

PUBLIC PARTICIPATION FOR CONSTITUTIONAL DEMOCRACY AND CONSTITUTIONAL GOVERNANCE BASED ON LAW NO. 17 OF 2014

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Abstract

The existence of community and regional aspirations is very important in implementing democratic consolidation towards democratic and constitutional governance, so as a technical and substantial supporting element, it is necessary to develop strategies for managing community and regional aspirations to increase public participation optimally. This paper aims to discuss the task of The People Consultative Assembly (*Majelis Permusyawaratan Rakyat/MPR*) to absorb community aspiration and involve public participation. The analysis was conducted based on Law No. 17 of 2014 concerning the People's Consultative Assembly (*Majelis Permusyawaratan Rakyat/MPR*), House of Representatives (*Dewan Perwakilan Rakyat/DPR*), Regional Representative Council (*Dewan Perwakilan Daerah/DPD*) and Regional People's Representative Assembly (*Dewan Perwakilan Rakyat Daerah/DPRD*) (MD3). This study uses research methods with a qualitative approach. The law stipulates that one of the tasks of the MPR is to review the constitutional system, the Constitution, and its implementation, as well as absorb the aspirations of the people and regions regarding the implementation of the Constitution. The MPR, as a people's deliberation institution, must be able to respond to the dynamics of aspirations and strengthen people's sovereignty. This research is also to provide a breakthrough in the optimal management of community aspirations through technology-based change projects. The conclusion of the study found that to be able to achieve these goals; key success factors must be implemented, such as commitment and support from leaders and stakeholders, discipline in time management related to the implementation of the change project agenda that has been made, as well as the adoption and adaptation of best practices of the innovation of existing complementary-collaborative policies.

Keywords: *Public participation, Constitutional governance, Legislative branch of power, Democracy, Law No. 17 of 2014*

Abstrak

Keberadaan aspirasi masyarakat dan daerah sangat penting dalam rangka pelaksanaan konsolidasi demokrasi menuju pemerintahan yang demokratis dan konstitusional, sehingga sebagai unsur pendukung teknis dan substansial perlu disusun strategi pengelolaan aspirasi masyarakat dan daerah untuk meningkatkan partisipasi masyarakat secara optimal. MPR sebagai lembaga permusyawaratan rakyat harus mampu menjawab dinamika aspirasi, sekaligus memperkuat kedaulatan rakyat. Oleh karena itu, penelitian ini mencoba memberikan terobosan dalam pengelolaan aspirasi masyarakat secara optimal melalui proyek-proyek perubahan berbasis teknologi. Penelitian ini menggunakan metode penelitian dengan pendekatan kualitatif, dimana pendekatan kualitatif memiliki tahapan penelitian yang melampaui berbagai tahapan berpikir kritis ilmiah, dimana seorang peneliti mulai berpikir secara induktif yaitu menangkap berbagai fakta atau fenomena sosial melalui observasi di lapangan, kemudian menganalisisnya dan mencoba melakukan penelitian. berteori berdasarkan konteks dari apa yang diamati. Hasil penelitian menyimpulkan bahwa untuk dapat mencapai tujuan tersebut, faktor kunci keberhasilan harus dilaksanakan seperti komitmen dan dukungan dari pimpinan dan pemangku kepentingan, disiplin dalam manajemen waktu terkait pelaksanaan agenda proyek perubahan yang telah dibuat, sebagai serta adopsi dan adaptasi praktik terbaik (best practice) dari inovasi kebijakan kolaboratif komplementer yang ada.

Kata kunci: *Partisipasi publik, Ketatanegaraan, Kekuasaan legislatif, Demokrasi, UU No 17 Tahun 2014*

A. Introduction

Constitutional democracy is the consensus of the Indonesian people as enshrined in the Indonesian Constitution, namely the 1945 Constitution of the Republic of Indonesia.¹ Article 1, paragraph (2) of the 1945 Constitution of the Republic of Indonesia states that sovereignty is in the hands of the people and is implemented according to the Constitution. The meaning of these provisions is that the administration of state government comes from the people, by the people, and for the people. Therefore, a democratic Indonesian state is an Indonesian state that can place the people in the highest position as the holder of people's sovereignty. Thus, the source of state power must come from the people for the greatest prosperity of the people², as stated in the fourth paragraph of the opening of the 1945 Constitution of the Republic of Indonesia.

