant voice on critical political issues.¹⁰² Fundamentally, the Constitutional Court of the Republic of Indonesia (CCRI) standardizes meaningful participation in parliamentary legislation to examine whether it fulfills the weighing scale. It must meet the prerequisite conditions of "right to be heard," "right to be considered," and "right to be explained."¹⁰³ These rights must be accessible, particularly to those directly affected by, or concerned about, the discussed Bill.¹⁰⁴ Sarah Jacob's purpose for meaningful participation is not only for private but also for public interest in the practice. As a result, it necessitates people's participation prior to establishing agendas, defining some guarantees that citizens' views will influence decision-making.¹⁰⁵ It explicates why participation should be viewed as multiple interactions between citizens and other interested parties for resulting decisions.¹⁰⁶ With this in mind, Innes and Booher anticipate that the twenty-first century will strengthen the call for an alternative practice framework, forums, and arenas, as well as adjusted agency decision-making processes, training, and financial support for public participation design.¹⁰⁷

101 UN_HRC, *supra* note 55.

102 Lindgren & Persson, *supra* note 37.

103 2020 *Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020*, *supra* note 20 at 393.

104 *Ibid.*

105 S M Jacobs, "It Takes More than a Village: Community Economic Development Clinics as a Mechanism for Meaningful Public Participation in an Adversarial Planning Landscape" (2013) *Conn Pub Int LJ*, online: <https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/cpilj13§ion=14> at 321-324.

106 Judith E Innes & David E Booher, "Reframing public participation: Strategies for the 21st century" (2004) 5:4 *Plan Theory Pract* 419-436.

107 *Ibid.*

The United Nations promotes E-Participation to promote civic engagement and open, participatory governance to undergo the use of information and communication technology (ICTs) by utilizing an electronic medium to sustain meaningful participation.¹⁰⁸ Its motive is to make information and public services easily accessible while encouraging community participation in policy-making and the empowerment of ordinary citizens. Derived from a supplement to the UN E-Government Survey, online services may offer three dimensions of sharing government public information, including ‘e-information sharing,’ ‘e-consultation,’ and ‘e-decision-making.’

- i. “*e-information sharing*.” Alinaghi Ziaee Bigdeli, Muhammad Mustafa Kamal, and Sergio De Cesare perceive that governmental organizations recognize the necessity of transforming their government operations to improve the efficacy and efficiency of their interactions with their people. The use of ICT to promote the sharing of government information in a networked environment is one of the initiatives undertaken, mainly to improve efficiency.¹⁰⁹
- ii. “*e-consultation*.” In addressing democratic decline, Samuel Oni et al. concludes that governments around the world are embracing ICT tools to improve citizen consultation in the public policy-making process.¹¹⁰ It is understood why Putra & M. Faishal Aminuddin believe that meaningful e-participation can reduce the risk of prejudice when society seeks to contribute to the policy-making process.¹¹¹
- iii. “*e-decision-making*.” The application of ICTs is intended to improve citizen participation in government decision-making.¹¹²

Those above dimensions are seen as interrelated. Citizen engagement is viable through e-information sharing, providing citizens with publicly accessible information, and on-or-off or on-demand access to information. E-consultation enables people to get involved in debates and services regarding public policies. E-decision-making empowers individuals by allowing them to contribute to the formulation of policy alternatives and be the founder of service components and delivery systems. Nonetheless, the probability that the survey report will contribute to e-information influencing the policy decision-making process remains limited. In other words, it will not exemplify the scope of electronic participation in policy-making. Despite this, the Index encourages nations to increase informational sufficiency as a prerequisite for e-participation.

108 UN, “E-Participation Index”, (2021), online: *Dep Econ Soc Aff Public Institutions, United Nations* <<https://publicadministration.un.org/egovkb/en-us/About/Overview/E-Participation-Index>>.

109 Alinaghi Ziaee Bigdeli, Muhammad Mustafa Kamal & Sergio De Cesare, “Electronic information sharing in local government authorities: Factors influencing the decision-making process” (2013) 33:5 *Int J Inf Manage* 816–830, online: <<http://dx.doi.org/10.1016/j.ijinfomgt.2013.05.008>> at 816.

110 Samuel Oni et al, *E-consultation and the quest for inclusive governance in Nigeria* (2020) at 1.

111 Putra & M. Faishal Aminuddin, *supra* note 76.

112 IGI Global, “What is E-Decision Making”, online: *IGI Glob Publ* <<https://www.igi-global.com/dictionary/e-decision-making/42406>>.

