

Representative Democracy and Constitution Pancasila Perspective with the 1945 Constitution

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Representative Democracy and Constitution Pancasila Perspective with the 1945 Constitution

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Abstract

The process of receiving aspirations has several pathways or mechanisms, it can be at the time of research, it can be the mechanism for receiving aspirations in the parliament building from or from the mass media, social media, it can also be from the political infrastructure, namely the political parties from which they come, from interest groups or pressure group. The legislature is relatively busy and has a solid agenda of activities and therefore the members in it should ideally have adequate capacity and competence for their duties and functions. The duties and functions of representing the people have been carried out at the time of his representative inauguration as a member of parliament. His authority to choose the chief executive apart from increasing his authority and charisma as a representative of the sovereign people; also at the same time means not returning some of its functions and authorities which have been handed over and received from the people in the general election. This is where the confusion of the direct executive leadership election system, both in the presidential and regional elections. It is even worse when viewed in terms of the constitution, in this case, the source of law which abstracts the empirical values contained in the preamble of the constitution (the Preamble) or the basic values (intrinsic) which are the philosophy as well as the basis of the state, namely Pancasila. In the 4th (fourth) precept, it expressly reads: "Popularity Led by Wisdom of Wisdom in Deliberation/Representation", but its existence in the Body (article 1 paragraph 2) of the 1945 Constitution of the Unitary State of the Republic of Indonesia is implied and hidden.

Keywords

perspective; representative democracy; constitution pancasila



I. Introduction

Democracy can mean a set of ideas and principles about freedom, but it also includes a set of practices and procedures that are formed through a long and often tortuous history so that democracy is often called an institutionalization of habits, namely a concept of values or norms that are standardized through implementation. The consequences of democracy will provide a general standard of measurement in seeing whether a country democratic in the administration of government and society as a democratic country. In other words, when the opportunities that are a consequence of the general standard are not implemented, the country cannot be qualified as a democratic country.

In terms of attitude, democracy requires tolerance for opposing opinions, flexibility, and a willingness to experiment, considering that democracy is not created once but many times, namely democracy as a political process, not the same as anthropological findings. Democracy is not created once like an artifact, there is always something that changes in its implementation up to the ideal point. The implementation of democracy in one country

with another is relatively different, democracy grows in a society that adheres to it, which is under the underlying philosophy of life. As the basis of a democratic constitutional government system, it has been tested by the times that uphold freedom, human rights (HAM), equality before the law that must be owned by every individual and society.

In terms of enacting laws by the legislature together with the executive, it cannot be denied that the political direction dominates the two institutions and at the same time the colors of the aspirations and desires of the people begin to be blurred by the coalition of parties in the parliament. For the executive leadership, in this case, the President, including the Governor, Regent, and Mayor including their respective representatives.

However, the idea of popular sovereignty with the direct election of the executive leadership became stifled, the desire to vote directly was accommodated but not as pure as desired because it was in the hands of the parliamentary coalition that determines the candidate chosen as a consequence of the trash record. Turning the direct election into a repeat of the legislative election and maybe ineffective, both in terms of time, cost, especially in terms of achieving the goals of democracy substantially.

Based on this thought, it is time for direct elections to be reviewed because it is clear that this, apart from not touching the essence of democracy, results in many things that go wrong in its implementation as well as unconstitutional.

II. Review of Literature

Philosophically, Indonesia abstracts democracy from the ideology it adheres to by stating firmly: "People led by Wisdom of Wisdom in Deliberation/Representation". So far, democracy is not finished. To make democracy workable, the system is required to be included in the constitution as the basic law of the state. The implementation of the constitutional idea was followed up with organic laws. This law embodies the form of democracy that is applied or the way of democracy and becomes the basis for the implementation of democracy and the system of government adopted.

For a democratic country that has political institutions as stated by Mountisqui, one of them is the legislature. This institution has the authority to make laws, in Indonesia this function is carried out together with the executive.

III. Results and Discussion

An interesting thing for democracy is the idea of "populist" which is attached to it as a feature of government from below and not from above which is absolute. Several experts have expressed their opinion with this populist idea, for example, Harris Soche: "Democracy is a government that comes from the people, so the power of government is also in the hands of the people. Therefore, with the highest power held by the people, the people have the right to protect, regulate, and defend themselves from coercion by others. M. Carter and John Herz stated: "A country is called a democracy if it is the people who rule in that country". Joseph A. Schmitter: "Democracy means putting the people as parties who participate in the plans carried out by state officials to reach political decisions where the people consisting of several individuals have the authority to decide their struggle". Joseph A. Schmitter's definition emphasizes representative democracy.