Democracy is the best government system for Indonesia if the implementation of democracy in running the wheels of government can accommodate the will of the people, involve the community in making state policies, and the policies implemented are beneficial for the welfare of the community. In order to realize this, the consolidation of democracy is a necessity so that the path to an effective people's government manifesto is more open to realizing the welfare of the people.

The People's Consultative Assembly is an instrument of democracy that is domiciled as a state institution and functions as the executor of people's sovereignty, and it has an important role in consolidating democracy continuously in order to keep sovereignty in the hands of the people and is carried out in

accordance with the provisions of the Constitution, namely the Constitution of the Republic of Indonesia 1945.

Membership of the People's Consultative Assembly consisting of Members of the House of Representatives and Members of Regional Representatives is a tangible manifestation that the chosen state administration system places the MPR as the most representative democratic instrument which is expected to be able to bridge the interests of the community and regions in determining state policies according to their constitutional authority.³

In the context of consolidating democracy, Article 3 paragraph (1) of the 1945 Constitution of the Republic of Indonesia gives the MPR the authority to determine and amend the highest basic law of the state, namely the 1945 Constitution of the Republic of Indonesia. The implementation of the principle of constitutional democracy, which places sovereignty in the hands of the people and must be carried out according to the Constitution, confirmed through the duties of the MPR as mandated in Article 5 letters c and d of Law No. 17 of 2014 concerning the People's Consultative Assembly (*Majelis Permusyawaratan Rakyat/MPR*), House of Representatives (*Dewan Perwakilan Rakyat/DPR*), Regional Representative Council (*Dewan Perwakilan Daerah/DPD*) and Regional People's Representative Assembly (*Dewan Perwakilan Rakyat Daerah/DPRD*) (MD3) which stipulates that one of the tasks of the MPR is to review the constitutional system, the Constitution and its implementation, as well as absorbing the

¹ Cairin Melina. "Kebebasan Berkepres di Era Demokrasi: Catatan Penegakan Hak Asasi Manusia." *Lex Scientia Law Review* 2, no. 2 (2018): 189-198.

² Wasis Susetio. *Konsep Welfare State dalam Amandemen UUD 1945: Implementasinya dalam Peraturan Perundang-Undangan (Beberapa Tinjauan*

dari Putusan MKRI). Jakarta: Esa Unggul University, 2007.

³ Agus Rasyid CW. "Peran Dan Fungsi Majelis Permusyawaratan Rakyat Dalam Perubahan Undang-Undang Dasar 1945." *LEX PUBLICA: Jurnal Ilmu Hukum Asosiasi Pimpinan Perguruan Tinggi Hukum Indonesia* 3, no. 1 (2016).

aspirations of the people and regions regarding the implementation of the Constitution.

Consolidation of democracy through the powers and duties mandated to the MPR is a manifestation of the implementation of a constitutional democratic state to continue to develop democratic life in Indonesia according to the mandate of the founding fathers of the country, as stated in the fourth paragraph of the opening of the 1945 Constitution of the Republic of Indonesia, which continues to place the people in their highest position. The MPR is one of the democratic institutions tasked with guarding the sovereignty of the people and maintaining the constitutionality of the administration of the Republic of Indonesia.

The MPR, as a people's deliberation institution, must be able to respond to the dynamics of aspirations, as well as strengthen people's sovereignty. The MPR, as an institution carrying the people's mandate, must be able to represent itself as a facilitator for all Indonesian people, including in providing channels for aspirations to the general public when all channels cannot meet people's expectations. It shows that the existence of the MPR is an institution whose role is to provide space for all kinds of complaints and wishes or aspirations of the community. There are at least 3 (three) important reasons why the MPR needs to absorb people's aspirations:⁴

1. For philosophical reasons, the 1945 Constitution of the Republic of Indonesia is a written rule "consisting of a series of sentences" that must continue to be applied to state administration practices constantly experiencing dynamic developments. Therefore, evaluation of the implementation of the 1945 Constitution of the Republic of Indonesia must always be carried out as a way to find out what provisions or parts have not worked and as material for future improvements to the 1945 Constitution of the Republic of Indonesia, considering the Constitution of a country theoretically is the result or the product of an agreement from the ideological, political, social,

economic and cultural situation at a certain time including the 1945 Constitution of the Republic of Indonesia.

