



Online Petition as Part of The Right to Freedom of Speech and Its Implications on The Organization Government in Indonesia

Jalaluddin¹, Sa'adah², Nur Zaqia³

¹ Fakultas Syariah, Universitas Islam Negeri Antasari, Banjarmasin

² Fakultas Syariah, Universitas Islam Negeri Antasari, Banjarmasin

³ Fakultas Syariah, Universitas Islam Negeri Antasari, Banjarmasin

Corresponding: jalaluddin@uin-antasari.ac.id

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Abstract

This study aims to understand how the existence of the right to freedom of expression through online petitions and its implications for governance in Indonesia. This research also offers a strategy for setting petitions into laws and regulations to ensure the distribution of the people's right to freedom of expression. This normative legal research analyzes primary legal materials in the form of the 1945 Constitution and the laws and regulations under it as well as legal materials from 2018-2021 related to community activities conducting online petitions. The approaches used are the statutory approach, the concept approach, and the comparative approach. The results of the study show First, the existence of online petitions in Indonesia in 2018-2021 related to the formation of laws, namely petitions rejecting the Draft Criminal Code, Revision of the KPK Law, the Draft Job Creation Law, the Revision of the MD3 Law, the Land Law Draft, and the Music Law Draft. Second, four of the six online petitions studied were found to be successful or have ultimate implications for governance because they are able to encourage policy change. Third, as a strategy so that petitions can be responded to by the government in a mandatory manner, Indonesia needs to make laws and regulations regarding online petitions.

Keywords: Online petitions, the right to freedom of expression, and governance.

Abstrak

Penelitian ini bertujuan memahami bagaimana keberadaan hak kebebasan berpendapat melalui petisi online dan implikasinya terhadap penyelenggaraan pemerintahan di Indonesia. Penelitian ini juga menawarkan strategi pengaturan petisi ke dalam peraturan perundang-undangan untuk menjamin tersalurkannya hak kebebasan berpendapat masyarakat. Penelitian hukum normatif ini menganalisis bahan hukum primer berupa UUD 1945 dan peraturan perundang-undangan di bawahnya juga bahan hukum dari tahun 2018-2021 terkait dengan aktivitas masyarakat melakukan petisi online. Adapun pendekatan yang digunakan adalah pendekatan undang-undang, pendekatan konsep, dan pendekatan komparatif. Hasil penelitian menunjukkan *Pertama*, keberadaan petisi *online* di Indonesia pada tahun 2018-2021 terkait dengan pembentukan undang-undang yaitu petisi tolak Rancangan KUHP, Revisi UU KPK, Rancangan UU Cipta Kerja, Revisi UU MD3, Rancangan UU Pertanahan, dan Rancangan UU Permusikan. *Kedua*, empat dari enam petisi *online* yang diteliti dinyatakan berhasil atau berimplikasi secara *ultimate* terhadap penyelenggaraan pemerintahan karena mampu mendorong perubahan kebijakan. *Ketiga*, sebagai strategi agar petisi dapat ditanggapi pemerintah secara wajib maka Indonesia perlu membuat peraturan perundang-undangan tentang petisi online.

Kata kunci: Petisi online, hak kebebasan berpendapat, dan penyelenggaraan pemerintahan.

I. Introduction

There has been a lot of research on online petitions. The research was carried out by Suci Oktaviani and Komang Pradnyana Sudibya, among others. The results of the study stated that online petitions in Indonesia do not have special regulations and are different from some other countries that already have regulations so that the government is obliged to provide a reasonable response.¹ Furthermore, research conducted by Fitri Pebriani Wahyu and Nuzul Asri Safitri Whisnu. The results of the study stated that online petitions are quite effective but must be accompanied by advocacy for the community. In addition, Indonesia does not yet have a regulation regarding this online petition.² From the two studies that are clearly different from this research, this research will answer the problem of the existence of online petitions as part of the right to freedom of expression, the implications of online petitions in the administration of government in Indonesia, and the formulation strategy for regulating online petitions in Indonesia.

Indonesia is a constitutional democracy as stated in Article 1 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia which reads: Sovereignty is in the hands of the people which is carried out according to the Constitution. In this democratic country, the people have equal rights in expressing opinions as an effort to control the running of the government.³

Speaking of freedom of expression, Indonesia as a constitutional democracy has regulated and guaranteed this freedom as stated in Article 28E Paragraph (3) of the 1945 Constitution of the Republic of Indonesia which reads: "Everyone has the right and freedom to associate, assemble, and issue thoughts or opinions." One of the implementations of the right to freedom of expression is to voice aspirations through petitions.⁴ Petition is interpreted as a request submitted to the government or the target of the petition, with the aim that the government makes policies regarding the issue being petitioned. Petition can also be interpreted as an official and legal written statement to be submitted to the authorities in order to obtain approval from that party. The petition that received many signatures indicated that the majority of the people supported the petition contained in the petition.⁵

Along with the development and advancement of technology, currently efforts to express opinions can be carried out virtually. Petitions that were originally submitted and raised in person support can now be done via virtual or known as online petitions. Through online petitions, people find it easier to voice their opinions because they can gather as much support as possible to make a change through petitions that are created and managed virtually or online.