In the policy-making discourse, the reconciliation and elaboration of aspirational values into operational directives for society's daily life are described. Presently, the difference involving agenda-setting, policy design, decision-making, execution, and evaluation, culminating in termination, has become the accepted manner of describing the sequence of a policy process.¹¹³ Therefore, a policy process introduced by Werner Jann & Kai Wegrich can be remarkable, as it shows a systematic flow.

- a. *"Agenda setting."* The issue is placed on the agenda for prevalent action discussion (agenda-setting). The agenda consists of a list of themes or issues to which government officials and those closely affiliated with them from outside the Government have a concern.¹¹⁴
- b. *"Policy formulation."* The establishment and adoption of a policy entails the definition of policy objectives and the forethought of possible courses of action.¹¹⁵
- c. *"Decision-making."* Efforts to improve governance procedures by providing approaches and instruments for more rational decision-making have significantly impacted the design of policies.¹¹⁶
- d. *"Implementation"* refers to the process of executing or enforcing a policy by competent institutions and organizations, which are typically, but not always, public sector entities.¹¹⁷
- e. *"Evaluation."* Policy evaluation begins with the plausible normative reasoning that policy-making should ultimately be evaluated against desired objectives and effects.¹¹⁸ Evaluations can result in various policy-learning patterns, with varying implications for feedback systems and the potential restarting of policy-making process.¹¹⁹

These steps reflect that policy is constructed logically in response to the perceived problem.¹²⁰ In considering the aforementioned approach, meaningful participation in policy-making can be constructed as the means of creating community representatives, where the entire process from planning to an evaluation of the legislation and policymaking-using information technology through certain expressed assurances that popular opinion will influence decisions.

113 Werner Jann & Kai Wegrich, *Theories of the policy cycle, Handbook of public policy analysis: Theory, politics, and methods* (Boca Raton London New York: Taylor & Francis Group, LLC, 2007) at 43.

114 *Ibid* at 45.

115 *Ibid* at 48.

116 *Ibid*.

117 *Ibid* at 52.

118 *Ibid* at 53.

119 *Ibid* at 54.

120 *Understanding Policymaking in Indonesia: In search of a Policy Cycle*, by Emma Blomkamp et al, no June (2017).

III. PUBLIC INFORMATION ADEQUACY FOR MEANINGFUL E-PARTICIPATION IN POLICY-MAKING

When shaping the HRBA standard regarding attainable equal and inclusive information procedures, as mentioned earlier,¹²¹ it is noticeable that the importance of a well-defined procedure is as significant as safeguarding the right to participate. In other words, possessing the RTI adequacy requirement above would be incomplete without applying the standard of the right to participate. The reason is that RTI is a human right and a tool for participation. Therefore, it is essential to apply the guidelines to the RTP flow. The guideline conceptualizes the phases of public participation as follows: ii) before, ii) during, and iii) after decision-making. As stated previously, the frame shares particular features of Blomkamp's sequential steps.¹²²

1. "Before" Decision-Making

The primary objective of the 'Before' phase is to ensure that all participants have equal access to sufficient, readable, and affordable information and comprehend the agenda-setting process, including the concept or draught to be debated. According to the initial premise, a related issue is the indicator of enlightened understanding, which necessitates that all community members have equal and sufficient opportunities to discover and validate their preferences on significant political issues.¹²³ The sharing of information may vary by group.¹²⁴ The four components of the HR benchmark (ratification, recognition, evaluation, and remedies-R2ER) to the RTP will be promising if a regulatory framework recognizes the right.¹²⁵ Ratification of the pertaining international human rights law implies that the State Party intends to comply with it and is willing to be subject to mutual international monitoring and evaluation. The information must include the agenda setting, the concept or draught to be deliberated, and the sequence of events. The draught should be accessible on any digital service in the office, from which the agency would release the policy. The information needed shall include, among other things, the virtue and timeline of decision-making, the subject matter to be discussed, online meeting platforms, the identity of the agency responsible for making the decision, and conduct guidelines.¹²⁶

Defining who can speak or represent in the dialogue must be legitimized unless it ought to be open to all participants. The public meeting, consultation timing, and location must be legible, audible, and visible. Additionally, the public streamed through various channels to general information complemented with a digital form for the viewers to check a box if they can afford and easily comprehend the Government's planned Bill of proposed Act. It contains the supporting data and rationale for the policy. As stated previously, 11 US Code 1125 specifies that

121 Report No. 55b. UNGA, *supra* note 68.

122 Blomkamp et al, *supra* note 120 at 6.

123 K-O Lindgren & T Persson, *Opportunities for Participation and Access to Information: Adequate and Equal?* (2011) at 17.