2. Sociological reasons, looking at empirical studies, it turns out that there are still so many people who do not understand the Indonesian constitutional system adopted in the 1945 Constitution of the Republic of Indonesia, and there are still many crucial questions related to the state administration system.
3. Historically, through TAP MPR No. I/MPR/2002 concerning the Establishment of a Constitutional Commission, the MPR stated that the Basic Law is the basic law and, therefore, making changes requires in-depth, thorough, thorough, and thorough discussion. Furthermore, according to the MPR TAP, the amendments to the Constitution are sufficient to regulate the implementation of social, national, and state life. However, a comprehensive and transparent study involving the wider community is still needed. The main issues of aspirations of the people, regions, and state institutions that the MPR accepted were, among others, related to the will of the people to carry out "restructuring the Indonesian state administration system," refinement of the conception of the 1945 Constitution of the Republic of Indonesia, strengthening state institutions, revitalizing Pancasila values, and the 1945 Constitution of the Republic of Indonesia. 1945, the Republic of Indonesia, and Bhinneka Tunggal Ika, as well as an evaluation of the decisions of the People's Consultative Assembly and the products of the Act mandated by the 1945 Constitution of the Republic of Indonesia.

On this basis, the People's Consultative Assembly (MPR) then formed a Review Board whose task was to examine the course of the state administration system as well as to organize the state administration system. Through the Assessment Agency, the People's Consultative Assembly (MPR) must continue

⁴ Sekretariat Jenderal Majelis Permusyawaratan Rakyat. *Laporan Badan Pengkajian MPR RI Tahun 2015*

(*Proses dan Rekomendasi*). Jakarta: Pusat Pengkajian MPR RI, 2015.

to study the state administration system and carry out activities to absorb the aspirations of the community, regions, and state institutions. The results of these activities by the Assessment Agency are then processed into recommendations for structuring the Indonesian state administration system. Because the MPR is an institution that represents the aspirations of the people and regions, the participation of the public/community in every policy-making is absolutely essential.

Therefore, the people's mandate given to the MPR through the MD3 Law in the context of reviewing the implementation of the Constitution needs to be supported by optimal public participation in conveying the people's aspirations and regions to the People's Consultative Assembly. These aspirations and participation are also, at the same time, a measuring tool for evaluating the Constitution's implementation by various national elements in various strategic dimensions of social, national, and state life.

The Indonesian Democracy Index, commonly known as IDI, is a measuring instrument that the compilers of this program refer to as country-specific, namely a measurement model built based on the background of Indonesia's socio-political development. IDI quantifies all aspects of measurement and translates them into percentage form. There are three aspects measured by IDI, namely, aspects of civil liberties, aspects of political rights, and aspects of democratic institutions.⁵ The aspect of community participation itself is contained in the aspect of political rights, which since 2015 has experienced a setback. In 2015 the aspect of the political rights of citizens was at 70.63%, which decreased to 70.11% in 2016, 66.63% in 2017, and 65.79% in 2018.⁶ In addition, the level of fluctuation related to aspects of political rights is also very high, influenced by

political participation in decision-making and supervision.

On the other hand, the discourse on constitutional re-amendment that has been rolling lately has become a scourge in itself because it is feared that it is only for the benefit of the elite. The discourse on the amendment to the 1945 Constitution of the Republic of Indonesia should not be based on the interests of certain elites and groups.⁷ It must be born from the people's will, like the spirit of reform. The discourse on the amendment of the 1945 Constitution of the Republic of Indonesia must be based on the aspirations and will of the Indonesian people. Amendments to the 1945 Constitution of the Republic of Indonesia are not based on the interests of certain elites or groups but must involve experts in their fields and are truly born from the will and desires of the people.⁸ People should not only be used by name without actually being involved in the process, such as at the manipulative level of participation.

In fact, one of the actual strategic issues in the MPR's recommendations related to the discourse on the need for a return to the State Policy in the State Administration System of the Republic of Indonesia has become a big issue in the limited amendment discourse. This strategic issue clearly requires an adequate and quality level of public participation in conveying the aspirations of the people and regions to the MPR as the basis for making fundamental state policies. Departing from the existence of community and regional aspirations, which are very important in the context of implementing democratic consolidation toward the administration of democratic and constitutional government.

Therefore, as a technical and substantial supporting element in this study, a breakthrough strategy for managing community and regional aspirations through a change project with the title "Ideas Project

⁵ Ibrahim, "Menakar kedalaman pengukuran demokrasi model Indeks Demokrasi Indonesia", *Jurnal Masyarakat, Kebudayaan dan Politik* 30, no. 2 (2017): 138.