In Indonesia, an online petition appeared in 2012 through a site called change.org. Change.org is a forum that is used by the community as an online petition platform to channel their aspirations with the slogan "World Container for Change", this platform claims to provide space for the community to participate in creating change.⁶ Since the presence of the online petition make people more interested in getting involved and participating in the policy process

¹ Suci Oktaviani and Komang Pradnyana Sudibya, "Pengaturan Petisi Online dalam Peraturan Perundang-Undangan Republik Indonesia", *Kertha Negara: Journal Ilmu Hukum*, 7(8), 1-13.

² Fitri Pebriani Wahyu and Nuzul Asri Safitri Whisnu, "Kekuatan Petisi Online dalam Pembuatan Peraturan Perundang-Undangan di Indonesia (Studi Kasus Situs: Change. Org)", *Jurnal Khazanah Hukum*, vol. 3, no. 3, 98-106.

³ Amien Rais, *Demokrasi dan Proses Politik*, (Jakarta: LP3ES, 1986), p. 70.

⁴ Moch. Marsa Taufiqurrohman et al, *Mengatur Petisi di dalam Peraturan Perundang-Undangan: Upaya Penguatan Posisi Masyarakat Terhadap Negara Dalam kerangka Perlindungan Kebebasan Berpendapat*, *Jurnal Legislasi Indonesia* 2021, p. 3.

⁵ Nia Ashton Destrity, *Efektivitas Petisi Online Terhadap Advokasi Kebijakan Publik (studi Kasus Change.Org Indonesia tahun 2012-2013)*, p. 8.

⁶ Moch. Taufiqurrohman. "Mengatur Petisi dalam Peraturan Perundang-undangan: Upaya Penguatan Posisi Masyarakat terhadap Negara dalam Kerangka Kebebasan Berpendapat", *Jurnal Legislasi Indonesia*, Vol. 18 No. 1, Maret 2021: p. 1-17.

as a form of their concern for public problems. In addition, they can also easily submit and obtain petition support without wasting much time and money.⁷ An indicator of the high level of public participation in policy making can be seen from the large number of petitions that have been submitted in recent years. Based on the results of the study, data obtained from the petition site [change.org](https://www.change.org), the Indonesian population who had accessed the site in 2021 reached more than 18 million users, an increase of 2 million more than in 2020.⁸

Although many Indonesians have participated in online petitions and because indeed making petitions in Indonesia is a freedom protected by the constitution and the regulations under it,⁹ however to date, there is no mandatory regulation from the government to respond to petitions. It is proven that several petitions have been submitted by the Indonesian people, one of which is the petition rejecting the Omnibus Law on the Job Creation Act which has reached more than 2.3 million signature,¹⁰ but failed to change government policy in accordance with the people's request in the petition. Currently the Draft Law has been officially promulgated in Law no. 11 of 2020 concerning Job Creation.¹¹ Starting from this problem, the academic questions that need to be answered through this research are as formulated in the following problem formulation.

II. Research Problems

1. How is the existence of online petitions as part of the right to freedom of expression in Indonesia?
2. What are the implications of online petitions in governance in Indonesia?
3. What is the formulation strategy for setting up online petitions in Indonesia?

III. Research Methods

This research is a normative legal research using primary legal materials, namely the 1945 Constitution of the Republic of Indonesia and Law Number 39 of 1999 concerning Human Rights. Secondary legal materials, and tertiary legal materials obtained through library research. This research examine existence online petitions as part of freedom of expression, the implications of online petitions for governance in Indonesia, and the formulation strategy for regulating online petitions in Indonesia. The online petitions analyzed were selected based on various criteria, including petitions relating to the formation of laws, petitions successfully gaining media attention, petitions made by certain figures, and petitions successfully mobilizing other activities. The approach used is a constitutional approach and a conceptual approach. The constitutional approach is carried out on the basis that freedom of expression is a constitutional right of every citizen and as a form of citizen participation in the administration of government. A conceptual

⁷ Rahma Simamora, "Petisi Online sebagai Alat Advokasi Kebijakan: Studi Kasus Change.Org Indonesia Periode 2015-2016". *Jurnal Komunikasi Indonesia*, 2018, Volume 6, Nomor 1, p. 58.

⁸ Change.org, Portrait of the 2020 Indonesian Digital Movement at Change.org.<https://www.change.org>. Accessed on January 13, 2021.

⁹ Implicitly, the right to petition is included in the freedom of expression. As this is guaranteed by Article 28 Chapter X of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) which guarantees freedom of assembly and association as well as conveying thoughts through oral and written. In addition, this is also regulated in Article 44 of Law Number 39 of 1999 concerning Human Rights, that everyone has the right to submit opinions, requests, complaints, and or proposals to the government in the context of implementing a clean, effective and efficient government, either by orally or in writing. It is also strengthened by Article 4 of Law Number 9 of 1998 concerning Freedom to Express Opinions in Public, which ensures freedom of expression as a reflection of human rights.