124 *Ibid.*

125 *Guidelines for States on the Effective Implementation of The Right to Participate in Public Affairs*, by UNGA (2018) at 13-17.

126 UNGA, *supra* note 125.

sufficient information is marked by a) information of a kind, b) sufficient detail, and c) practicability. Such quality and availability could satisfy the adequacy of information of a particular type and ensure that the policy is reasonably executable. In *Társaság A Szabadságjogokért v. Hungary* (European Court of Human Rights, April 14, 2009), the court concluded that an administrative constraint could hamper the right to access information of interest of the people.¹²⁷ The case suggests that lesser administrative challenges will contribute to the nature of being reasonably practicable.

2. During Decision-Making

Facilitating departments or authorities must ensure that participants effectively participate in an impartial and accessible meeting, are well-informed, and have the appropriate circumstances and timetable to contribute to their discussion goals. To ensure that information is well-received by persons with disabilities and vulnerable groups, it is necessary to provide all needed arrangements.¹²⁸ The During-phase necessitates an updated writing draught and inclusive, transparent criteria for invited participants.

To enforce e-participation, digital platform sessions must be adapted. The ICT usage pattern is also influenced by citizen participation found in the EU's Governance of new technologies.¹²⁹ The condition which is also undeniable is that the pandemic worsens the societal crisis, necessitating a more robust implementation of RTI. It is also advantageous to address these challenges with the support of various media resources that allow access to information for individuals with special needs, the illiterate, and the disabled.¹³⁰ To ensure that information is appropriately absorbed and wishes are captured, it is necessary to provide all requisite equitable equipment for people with disabilities and disadvantaged people. Completing the right to participate through adequate information satisfaction enables society to be fulfilled in terms of the right to be heard and considered, as previously propagated by the Constitutional Court in Indonesia.¹³¹

3. After Decision-Making

In the After-phase, adequate information is also necessary. It includes, again, the RTI regarding the decided policy. Besides, adequate information shall be provided regarding the information on the premises and explanations for decisions, feedback archives, and advance notice of processes so that rights holders can access administrative and judicial assistance and review mechanisms.¹³² Participants should have access to the material, the rationale for the choice taken following the discussion, and an explanation for why their input was not considered. McDonagh argues that

127 *Társaság A Szabadságjogokért V Hungary*, 2009.

128 UNGA, *supra* note 125 at 13-17.

129 Mark L Flear & Anastasia Vakulenko, "A human rights perspective on citizen participation in the EU's governance of new technologies" (2010) 10:4 Hum Rights Law Rev 661-688.

130 UNESCO, *supra* note 4.

131 2020 *Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020*, *supra* note 20.

132 UNGA, *supra* note 125.

the access to information law must recognize the role of access in facilitating control. Otherwise, the case would happen as in *Claude v. Chile* (The September 19, 2006 Judgment), in which the Inter-American Human Rights Court assessed that the applicant's competence to participate in social supervision of democratic governance was hampered by a shortage of access to the materials required.¹³³ Participants and society shall be provided with information about how a complaint and review system through a judicial and administrative process could be made accessible.¹³⁴ Accessible legislative litigation and virtual court proceedings must be publicized on the official site and in internet media. Satisfying adequate information electronically to disseminate the policy decision enables the completion of the right to be explained.¹³⁵

The other side of the condition reminds the authors that it is barely easy to generalize HRBA as adopted from the international Human Rights treaties. In their work from 2014, James Gomez and Robin Ramcharan concluded that each SEA state has different ways of following and interpreting universal HR norms. Besides, a shared impression of fundamental human rights values is not always plausible reasoning. Such a divergence is overwhelmed by an elucidation that Southeast Asia "will to differ."¹³⁶ However, the hidden intention to satisfy the combination of RTI and RTP through the other narrative, such as online information service and e-participation, is evident. To keep performing ventures in framing adequate information along integrating into the flow of meaningful e-participation in policy-making is promising to standardize human rights along with the contemporary digital realm.