⁶ Badan Pusat Statistik, "Indeks Demokrasi Indonesia (IDI) menurut aspek dan provinsi 2009-2018". <https://www.bps.go.id/dynamictable/2017/05/04%2000>

:00:00/1242/indeks-demokrasi-indonesia-idi-menurut-aspek-dan-provinsi-2009-2017.html. Accessed 28 Feb 2018.

⁷ Yulia Neta. "Upaya Peningkatan Peran Dewan Perwakilan Daerah (DPD) di Indonesia." *Fiat Justisia: Jurnal Ilmu Hukum* 5, no. 1 (2011).

⁸ *Ibid.*

Changes in Optimizing the Management of Community Aspirations Based on Information Technology in the Context of Increasing Public Participation.

B. Research Method

This research is carried out with a qualitative approach. The qualitative approach has research stages that go beyond the various stages of critical scientific thinking, where a researcher begins to think inductively, namely capturing various facts or social phenomena through observations in the field, then analyzing them and trying to make theorizations based on observations in the context in which it is observed. After the data is collected from each target and object of the study, then a triangulation method with checks and cross-checks will be used on the results of the responses given by the target and object of the study. The data collection technique is carried out by observation, namely participant observation (active participation) is a technique for obtaining data from the place where research activities are observed and where researchers are involved in these activities. This study uses qualitative data analysis, a problem-solving procedure that is investigated by describing the data obtained from library observations and field observations, then analyzed and interpreted by providing conclusions.

C. Result and Discussion

The definition of participation comes from the English language, which means taking part/participating.⁹ Participation means the active participation of a person or community group from the process of formulating needs and planning to the stage of implementing activities either through thought or directly in physical form.

Sherry R Arnstein divides the level of community participation in development programs implemented by the government into 8 (eight) levels¹⁰:

1. Citizen Control, the community, can participate in and control the entire decision-making process. At this level, the community has the power to regulate programs or institutions related to their interests. The community has the authority and can negotiate with outside parties who want to make changes. This Joint Venture with residents is directly related to the source of funds to obtain assistance without going through a third party.
2. Delegated power, the community is given the authority to make decisions on certain plans at this level. To resolve the problem, the government must negotiate with the community without pressure from above; perhaps the community has some level of control over the government's decisions.
3. In partnership, the community has the right to negotiate with decision-makers or the government; power is shared between the community and the government by mutual agreement. For this reason, an agreement was made for sharing responsibilities in planning, controlling decisions, formulating policies, and solving problems encountered.
4. Placation, the power holder (government) needs to appoint a number of people from the affected part of society to become members of a public body, where they have certain access to the decision-making process. Although in its implementation, the community's proposals are still considered, because of their relatively low position and fewer in number than members of the government, they are not able to make decisions.
5. Consultation, the community is not only notified but also invited to share opinions, although there is no guarantee that the opinions expressed will be taken into account in decision-making. The method used is a survey on the direction of the community's thoughts or community environment meetings and public hearings or hearings with the community.

⁹ Pius A. Partan and M. Dahlan Al-Barry. *Kamus ilmiah Populer*. Surabaya: Arkola, 2006.

¹⁰ Sherry R. Arnstein. "A ladder of citizen participation." *Journal of the American Institute of planners* 35, no. 4 (1969): 216-224.

6. Informing the power holder only provides information to the community regarding the proposed activity. The community is not empowered to influence the results. Information may include rights, responsibilities, and options, but there is no feedback or negotiating power from the community. Information is provided at the final stages of planning, and the community has little opportunity to influence the plans that have been developed.
7. Therapy, power holders make proposals by pretending to involve the community. Even though they are involved in activities, the goal is more to change the mindset of the community than to get input from the community itself.
8. Manipulation, is the lowest level of participation, where people only use their names. Activities to manipulate information to gain public support and promise a better situation even though it never happened.