¹⁰ Change.org, loc. cit.

¹¹ The Detikcom Team, The Journey of the Job Creation Act: The Job Creation Act was passed by the DPR until it was signed by Jokowi (News Detikcom, 2020)<https://news.detik.com> accessed on September 15, 2021.

approach is important to understand the formulation of online petition arrangements in Indonesia.

IV. Result And Discussion

1. The existence of online petitions as part of the right to freedom of expression in Indonesia

In the span of 2018-2021, there were many online petitions in Indonesia that were submitted. However, from the many submissions, the author only analyzes the existence of online petitions in Indonesia related to the formation of laws, petitions initiated by certain figures, petitions successfully gaining media attention, and petitions successfully mobilizing other activities.

Based on the criteria as above, 6 (six) suitable petitions were found, among them petition against the Draft Criminal Code, petition against the revision of the Corruption Eradication Commission Law, petition against the Omnibus Law on the Job Creation Act, petition against the Revision of the MD3 Law, petition against the Land Bill, and Petitions Rejecting Music Law Draft. The description of the petition, the authors describe as follows.

a) Petition Reject the RKUHP

The petition against the Draft Criminal Code (RKUHP) was initiated by Tunggal Pawestri, a Gender and Human Rights (HAM) activist in September 2019 through the online petition platform change.org.¹² This petition was created because there are many substances in the RKUHP that contradict the spirit of anti-colonialism and protection of human rights. There are articles in the RKUHP which have the potential to have multiple interpretations and are rubber articles that have great potential to silence civil liberties, freedom of expression and opinion, freedom of the press, and even violate the right to life.¹³ The content of this petition is a request to President Joko Widodo not to approve the ratification of the RKUHP.

This petition managed to get a positive response from the community, with get support more than one million signatures¹⁴ and managed to attract the attention of the government. In this case, President Joko Widodo gave a response and solution to this case through a press conference on September 20, 2019, that President Joko Widodo asked for delaying the ratification of the RKUHP because there are 14 articles that need to be reviewed.¹⁵ The RKUHP is considered by the public as a draft law that suppresses freedom of expression, the existence of protection that is excessive against the head of state, so that it is considered to be a repressive law. If it is repressive then power occupies a position above the law, people's obedience must be unconditional and disobedience is considered a crime, community participation is allowed through submission, criticism is considered as defiance of the government.¹⁶ So it is very natural that this petition has the support of more than one million people.

b) Petition Reject the revision of the KPK law

The petition reject the revision of Law Number 30 of 2002 concerning the Corruption

¹² Tunggal Pawestri, *Presiden Jokowi Jangan Setujui RKUHP di Sidang Paripurna DPR*. <https://www.change.org/> accessed on Mei 21, 2022.

¹³ CNN Indonesia, *Hundreds of Thousands of People Sign Petition Asking Jokowi to Reject RKUHP*, 2019 www.cnnindonesia.com accessed on 21 May 2022.

¹⁴ Single Pawestri, loc. cit.

¹⁵ Putera Hikmawati and Noverdi Puja Saputra, *Politik Hukum Penundaan Pengesahan RUU KUHP*, Vol. 11 No. 12 2019.

¹⁶ S. Brodjo Sedjono, "Hukum Represif dan Sistem Produk Hukum yang Tidak Demokratis", *Jurnal Hukum IUS QUIA IUSTUM* 7.13 (2000): 157-169.

Eradication Commission (KPK Law) was initiated by Henri Subagiyo, Executive Director of the Indonesian Center for Environmental Law (ICEL) in September 2019 through the online petition platform change.org. This petition was created because the revision of the KPK Law has the potential to be legally flawed because it was carried out in a closed manner in a relatively short time and the discussion was carried out without involving public participation. In addition to violating the procedure for making laws, several articles in it have the potential to pose a threat that could weaken efforts to eradicate corruption in Indonesia.¹⁷

The content of this petition is a request to President Joko Widodo to immediately reject the revision of the KPK Law. Meanwhile, this petition succeeded in obtaining the support of 520,152 signatures from the public and support from a number of academics¹⁸. In addition, this petition has also succeeded in attracting the attention of the press media and mobilizing other activities such as demonstrations show feelings made by KPK employees and student alliances throughout Indonesia, to judicial review¹⁹ proposed by a number of anti-corruption activists who are members of the KPK Law Advocacy Team.²⁰

Although this petition did not achieve its goal, which was to ask the President to reject the revision of the KPK Law, the public's refusal through petitions and other advocacy actions succeeded in attracting the government's attention through the media and encouraging further support, such as the partial granting of requests for judicial review of Law Number 19 of 2019 concerning the Commission. Eradication of Criminal Acts of Corruption by Court Constitution.²¹

The article that was granted by the Constitutional Court for material review was Article 12B Paragraph (10) of the KPK Law regarding the written permission of the KPK Supervisory Board in the wiretapping process. The Constitutional Court stated that wiretapping, search and surveillance did not require permission, but the KPK leadership only needs to provide information to the supervisory board.²²