IV. CONCLUSION

Protection and freedoms of speech, voice, aspiration, association, and assembly are utilized as a tool for civil society to contribute input into the legislative process.¹³⁷ This study finds that the importance of meaningful e-participation in law-making is justified by the Human Rights-Based standard, the use of ICTs, and the policy-making process. As mentioned previously, the concept of meaningful public e-participation has already emphasized the public's capacity to influence ICT decision-making. Through the study, e-participation is extracted as meaningful when the use of ICT is leveraged to adopt HR standards into the steps of public engagement. The justification is combined with the reasons why e-participation merits practical application in light of the recent global, civil, and political rights exercise. HR-B standards have pointed out that participation and adequate information are types of political rights and, in parallel, instrumental to assert other rights, as promoted by Magdalena Sepúlveda.¹³⁸

133 McDonagh, *supra* note 39 at 54; *Claude-Reyes et al v Chile*, [2006] 2006 Judgment (Merits & Reparations) .

134 UNGA, *supra* note 125.

135 2020 *Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020*, *supra* note 20.

136 James Gomez & Robin Ramcharan, "Democracy and Human Rights in Southeast Asia" (2014) 33:3 *J Curr Southeast Asian Aff* 3-17, online: <<https://doi.org/10.1177/186810341403300301>>.

137 Ikhwanudin & Tuti, *supra* note 12 at 196.

138 Sepúlveda, *supra* note 30 at 19.

The study also answered which framework can provide sufficient public information based on the rights approach. In ensuring meaningful e-public participation in policy-making, the HRBA concedes the manifestation of adequate public information to be integrated into the *before, during, and after decision-making* stages. The primary goal of the ‘Before’ stage is to ensure that all people who participated have equitable access to sufficient, legible, and affordable information, an understanding of the agenda-setting process, and the concept or issue to be debated before decision-making is established. Responsible agencies or authorities must safeguard the “During” stage by guaranteeing that participants are effectively engaged in an unbiased and accessible session, well-informed, and have the necessary circumstances and timeframe to contribute to the discussion aims. Fulfilling the right to participate by providing enough information allows society to be satisfied with the right to be heard and considered. Besides dissemination, legislative disputes and virtual court procedures must be made available on the official website and online. This is because providing adequate information electronically at the “After” decision-making stage allows the completion of the right to be explained.

Dragging the phases of policy-making outlined by Jann & Wegrich,¹³⁹ agenda setting and policy formulation can be categorized as “Before” Decision-Making. At the same time, Decision-Making itself has its own category. Implementation and evaluation can be developed further as part of “After” Decision-Making. For the lessons learned, the Covid-19 pandemic invigorates democratic proponents to improve their ability to adapt public participation in policy-making. Being embarked by the norms in the ICCPR, meaningful e-participation suggested hybrid or enhanced formats of public consultation without abandoning traditional means of channeling citizens’ desires. This short study remains minimal, touching on entire and single-by-single countries in Southeast Asia, especially regarding which State showed best practices in satisfying its obligation to provide adequate public information in achieving meaningful e-participation. Therefore, the conceptual recommendation of this study can motivate future research to be applied in certain SEA countries.

BIBLIOGRAPHY

11_USCode_§1125, “11 U.S. Code § 1125 - Postpetition Disclosure and Solicitation”, online: Leg Inf Inst <https://www.law.cornell.edu/uscode/text/11/1125#a_1>.

anonymous BBCNews, “Malaysia declares Covid state of emergency amid political challenges”, (2021), online: BBC News Asia <<https://www.bbc.com/news/55625448>>.

António Guterres, “Remarks by Secretary-General António Guterres at the UN Security Council Open Debate on Women, Peace and Security. Thursday, 21 October 2021”, (2021), online: UN-Women <<https://www.unwomen.org/en/news/stories/2021/10/speech-sg-guterres-security-council-open-debate-on-women-peace-and-security>>.