If we assume the 8 (eight) levels of participation as rungs of the ladder, the order is as follows:

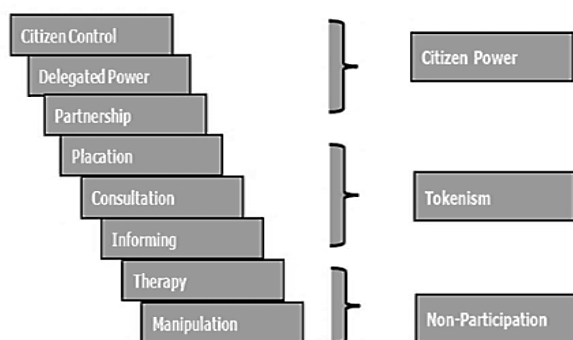


Figure 1. The order of 8 levels of participation

Non-participation means that in this group, there is no participation from the community at all. The bottom two ladders are categorized as non-participation, including levels of manipulation and therapy.

Degrees of tokenism mean community participation in the form of just accepting some policies/stipulations. In this group, the level of community participation is heard and allowed

to express opinions, but they must not have the ability to get assurances that decision-makers will consider their views. Included in this category include; informing, consultation, and placation

Degrees of citizen power that, in this case, community participation, appear in the form that it has power over the policies that will be taken. The community at this level has influence in the decision-making process. At this level, the community (non-elite) has a majority of the votes in the decision-making process and may even have full authority to manage a particular policy object. This category includes partnership, delegated power, and citizen power.

The eight ladders of participation described above provide an understanding that there is enormous potential to manipulate community participation programs into devious methods and reduce the ability of communities to influence decision-making processes. In a legislative process being carried out, the process showed that the rule-making process in Indonesia is still chaotic. There are laws and articles in the laws that are made because of certain orders. There is also a law-making process that is not in the national interest. There are also laws and regional regulations that are made because of the orders of certain people.

In line with this, there were indeed articles of orders that occurred in the legislative process. To oversee the transparent process during legislation, the public could actually see indications of the alleged article on order. This indication can be seen from the first stage in the form of an assessment of both articles and laws. If the review of the rules only leads to the interests of a number of parties, it should be suspected as an ordered article. Then when entering the drafting stage, the public can measure the discussion process that occurred. If the discussions tend to be more detrimental to the state, it can also indicate a regulatory order.

After diagnosing reading, analyzing and identifying problems, and comparing ideal conditions and current conditions, the following problems were found:

1. The collection, processing, and analysis of community and regional aspirations have not been integrated and institutionalized within the responsibilities of certain work units, so data on community aspirations is not easy to find.
2. The management of community and regional aspirations has not been systematically regulated, both internal and external arrangements in order to provide guidance and easy access to the delivery of community and regional aspirations.
3. The method of conveying public aspirations is still carried out through conventional methods, hindering the process of integrating and processing data on people's aspirations accurately and validly.
4. There is still a lack of quality human resources who have the ability to analyze the main issues of community and regional aspirations.
5. The MPR Members have not yet optimally utilized the aspirations of the people and regions for policy making and for use by other parties who need it.
6. Inadequate facilities and infrastructure for processing community and regional aspirations so that community and regional aspirations can be utilized effectively and in a timely manner as needed.
7. There is no synergy between MPR equipment, the work units of the MPR Secretariat General, and other stakeholders.

On the basis of the existing problems mentioned above, it is therefore hoped that modern, and information technology-based methods, facilities, and infrastructure for the management of community and regional aspirations will facilitate and provide certainty of access to information and the delivery of aspirations by the community and regions so

that the aspirations of the community and areas can be utilized effectively and in a timely manner as needed,¹¹ as well as the draft of the secretary general's regulation on the management of community aspirations which is a policy product regarding the systematic management of community and regional aspirations, both internal and external arrangements to facilitate and provide certainty of access to information and the delivery of aspirations by the community and regions¹².

In addition, communication also has an important role in implementing this change project. The process of delivering messages from one individual to another, either directly or indirectly, to inform and direct is carried out consistently and continuously by the Change Project Initiators. In order for communication objectives to be achieved optimally, an effective and efficient communication strategy is carried out so that it takes planning and management of communication patterns carried out in a measurable and impactful manner. The communication patterns carried out by the initiators of the change project are as follows:

1. Communication is planned and delivered properly so that the intended target can capture the intended meaning.
2. Communication is positioned as a team need that must be optimized in order to obtain a satisfactory achievement.
3. Communication is not delivered in a hurry.
4. Communication is delivered taking into account the physical conditions and work environment.
5. Always give the other party a chance to respond.
6. Communication with other parties is carried out with empathy.