Indeed, the Indonesian people really hope and indeed the only hope of an institution that can eradicate corruption in Indonesia is the KPK. The Corruption Eradication Commission, with all the powers granted by the law, is the hope of upholding justice, acting without selective discrimination against all perpetrators of criminal acts of corruption. However, with the revision of the KPK law, it is clear that the KPK is very weak. Positions that were once independent became part of executive. The legal politics of the revision of the KPK Law will clearly weaken the KPK as an institution to eradicate corruption, the hope of the people is that the KPK will no longer aggressively take action to eradicate corruption.²³

c) Petition Reject the Omnibus Law Bill on job creation

¹⁷ Henri Subagiyo, Clean Indonesia, President Rejects KPK Law Revision <https://www.change.org/p/jokowi-kami-tolak-revisi-uu-kpk-reformasidikorupsi> accessed on 21 May 2022.

¹⁸ A total of 235 UGM lecturers who included their names in the petition rejecting the revision of the KPK Law, see below <https://www.google.com/amp/s/amp.tirto.id/raturan-dose-ugm-ikut-petisi-tolak-revisi-uu-kpk-ehku>.

¹⁹ According to the legal dictionary, judicial review is an attempt by the judiciary to submit legal products issued by the legislative, executive, or judicial bodies.

²⁰ Henri Subagiyo, loc. cit.

²¹ President Joko Widodo planned to issue a Perpu on the KPK, but on December 9, 2019 Jokowi emphasized that he would not issue a Perpu because he respected the judicial review process and would see the implementation of the revised KPK Law.

²² Azhar Bagas Ramadhan, KPK Welcomes the Decision on the Judicial Review of the Revised Law and Appreciates the Plaintiffs <https://news.detik.com/berita/d-5559871/kpk-sambut-baik-ujungan-uji-material-uu-hasi-revisi-juga-apresiasi-pengjuang> accessed on May 25, 2022.

²³ Yulianto, Y. Politik hukum revisi undang-undang KPK yang melemahkan pemberantasan korupsi. *Jurnal Cakrawala Hukum*, 11(1), 2020. 111-124.

Reject the Omnibus Law on Job Creation, which is a petition protesting the President and the Indonesian Parliament to stop the discussion and revoke the Omnibus Law on the Job Creation Bill from the National Legislation Program because it threatens many sectors, ranging from civil liberties, social justice, economic, cultural, and environmental sustainability. In addition, the process of forming the Omnibus Law on the Job Creation Bill has violated the principle of openness because it was carried out in a non-transparent manner and with minimal public participation.²⁴

Drafting a bill in a democratic country requires public participation which demands the principle of openness in the formation of laws,²⁵ while the work creation bill is considered to have passed the stages involving the community because it was not previously disseminated. In a contrario it is impossible for the public to participate if the draft of the bill is not disseminated to the public. For the realization of good governance, it is necessary to have the principle of openness adopted by the Indonesian state which is transparent and open so that all levels of society can provide their aspirations in the formation of laws.

Petition Rejecting the Omnibus Law on the Job Creation Bill managed to get a total of 1,404,518 signatures on the change.org platform.²⁶ This petition has also succeeded in capturing the attention of many media, involving certain communities or groups of people such as religious leaders and academics, even the petition has succeeded in mobilizing demonstration activities by thousands of students and workers, and has been sued to the public. Court Constitution, but the petition did not win. Currently, the bill has been officially promulgated in Law No. 11 of 2020 concerning Job Creation in the DPR plenary meeting on October 5, 2020.²⁷

In this context, it can be seen that there is a discrepancy between the will of the government and the expectations of the people. The State, the Indonesian government, if the preamble to the 1945 Constitution argues that the ideals of the Indonesian people are, among others, to realize social justice for all Indonesian people, then it is the government's obligation to evaluate the content of the norms in the Job Creation Bill. Petitions and demonstrations carried out by the public are justified because the content of the norms of the law is considered more in favor of entrepreneurs than the people.²⁸

d) Petition Reject the MD3 Law Revision

The petition reject the revision of Law Number 17 of 2014 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representatives Council and the Regional People's Representative Council (UU MD3) was initiated by various civil society organizations that are members of the MD3 Law Coalition, including Indonesia Corruption Watch. (ICW), Association for Elections and Democracy (Perludem), Legislative Monitoring Committee (KOPEL), Yappika, Code Initiative, FITRA, and Center for Indonesian

²⁴ Adam Prawira, 1.3 Million People Press Petition Rejecting Omnibus Law Job creation, <https://national.sindonews.com> accessed on 26 May 2022.

²⁵ See Law of the Republic of Indonesia Number 15 of 2019 concerning Amendments to Law of the Republic of Indonesia Number 12 of 2011 concerning the Establishment of Legislation.

²⁶ Infographic, Portrait of the 2020 Indonesian Digital Movement at Chang.org. www.change.org. accessed on 21 May 2022.

²⁷ The Detikcom Team, The Journey of the Job Creation Act: The Job Creation Act was passed by the DPR until it was signed by Jokowi (Indonesia: News Detikcom, 2020) <https://news.detik.com> accessed on 21 May 2022.