Likewise with Sidney Hook stated: "Democracy which incidentally places the people as the holder of the highest power, so that decisions in government must be based on agreements made and approved by the people". Logically, the agreements were effectively carried out in representative forums.

The democratic idea of Indonesian democracy is stated explicitly: "a democracy led by wisdom in deliberation/representation". Deliberation/representation will result in agreements that do not tend to be liberal considering the idea of "populist" with the phrase: "consultation/representation" clearly prevents the practice of liberalism, a form of government whose powers are limited, allowing some or sometimes most of the environment of individuals and groups to exist. unregulated, and the environment is guaranteed by law or protected by convention against government interference. This kind of regime, according to M. Carter, is called liberal.

Mac Iver and John Herz, the characteristics of liberal democracy are that democracy is characterized by constitutional limitations on government actions to protect individuals and groups by arranging for periodic, orderly, and peaceful replacement of their leaders through the means of people's representatives. effective.

Democracy, in the style of Henry B. Mayo, is characterized by public policies determined based on a majority by representatives who are effectively supervised by the people in periodic elections based on the principle of political equality and held in an atmosphere of guaranteed political freedom.

Robert A. Dahl in On Democracy (1998), that "democracy provides opportunities for effective participation; equality in voting; gaining enlightened understanding; exercising final control over the agenda; inclusion of adults". This means that democracy will provide opportunities for the people to participate effectively; equality in voting; gain clear understanding; carry out final oversight of the agenda; and coverage of adults. Democracy is a logic of equality, in which all citizens are considered politically equal (Robert A. Dahl "Regarding Democracy, Yayasan Obor Indonesia, 2001).

The logic of the equation, according to Dhal, can be observed in 5 (five) standards: Effective participation, where all members can express their views; Equality of Votes, each member has the same opportunity to vote and all votes are counted equally; Clear understanding, all members understand the policy including relevant alternative policies and their consequences; Oversight of the Agenda, various policies are always open to criticism and open to change if members so desire; The inclusion of adults, the four previous criteria, indicates full citizenship rights for adults.

These five points show that democracy treats others the same politically, and is superior in 10 (ten) matters over any alternative. The ten things according to Robert A. Dahl are:

- a. Democracy helps prevent rule by cruel and cunning autocrats;
- b. Democracy guarantees its citizens some rights that are not granted, and cannot be granted by undemocratic systems;
- c. Democracy guarantees greater personal freedom for its citizens than any other possible alternative;
- d. Democracy helps people protect their basic interests;
- e. Only a democratic government can provide the greatest opportunity for people to exercise their freedom of self-determination, namely to live under the laws of their choosing;
- f. Only a democratic government can provide the greatest opportunity to carry out moral responsibilities;
- g. Democracy helps human development more totally than any other possible alternative;
- h. Only a democratic government can foster a relatively high level of political equality;
- i. Modern representative countries don't go to war with each other;
- j. Countries with democratic governments tend to be more prosperous than countries with undemocratic governments.

In line with the idea of 'people's political rights as the embryo of the emergence of the idea of a people's government (democracy) with 'limitation of power' which is the basis for the birth of the rule of law, its emergence in parallel to date has given birth to two concepts related to the role of the state and the role of society, namely constitutional democracy in the nineteenth century and constitutional democracy in the twentieth century, both of which have always been associated with the concept of a state of law, namely a state based on a constitution.

In theory, democracy requires a constitution so that democracy can be implemented; the constitution limits powers; so as not to be arbitrary; The constitution divides power so that it is not concentrated on one person/body (checks and balances) which can cause injustice. The inclusion of democracy in the constitution is the first marriage (cohesion) between politics and law, the state is organized based on the law (resistance and rule of law). Cohesion between politics and law aims to make politics have legal norms so that politics is moral and so that political life includes positive activities oriented to structuring society based on legal norms and rules and spiritual values. It is understandable, as experts have released that this achievement of political and legal cohesion has become part of the intellectual heritage of the West, and has inspired political and legal philosophers as well as religious and social movements to this day (Paul E Sigmund in Yosef Losco's Political Theory, Leonard Williams, 2005).