Models of communication forms that can be carried out include consultation, communication, coordination, collaboration,

¹¹ Sri Ayu Astuti. "Penerapan uu ite dan surat edaran kapolri mengenai ujaran kebencian hate speech terhadap penyimpangan penggunaan kebebasan berekspresi dalam kajian pasal 28 uud 1945 tentang ham di ruang maya cyber space." *lex publica: jurnal ilmu hukum*

asosiasi pimpinan perguruan tinggi hukum indonesia 2, no. 2 (2016).

¹² Meiske Mandey. "Implementasi Peran Dan Fungsi DPRD Dalam Rangka Mewujudkan Dalam Rangka "Good Governance"." *Lex Administratum* 4, no. 2 (2016).

discussions, meetings, and reports.¹³ It is hoped that this change project can improve the management of community aspirations based on information technology in order to improve the quality of public participation, including the following:

1. There is an authority to manage the aspirations of the people and regions in the context of implementing the Constitution, which is carried out in an integrated manner by a special work unit to manage community aspirations.
2. There are regulations for the management of community and regional aspirations systematically, both internally and externally, to facilitate and provide certainty of access to information and the delivery of aspirations by the community and regions;
3. There is a method for conveying the aspirations of the people and regions that are carried out electronically/digitally to accelerate the process of integration and processing of data on people's aspirations in a more accurate, valid, and real-time manner.
4. The existence of human resources who have special competence in conducting data analysis on the actual and strategic issues of community and regional aspirations.
5. The main issues of strategic and actual aspirations of the people and regions can be utilized optimally by MPR Members in carrying out their constitutional duties or by other interested parties.
6. Availability of facilities and infrastructure for managing the aspirations of the people and regions that are modern and based on information technology so that the aspirations of the people and regions can be utilized effectively and in a timely manner as needed.
7. There is a synergistic relationship between stakeholders in the context of managing community and regional aspirations, both among MPR equipment, work units within the Secretariat General, and other

stakeholders outside the MPR and the Secretariat General.

In order to improve the quality of public participation related to the delivery and management of community and regional aspirations to the MPR, it is necessary to innovate and plan for policy changes in the short, medium, and long term.

In the short term, it is hoped that there will be an authority for the management of community and regional aspirations in the context of implementing the Constitution, which is carried out in an integrated manner by a special work unit for the management of community aspirations through the Secretary General's Decree on the Assignment of the Working Unit, then the regulation on the management of aspirations. The community and the region systematically, both internally and externally in the context of facilitating and providing certainty of access to information and the delivery of aspirations by the community and the region through the Secretary General's Regulation on the Management of Community Aspirations and the existence of methods for submitting community and regional aspirations electronically. /Digital so as to accelerate the process of integration and processing of people's aspirations data more accurately and validly, and in real-time, through the Decree of the Secretary-General on the Utilization of Technology Information Logic in the Management of Community and Regional Aspirations, and Development of E-Aspirations for the People's Consultative Assembly and the Constitution.

In the medium term, it is hoped that there will be human resources with special competencies in conducting data analysis on the actual and strategic issues of community and regional aspirations through the implementation of special education and training activities regarding the improvement of competence in processing community aspiration data, and a synergistic relationship between stakeholders in the context of

¹³ Robert E. Kraut, Robert S. Fish, Robert W. Root, and Barbara L. Chalfonte. "Informal communication in organizations: Form, function, and technology."

In Human reactions to technology: Claremont symposium on applied social psychology, (1990): 145-199.

management of community and regional aspirations, both among MPR equipment, work units within the Secretariat General and other stakeholders outside the MPR and the Secretariat General through periodic coordination meetings and the establishment of a community and regional aspiration management forum.

In the long term, it is hoped that the main strategic and actual issues of community and regional aspirations can be utilized optimally by MPR Members in carrying out their constitutional duties or by other interested parties through the preparation of the MPR Annual Report on Community and Regional Aspirations to the Community, as well as the availability of facilities and infrastructure. Management of community and regional aspirations that are modern and based on information technology so that community and regional aspirations can be utilized effectively

and promptly as needed through the procurement of facilities and infrastructure for electronic management of community aspirations.

D. Conclusion

The results of the research show that changes in efforts to increase public participation in the context of consolidating democracy by the MPR institution through information technology-based management of community and regional aspirations data, to be able to achieve these goals have key success factors such as commitment and support from leaders and stakeholders, discipline in time management related to the implementation of the change project agenda that has been made, as well as the adoption and adaptation of best practices from existing complementary-collaborative policy innovations.

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