²⁸ Sumadi, AF. Hukum dan Keadilan Sosial dalam Perspektif Hukum Ketatanegaraan. *Jurnal Konstitusi*, 12(4), 2016: 849-871.

Law and Policy Studies (PSHK), in February 2018 on the online petition site [change.org](https://www.change.org).²⁹

This petition was created because there are many problematic articles and the discussion process is not transparent and does not involve public participation. The content of this petition is a request to the House of Representatives of the Republic of Indonesia (DPR RI) to cancel the Revision of the MD3 Law. Meanwhile, this petition succeeded in capturing media attention by obtaining 240,482 support from the public. In addition, this petition has also succeeded in mobilizing other activities such as submitting a judicial review to Court Constitution (MK) and actions took to the streets to protest.³⁰

Finally, in June 2019 the government officially canceled the revision of Law Number 17 of 2014 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representatives Council and the Regional People's Representative Council (UU MD3) by approving the judicial review and cancellation of the MD3 Law by the Constitutional Court which has been approved by the DPR.³¹

e) Petition Reject Land Bill

The petition reject the Land Bill (RUU) was initiated by the National Committee for Agrarian Reform (KNPA) in September 2019 through the online petition platform [change.org](https://www.change.org). This petition was created because the bill does not yet represent the principles of the 1960 Agrarian Reform Law (UUPA) and MPR Decree No. IX of 2001 concerning Agrarian Reform and Management Natural Resources so it is not feasible to be legalized. The bill is considered more accommodating the interests of large capital investments that will threaten the agenda reform agrarian and people's rights to their land.³² The content of this petition is a request that the DPR RI review the Land Bill and delay its ratification.

This petition succeeded in attracting the attention and awareness of the government through the support of the community as many as 222,227 signatures. The House of Representatives (DPR) issued a decision in a meeting of the Land Bill Working Committee at Commission II of the DPR to postpone the ratification of the Land Bill. The government agreed to postpone the ratification of the bill because there are still many materials that are still pending debated public and many people's aspirations that have not been absorbed so that it needs to be reviewed in 2020.³³

f) Petition Reject Music Bill

The petition to reject the Music Bill was initiated by Indonesian musician Danilla Riyadi, as the representative of the National Coalition to Reject the Music Bill in February 2019 through the online petition platform [change.org](https://www.change.org). This petition was made because it limits, hinders the development of the creative process and will repress music workers in the country and even contradicts the Law for the advancement of culture, and Article 28 of the 1945 Constitution which upholds freedom of expression in a democratic country.³⁴ The content of this petition is a request to the DPR RI not to ratify the Music Bill.

Supported by 313,289 peoples who signed the petition, and action took to the streets by several Indonesian musicians. The Legislation Body (Baleg) together with the Ministry of Law

²⁹ The MD3 Law Coalition, Rejects Revision of the MD3 Law, the DPR cannot criminalize criticism, <https://www.change.org/> accessed on 21 May 2022.

³⁰ The MD3 Act Coalition wins! MD3 Law Revision Canceled! <https://www.change.org/> accessed on 21 May 2022.

³¹ MD3 Law Coalition. loc. cit.

³² [Change.org](https://www.change.org/), Review! The Land Bill is Not Worth Passing. www.change.org accessed on 21 May 2022.

³³ National Committee for Agrarian Reform, Win! Land Bill Not So Passed! <https://www.change.org/> accessed on May 21, 2022.

³⁴ [Change.org](https://www.change.org/), Reject Music Bill, www.change.org accessed on 21 May 2022.

and Human Rights revoked the Music Bill from the National Legislation Program (Prolegnas) Priority of the DPR RI in 2019.³⁵

2. Implications of the Existence of Online Petitions in Government Administration in Indonesia

To find out online protests through petitions are said to have implications or not, it can be measured through the concepts proposed by Kracher and Martin, namely the ultimate and intermediate concepts. The Ultimate concept is a concept that explains that an online protest if it is able to create policy changes, then the online protest is said to be successful. While intermediate is a concept that explains that even though an online protest has not been able to influence policy change, it can be said to be successful if it can attract government attention through media coverage that encourages further support.³⁶

That in the category of characters who make the petition, the character factor should be able to influence the ultimate victory of the petition. This is because a petition that has a clear origin can affect the number of petition support and is able to attract media attention to government awareness to respond to the petition.³⁷

Furthermore, petitions that receive a large number of support should also influence the government to respond to petitions, because public opinion can strengthen laws and regulations and is a moral supporter in society and supports the existence of social institutions. As for the results of the study, it was found that.