139 Jann & Wegrich, *supra* note 113 at 45–54.

- Article 19, *Asia Disclosed: A Review of the Right to Information across Asia*, by Article 19 (2015).
- Article19Org, *The Right to Information Around the World*, by Article19Org.
- Baroi, Harold Sougato & Shawkat Alam, "Can an Open Access Approach be the Solution to Better Implementation of the Right to Information Act in Bangladesh?" (2018) 19:1 *Asia Pacific J Hum Rights Law* 45-68, online: <<https://researchers.mq.edu.au/en/publications/can-an-open-access-approach-be-the-solution-to-better-implementation>>.
- Bayu, Dimas Jarot, "Draf RUU Omnibus Law Ibu Kota Negara Rampung, Hanya Ada 30 Pasal", *katadata.co.id* (19 February 2020), online: <<https://katadata.co.id/agustiyanti/berita/5e9a495b77b32/draf-ruu-omnibus-law-ibu-kota-negara-rampung-hanya-ada-30-pasal>>.
- Bigdeli, Alinaghi Ziaee, Muhammad Mustafa Kamal & Sergio De Cesare, "Electronic information sharing in local government authorities: Factors influencing the decision-making process" (2013) 33:5 *Int J Inf Manage* 816-830, online: <<http://dx.doi.org/10.1016/j.ijinfomgt.2013.05.008>>.
- Blomkamp, Emma et al, *Understanding Policymaking in Indonesia: In search of a Policy Cycle*, by Emma Blomkamp et al, no June (2017).
- Claude-Reyes et al v Chile, [2006] 2006 Judgment (Merits & Reparations) .
- Daniel Munier, "Repression of Indonesia's Higher Education Community Threatens Future Progress", (2022), online: *Sch Risks Netw* <<https://www.scholarsatrisk.org/2022/05/repression-of-indonesias-higher-education-community-threatens-future-progress/>>.
- DPR-RI, "RUU Ibu Kota Negara", (2022), online: *Progr Legis Nas* <<https://www.dpr.go.id/uu/detail/id/368>>.
- Enwereji, PC & DE Uwizeyimana, "Enhancing Democracy Through Public Participation Process During Covid-19 Pandemic: a Review" (2021) 18:4 *Gend Behav* Abstract, online: <<https://www.ajol.info/index.php/gab/article/view/203457>>.
- Flear, Mark L & Anastasia Vakulenko, "A human rights perspective on citizen participation in the EU's governance of new technologies" (2010) 10:4 *Hum Rights Law Rev* 661-688.
- Gargoum, Suliman A & Ali S Gargoum, "Limiting Mobility During COVID-19, When and to What Level? An international Comparative Study Using Change Point Analysis" (2021) 20:July 2020 *J Transp Heal* 101019, online: <<https://doi.org/10.1016/j.jth.2021.101019>>.
- Gomez, James & Robin Ramcharan, "Democracy and Human Rights in Southeast Asia" (2014) 33:3 *J Curr Southeast Asian Aff* 3-17, online: <<https://doi.org/10.1177/186810341403300301>>.
- Hacker, Janine et al, "Virtually in this together-how web-conferencing systems enabled a new virtual togetherness during the COVID-19 crisis" (2020) 29:5

Eur J Inf Syst 563–584, online: <<https://doi.org/10.1080/0960085X.2020.1814680>>.

HRW, “Covid-19 Triggers Wave of Free Speech Abuse”, Hum Rights Watch (February 2021), online: <<https://www.hrw.org/news/2021/02/11/covid-19-triggers-wave-free-speech-abuse> Accessed on 25 June 2021>.

ICNL, COVID-19 Civic Freedom Tracker, by ICNL (2020).

IGIGlobal, “What is E-Decision Making”, online: IGI Glob Publ <<https://www.igi-global.com/dictionary/e-decision-making/42406>>.

Ikhwanudin & Retnowati WD Tuti, “Implementation of Public Participation in the Establishment of Rules of Laws and Regulations in Legislature the House of Representatives of the Republic of Indonesia During the Covid 19 Pandemic” (2021) 5:2 Jhss (Journal Humanit Soc Stud 190–197).

Innes, Judith E & David E Booher, “Reframing public participation: Strategies for the 21st century” (2004) 5:4 Plan Theory Pract 419–436.

Jacobs, S M, “It Takes More than a Village: Community Economic Development Clinics as a Mechanism for Meaningful Public Participation in an Adversarial Planning Landscape” (2013) Conn Pub Int LJ, online: <https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/cpilj13§ion=14>.

Jann, Werner & Kai Wegrich, Theories of the policy cycle, Handbook of public policy analysis: Theory, politics, and methods (Boca Raton London New York: Taylor & Francis Group, LLC, 2007).

Kim Lane Scheppele, “Legal autocrats are on the rise. They use constitution and democracy to destroy both”, ThePrint (10 December 2019) Opinion, online: <<https://theprint.in/opinion/legal-autocrats-are-on-the-rise-they-use-constitution-and-democracy-to-destroy-both/332799/>>.