- a. Petition reject of the RKUHP made by Tunggal Pawestri, Gender Activist and Consultant in Indonesia was able to obtain support for 1,009,567 signatures. This petition was declared the ultimate success in administering the Indonesian government because it succeeded in making the government delay the ratification of the RKUHP.
- b. Petition reject of the revision of the KPK Law made by Henri Subagiyo, Executive Director of the Indonesian Center for Environmental Law (ICEL) with the support of 520,152 signatures. This petition was only declared an intermediate success in the administration of government because it had not succeeded in changing government policy to cancel the ratification of the revision of the KPK Law, but this petition was able to attract government attention or awareness through media coverage that encouraged further support such as demonstrations and judicial review efforts to the public Court Constitution.
- c. Petition reject the Omni bus Law on the Job Creation Bill, which was made by the Indonesian Leaders' Information Coalition with the support of 1,404,518 signatures. This petition was only declared an intermediate success in the administration of government because it had not succeeded in changing government policy to cancel the ratification of the Job Creation Act, but this petition was able to attract government attention or awareness through media coverage that encouraged further support such as demonstrations and judicial review efforts to the public Court Constitution.
- d. Petition reject of the MD3 Law was initiated by Hendrik Rosdinar, advocacy manager of the Indonesian Community Partnership and Initiative Strengthening Participation Foundation (Yappika) with the support of 240,482 signatures. This petition was declared the ultimate success in the administration of government because it succeeded in making the government cancel the revision of Law Number 17 of 2014 concerning the MD3 Law by approving the

³⁵ CNN Indonesia Team, Music Bill is Officially Revoked from the Indonesian House of Representatives Program <https://www.cnnindonesia.com> accessed on 21 May 2022.

³⁶ Salwa Alifa, Hamdani M Syam, and Nadia Muharman, *Implikasi Petisi Online Platform Change. Org Terhadap Kebijakan RKUHP dan UU MD3*. Jurnal Ilmiah Mahasiswa FISIP, 2021. p. 6

³⁷ *Ibid.*, p. 7

judicial review and cancellation of the MD3 Law by the Constitutional Court which had been ratified by the DPR.

- e. Petition reject of the Land Bill was made by the National Committee for Agrarian Reform (KNPA) with the support of 222,227 signatures. This petition was declared to be the ultimate success in administering the government because it succeeded in making the government issue a decision to delay the ratification of the Land Bill.
- f. Petition reject of the Music Bill was made by Indonesian musician Danilla Riyadi with the support of 313,289 signatures. This petition was declared to be the ultimate success in administering the government because it succeeded in making the government issue a decision to pull out Music Bill from Prolegnas.

Protests through online petitions rejecting the RKUHP, Revision of the MD3 Law, the Music Bill, and the Land Bill are said to be the ultimate success in administering the government because they are able to make the government give a positive response to the petition and in the end can create policy changes in accordance with the requests contained in the petition.

Meanwhile, in the petition against the KPK Bill and the Omnibus Law on the Job Creation Law, although it has not succeeded in creating policy changes, it is considered an intermediate success because it has been able to attract the attention or awareness of the government through media coverage that encourages further support. This success was influenced by the activity of the petitioners and the public who refused and campaigned for demonstrations through demonstrations taking to the streets and judicial review of the Constitutional Court.

Although all of the petitions analyzed were petitions made by certain figures and were able to get a large amount of support, but not all petitions could have implications or were successful in pushing government policies and impacting governance in Indonesia. This is because petitions in Indonesia do not yet have legal regulations that require the government to respond to them. This means that if a petition wins and succeeds in changing state policy, it is only because of the self-awareness of a power holder, not because it is regulated by Indonesian law.

On the other hand, the Indonesian people as holders of state sovereignty have the full right to participate in determining the direction of state policy. Currently, the Indonesian people choose to participate through an online petition. But since the beginning, namely the old order, new order, and the era of community participation reform, it has not been running effectively and efficiently.³⁸ Therefore, in the case of online petitions, binding arrangements are needed for the government to take seriously the opinions and suggestions of the public.

3. Online Petition Management Formulation Strategy in Indonesia

Article 1 Paragraph (2) of the 1945 Constitution affirms "sovereignty in the hands of the people and carried out according to the Constitution". This article shows that Indonesia must adhere to and implement a democratic system. Therefore, people's opinions that are different and even contradictory must be accommodated to be formulated as a joint decision.³⁹ For that we need a mechanism, strategy, and clear objectives for regulating online petitions in Indonesia.

a. Purpose of Establishing Regulations Regarding Petitions

Law was created to provide justice, legal certainty, and benefit to the entire community. Likewise, the purpose of establishing a regulation on petitions is to provide justice, certainty,

³⁸ Razak, AR Peran Serta Masyarakat Dalam Pembangunan. *Otoritas: Jurnal Ilmu Pemerintahan*, 3(1). 2013

³⁹ Muslih, M., Negara Hukum Indonesia dalam Perspektif Teori Hukum Gustav Radbruch (Tiga Nilai Dasar Hukum). *Legalitas: Jurnal Hukum*, 4 (1), (2017): 130-152.

and benefit to the entire community. Explanation about the purpose of making a law (rule) is described as follows.

1) Aim to Create Justice

A law is considered to be able to create justice for the whole community if it fulfills 3 (three) main principles, namely: the principle of equal liberty (equal liberty of principle), the principle of difference (differences principle), and the principle of equal opportunity (equal opportunity principles).⁴⁰ *In reality, sometimes these three principles cannot be applied simultaneously because between one principle and another there can be clashes. Quoted in Ricky Harun Amukti's writings, John Rawls stated that the same principle of freedom should be prioritized over other principles. The principle of equal opportunity must take precedence over the principle of difference.*⁴¹

Thus, if Indonesia makes a rule regarding petitions, it must be able to guarantee equal freedom to the petitioners and be able to create fair equality of opportunity for everyone to make petitions, on the other hand the regulation is also expected to accommodate the differences that exist in the petition between the petitioners so as to achieve justice for the community.

2) Aim to Create Legal Certainty

Legal certainty can be interpreted as a condition where the law is created by the state to the community clearly, firmly, and in its implementation does not raise any doubts. When the laws are interrelated and do not conflict with each other among each other, developed in a sustainable manner, and based on principles, legal certainty can be achieved.⁴²

Legal certainty consists of two meanings, first, is a general rule, which forms the community to have an understanding of what actions can and cannot be done, and second, is a form of security for the community to avoid government arbitrariness because with the existence of general rules, the public can understand what things can be done by the state to the community.⁴³

Based on the description described above, the formation of rules regarding petitions must be able to create clear regulations, firm regulations, regulations which in their implementation do not raise any doubts, regulations that are related to each other and obey one another to principles, regulations that explain what actions can be done and are not allowed to be carried out, regulations that can prevent the government from acting arbitrarily against the community and a general law.

3) Purpose to Provide Benefits

The creation of a legal rule must have the aim of providing benefits to the community, especially the parties who are in direct contact with the rule.⁴⁴ Thus, if Indonesia makes a regulation regarding petitions, it must be able to provide benefits to the community, especially those who submit petitions as a form of freedom of opinion in expressing their aspirations in realizing public participation in democracy in Indonesia. With the establishment of a rule regarding petitions, it can provide benefits in the form of legal protection to the petitioners and all the people who participate in the petition.

⁴⁰ Ricky Harun Amukti, loc. cit.

⁴¹ *Ibid.*, p. 45.

⁴² Achmad Ali, *Menguak Tabir Hukum (Suatu Kajian Filosofis dan Sosiologis)*, PT Toko Gunung Agung Tbk, Jakarta, 2002: p. 84.

⁴³ Riduan Syahrani, *Summary of the Essence of Legal Studies*, Image Publisher Aditya Bakti, Bandung, 1999, p. 23.

⁴⁴ Ricky Hary Amukti, loc. cit.

In addition, the existence of clear rules regarding petitions will make the status of petitions in Indonesia legal in the eyes of the law. Thus, the government or other parties related to the petition have an obligation to respond to what is being sued in the petition or at least the government can provide a response to the petition. The government's obligation to respond to petitions can provide clarity on the status of whether or not the request submitted through the petition has been granted. Finally, a situation like this will have a positive impact on the parties concerned and the entire community and on democracy in Indonesia because it can increase the number of people's participation and make it easier for people who want to participate in government decision-making.

b. Legal Protection Through Rules About Petitions

Satjipto Raharjo said that legal protection is to protect human rights that are harmed by others and that protection must be given to all people equally so that they can enjoy all the rights granted by law. Law can play a role in realizing protection that is not only adaptive and flexible, but also predictive and anticipatory.⁴⁵

Legal protection in the context of constitutional law is an illustration of the functioning of the law to achieve legal goals, namely to create justice, certainty, and legal benefits. Legal protection is an effort to protect legal subjects based on the rule of law, either to prevent or to force, done in writing nor not written in order to enforce the rule of law. Legal protection for the community consists of two kinds, namely:

- a) Preventive legal protection, which is a form of legal protection that provides opportunities for the public to express their opinions or aspirations on a decision to be ratified by the government.
- b) Repressive legal protection, which is a form of legal protection given to the community in terms of dispute resolution.⁴⁶

The legal protection offered to the Indonesian people is the implementation of the principle of protection and recognition of human rights based on the principle of the State of Law Pancasila. That legal protection is a right that is owned by everyone and all legal relationships must be protected by law.

Regarding the petition, until now there are still no rules governing this matter. Thus, there is still no legal protection for the parties, especially for those who create and participate in the signing of the petition. Therefore, it is hoped that Indonesia can make rules regarding petitions in order to provide legal protection in the form of clear legal rules related to petitions so that they can be useful for creating legal certainty and justice for all parties. This rule can also be used as a preventive legal protection measure aimed at preventing misuse, fraud, and other violations of law related to petitions.

The existence of a strict rule regarding the petition is also expected to provide a deterrent effect to the parties who commit irresponsible acts related to the petition, this can be realized by the provision of strict sanctions in a rule (law). With the provision of strict sanctions in the repressive rules of the petition, it can protect the parties associated with the petition and make them think twice before committing bad actions related to the petition.

By making rules on petitions as part of the right to freedom of expression, it is considered capable of providing legal protection to parties related to petitions. Legal

⁴⁵ Satjipto Raharjo, *Ilmu Hukum*, PT. Citra Aditya Bakti, Bandung, 2000, p. 55.