Knill, Christoph & Jale Tosun, Policy making, by Christoph Knill & Jale Tosun, Working Paper 01/2008 (Konstanz, 2008).

Lindgren, Karl-Oskar & Thomas Persson, “Opportunities for Participation and Access to Information: Adequate and Equal?” in Particip Gov EU (Springer, 2011) 66.

Lindgren, K-O & T Persson, Opportunities for Participation and Access to Information: Adequate and Equal? (2011).

Mark Van Hoecke, “Legal Doctrine: Which Method(s) for What Kind of Discipline?” in Mark Van Hoecke & François

McDonagh, Maeve, “The Right to Information in International Human Rights Law” (2013) 13:1 Hum Rights Law Rev 25–55.

Oni, Samuel et al, E-consultation and the quest for inclusive governance in Nigeria (2020).

- Ost, eds, *Eur Acad Leg Theory Monogr Ser* (Oxford, Portland, Oregon: Hart Publishing, 2011) 10.
- Peled, Roy & Yoram Rabin, “The Constitutional Right to Information” (2011) 42 *Columbia Human Rights Law Rev* 357–378.
- Putra, Fadillah & M Faishal Aminuddin, “Democracy and Social Policy in Southeast Asia: A Comparative Process Tracing Analysis” (2020) *Democracy*:5 Putra, Fadillah, M Faishal Amin 2.
- Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020, [2020] Mahkamah Konstitusi Republik Indonesia 1–327.
- Ramadhani, Evyta Rosiyanti & Savira Anggraeni, “The Uncertainty of the Right to Health in Indonesia during Covid-19 Pandemic” (2022) 6:1 *J Southeast Asian Hum Rights* 55–71.
- RH/JR, “PP Turunan UUCK Terkait Tata Ruang dan Pertanahan Saling Terkait”, online: Kementerian Agrar dan Tata Ruang/ Badan Pertanah Nas <<https://www.atrbpn.go.id/?menu=baca&kd=P9q3KhTQgfsX4zmoosTWDke modQJgFan6RFDbjfcFYF1u1NWD6v+98FCB0LebrXf>>.
- Sepúlveda, Magdalena, “The Rights-Based Approach to Social Protection in Latin America From Rhetoric to Practice.” (2014) *Soc Polit Ser*.
- Sepúlveda, Magdalena, *The Rights-Based Approach to Social Protection in Latin America From Rhetoric to Practice*, social pol ed (Santiago, Chile, 2014).
- Smith, Emma & Jr Smith Jr, *Using Secondary Data in Educational and Social Research* (UK: McGraw-Hill Education (UK), 2008).
- Spadaro, Alessandra, “COVID-19: Testing the Limits of Human Rights” (2020) 11:2 *Eur J Risk Regul* 317–325, online: <<file:///C:/Users/User/Downloads/covid-19-testing-the-limits-of-human-rights.pdf>>.
- Sweeden, Hope, “Technology and The Social Contract: Is a Direct Democracy Possible Today?” (2013) 7:3 *Susquehanna Univ Polit Rev*, online: <https://scholarlycommons.susqu.edu/supr/vol7/iss1/3?utm_source=scholarlycommons.susqu.edu%2Fsupr%2Fvol7%2Fiss1%2F3&utm_medium=PDF&utm_campaign=PDFCoverPages%0A>.
- Társaság A Szabadságjogokért V Hungary, 2009.
- Transparency, “Right to Know Day 2018: Progress on information access around the world”, (2018), online: [Article19.org](https://www.article19.org/resources/right-to-know-day-2018-progress-on-information-access-around-the-world/) <<https://www.article19.org/resources/right-to-know-day-2018-progress-on-information-access-around-the-world/>>.
- UN, “E-Participation Index”, (2021), online: [Dep Econ Soc Aff Public Institutions, United Nations](https://publicadministration.un.org/egovkb/en-us/About/Overview/E-Participation-Index) <<https://publicadministration.un.org/egovkb/en-us/About/Overview/E-Participation-Index>>.
- , “New Webinar Series Explores the Role of Creativity and Innovation in the Post-COVID New Normal”, United Nation (2021), online:

<<https://www.un.org/en/academic-impact/new-webinar-series-explores-role-creativity-and-innovation-post-covid-new-normal>>.

——, *The 2022 e-Government Development Index: Southeast Asia*, by UN (2022).

UN_E-Government, *2022 Online Service Index Table*, by UN_E-Government (2022).

UNESCO, *The Right to Information in Times of Crisis: II . The Right to Information During a Health Emergency*, by UNESCO (Paris, 2020).

UNFPA, *A Human Rights-Based Approach to Programming: Practical Implementation Manual and Training Material*, by UNFPA, Modul.

——, *Covid-19: a Gender Lens Protecting Sexual and Reproductive Health and Rights, and Promoting Gender Equality*, by UNFPA (Bangladesh, 2020).

UNGA, *Freedom of opinion and expression: Report of the Office of the United Nations High Commissioner for Human Rights*, by UNGA (2022).

——, *Guidelines for States on the Effective Implementation of The Right to Participate in Public Affairs*, by UNGA (2018).

UNHRC, “CCPR General Comment No. 10: Article 19 (Freedom of Opinion), 29 June 1983”, (1983), online: <<https://www.refworld.org/docid/453883f80.html>>.

——, “General Comment No. 25: the Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service (Art. 25), UN Doc. CCPR/C/21/Rev”, (1996), online: <<https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>>.

——, “General Comment No. 34, Article 19, Freedoms of Opinion and Expression, 12 September 2011, CCPR/C/GC/34”, (2011), online: Gen comment No 34 Artic 19 <<https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>>.

United_Nations, *E-Government Survey (Full Report)*, by United_Nations (2020).

UN-OHCHR, *Guidelines for States on the effective Implementation of the Right to Participate in Public Affairs A/HRC/39/28*, by UN-OHCHR (2018).

UNOHCHR, *Human Rights Indicators: A Guide to Measurement* (2012).

Voule, Mr Clément, “‘States Responses to Covid 19 Threat Should not Halt Freedoms of Assembly and Association’ - UN Expert on the Rights to Freedoms of Peaceful Assembly and of Association, Mr. Clément Voule”, OHCHR (14 April 2020), online: <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25788&LangID=E> Accessed on 25 June 2021>.

Walton, Douglas C, “Is Modern Information Technology Enabling the Evolution of a More Direct Democracy?” (2007) 63:5-6 *World Futures* 365-385.

Wiratraman, Herlambang Perdana, “Does Indonesian COVID-19 Emergency Law Secure Rule of Law and Human Rights?” (2020) 4:1 J Southeast Asian Hum Rights 306.

Yulianti, Isneningtyas & Nurrahman Aji Utomo, “Unraveling Disability Participation in Indigenous Peoples” (2019) 3:2 J Southeast Asian Hum Rights 360–376.

Zafarullah, Habib & Noore Alam Siddiquee, “Open government and the right to information: Implications for transparency and accountability in Asia” (2021) Public Adm Dev pad.1944, online: <<https://onlinelibrary.wiley.com/doi/10.1002/pad.1944>>.

Acknowledgments

This study has no research funds allocated. However, the authors express gratitude to the Universiti Teknologi MARA (UiTM) library for providing e-references. The primary author expresses gratitude to the Department of Constitutional Law, Law Faculty, Universitas Padjadjaran, where she is affiliated and has access to internal facilities. At the UiTM International Conference on Law & Society 2021 (UiTM i-ClaS 2021), which took place on November 1 and 2, 2021, the main ideas of this work were presented virtually but were not published.

Inna Junaenah is a senior lecturer at Constitutional Law Department of Faculty of Law, Universitas Padjadjaran, Indonesia. She is currently a PhD Candidate at Faculty of Law, Universiti Teknologi MARA, Shah Alam, Malaysia. Her research interest is in Constitutional Law, Local Government Law, Human Rights, and Legislative Drafting.

Abd Shukor Mohd Yunus is a PhD Candidate at Faculty of Law, Universiti Teknologi MARA, Shah Alam, Malaysia and an editor staf in Lexis Nexis Malaysia. He is interested in studying public law, human rights law, and the right to privacy.

Normawati Hashim Associate Professor Dr. CC Gan is an associate professor at of Faculty of Law and the head of Master inLaw, faculty of Law Universitas Gadjah Mada (UGM) Yogyakarta, Malaysia. She is a member of the Malaysian Bar Council and a member of Mediation of the Malaysian Bar Council. Among her current research and teaching activities are in the areas of indigenous children rights and Administrative Law, Public Law, and Environmental Law, respectively.