⁴⁶ Sudikno Mertokusumo, *Legal Inventions*, Citra Aditya Bakti, Bandung, 2009. p. 44.

protection through the making of these rules can be classified into preventive legal protection with the aim of preventing irresponsible actions against petitions. The repressive legal protection can be realized by making a firm and binding sanction to the parties who commit bad deeds against the petition.

The existence of a petition rule as a channel for freedom of expression in Indonesia will not only provide legal protection to the community, but can also create an obligation to the Government or other parties related to the petition to respond to what is requested in the petition or at least the aspirations of the community through the petition do not run in vain. -drain. In addition, the clarity of the rules can also provide certainty, benefit, and justice for the parties related to the petition in accordance with the applicable legal rules.

c. Implementation Strategy and Formulation of Petition Management in Indonesia

The online petition method applied by the UK can be used as a reference source to be applied in Indonesia. However, the implementation of this policy of course requires careful adoption to suit the situation and conditions of the Indonesian government. The application of the petition rules can be started by building an e-government system that is comprehensively integrated by the Indonesian government in order to ensure security, effectiveness, and efficiency so that online petition legislation is not only made as a symbolic action.

To achieve the desired target, the government must be able to ensure all legal instruments for the use of online petitions. The government can provide legal certainty to the public and law enforcement officers by passing the Cyber Resilience Act, the Personal Data Protection Law and the One Data Policy Regulation. In addition, as a foundation for integrating online petition services with other public services, the government must accelerate the construction of a national data center as an integrated data service center, in this case the government can cooperate with State-Owned Enterprises (BUMN) such as Telkom.

Furthermore, in order to create trust between the public and state institutions, Indonesia needs to present a professional and independent state institution as the manager of the online petition site. Of course, the institution must be ratified through certain regulations to legitimize its authority.

Based on the author's consideration, the Ombudsman of the Republic of Indonesia is an ideal institution to manage petitions because the Ombudsman is an institution that has the authority to oversee the implementation of public services and policies.⁴⁷ In addition, the Ombudsman is believed to have good independence in carrying out his duties.⁴⁸ So that this institution becomes suitable if later its authority is added to manage petitions.

Regarding the procedure and flow of petition submission, it can be started through the collection of petitions managed by the Ombudsman through the available portal. The Ombudsman is tasked with collecting online petitions submitted by the public and will sort out which petitions meet the criteria for submission to the DPR. The selection of the petition

⁴⁷ Based on Article 1 of the Law of the Republic of Indonesia Number 37 of 2008 concerning the Ombudsman of the Republic of Indonesia (UU Ombudsman), the Ombudsman has the authority to oversee every service and public policy, whether organized by state administrators, including those held by State-Owned Enterprises, Regional-Owned Enterprises, and State-Owned Legal Entities as well as private entities or individual who are given the task of administering certain public services whose funds are partly or wholly sourced from the state revenue and expenditure budget and/or regional revenue and expenditure budget.

⁴⁸ Article 2 of the Ombudsman Law ensures that the Ombudsman is a State Institution that is independent and has no organic relationship with State Institutions and other government agencies, and in carrying out its duties and authorities it is free from interference from other powers.

is carried out through testing the feasibility of the petition and checking the identity of the applicant. Applicants who can file a petition are individual Indonesian citizens who already have an Identity Card or an organization/public body that wants to initiate a movement. In addition, the applicant must be certain that he is not affiliated with a political party, understands that the problem being sued in the petition is the responsibility of the government, avoids problems that are personal, confidential, slanderous or misunderstood.

After passing this stage, the Ombudsman will publish the petition on the main page of the online petition. The minimum number of petitions that can be submitted for discussion in the DPR is 1,000 signatures with a 30-day deadline. If the target of the petition is the DPR, then the DPR can immediately follow up on the petition. However, if the target of the petition is the implementing organ of the government, then the DPR can use its supervisory function through the right of interpellation, expressing opinions or questionnaires to give warnings, ask for information or follow up on the target.

V. Conclusion

Based on the results of research and discussion, it can be concluded as follows: The existence of online petitions in Indonesia as part of the right to freedom of expression has been guaranteed by the constitution and laws. The support given by the community to every online petition is always great. It shows their awareness of their right as citizens to express their opinions and participate in controlling the running of government as a democracy. The large amount of support for each online petition indicates that the existence of online petitions in Indonesia in the future can be one of the choices of the public in an effort to voice their opinions.

Based on 6 researched online petitions 4 among them has implications for the administration of government, namely the petition against the RKUHP, the revision of the MD3 Law, the Land Bill and the Music Bill. Meanwhile, the other 2 petitions, namely the petition against the revision of the KPK Law and the Omnibus Law on the Job Creation Bill, only managed to attract the attention of the media and the government because they received a lot of support.

That online petitions in Indonesia do not yet have legal rules to be complied with by the government so that if a petition wins and succeeds in changing state policy, it happens because of the self-awareness of a power holder. Therefore, as a strategy so that petitions can be responded to by the government in a mandatory manner, Indonesia needs to make legal rules for petitions.

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