Prof. Miriam Budiardjo, 2002 stated that the character of constitutional democracy is that a democratic government is a government that has limited powers and is not allowed to act arbitrarily against its citizens. Therefore, according to him, restrictions on state power should be implemented with a written constitution. In addition, the power is divided in such a way that the opportunity for abuse is minimized and the power is not concentrated in one person or entity. The juridical formulation of these principles is known as *rechstaat* (state of law).

This rule of law principle is applied to a democratic system where public policy is determined on a majority basis by representatives who are effectively supervised by the people who are elected in periodic elections based on the principle of political equality and are held in an atmosphere of guaranteed political freedom (Henry B. Mayo.).

In addition, democracy is not only a form of state or government system but also a lifestyle and a certain social order, which therefore contains moral elements so that it can be said that democracy in addition to adhering to the principle of the rule of law is also based on several values or values.

According to Henry B. Mayo, the values that underlie democracy are Settling disputes peacefully and institutionally (institutionalized peaceful settlement of conflicts). In every society, there are disagreements and interests, which in a democracy is considered natural to be fought for. The dispute must be resolved through negotiations and open dialogues to reach a compromise, consensus, or consensus to Ensure peaceful change in a changing society. The government must be able to adjust its policies to changes that occur, for example, in every society that dominates itself, social changes occur, caused by factors such as advances in technology, changes in population density, and so on; Organizing the replacement of leadership regularly (orderly succession of rules). Substitution based on descent, or by way of self-appointment or through a coup, is considered unnatural in a democracy; Limiting the use of violence to a minimum (minimum of coercion). The support provided by the community is not obtained through violence, but through open and creative discussions involving all levels of society; Recognizing and assuming the existence of diversity (diversity). In society reflected the diversity of opinions, interests, and behavior. For this reason, it is necessary to organize an open society and political

liberties that will allow flexibility and the availability of alternatives in sufficient numbers. In this case, democracy is often referred to as a way of life; Ensuring justice. In a democracy, in general, violations of justice will not occur too often, because large groups are represented in representative institutions, although there are still some groups who feel they have been treated unfairly. So what can be achieved maximally is relative justice.

Political dialogues are consulted, whether it be something in the form of thoughts, differences of opinion, or anything related to the benefit of the people, are completed in a forum that is institutionalized and prepared for this and is attended by representatives who have been represented as whole people's representatives and this phenomenon is characteristic of democracy.

These characteristics are the principles of democracy, if these characteristics do not appear in the administration or management of the state or the behavior of the people, then in principle the state or society in question has lost the aspects of democracy that it adheres to constitutionally³

Democracy has three main understandings which include the nature, process, and purpose of democracy (Huntington, 1983). Huntington sees democracy in three general approaches, namely: a source of authority for the government; the purposes served by the government; and procedures for forming a government. From this understanding of democracy, the choice of a democratic state will have democratic consequences that must be considered, namely providing opportunities for the people as citizens to exercise their political rights and obligations in the state.

From this understanding of democracy, the choice of a democratic state will have democratic consequences that must be considered, namely providing opportunities for the people as citizens to exercise their political rights and obligations in the state, namely carrying out democratic principles.¹⁰

Inu Kencana Syafie details the principles of democracy as follows, namely; power-sharing, free elections, open management, individual freedom, free judiciary, recognition of minority rights, rule of law, free press, multiple political parties, consensus, consent, constitutional government, democratic provisions, oversight on state administration, protection of human rights, majority government, competition for expertise, the existence of political mechanisms, freedom of state policy and the existence of a government that prioritizes deliberation.

The principles of a democratic state that have been mentioned above are then translated into a more practical concept so that it can be measured and characterized. These characteristics are then used as parameters to measure the level of implementation of democracy in a country.

According to Inu Kencana Syafie, these parameters include four aspects: First, the problem of state formation. The process of power formation will greatly determine how the quality, character, and pattern of relationships will be built. Elections are believed to be one of the important instruments that can support the process of forming good governance; Second, the basis of state power. This problem concerns the concept of the legitimacy of power and its direct accountability to the people; Third, the composition of state power. State power should be exercised distributively. This is done to avoid the concentration of power on one hand; Fourth, the problem of people's control. Community control is carried out so that the policies taken by the government or the state are following the wishes of the people.

Jimly Asshiddiqie (2005)³¹ history, there have been at least three forms of democracy that have been tried: direct democracy (assembly democracy), representative democracy, deliberative democracy".

The following is a brief description of these forms of democracy:

1. Direct Democracy

- a. The oldest democratic practice; democratic practice in small associations
- b. Based on the direct, unrepresented, and continuous participation of adult citizens in making and implementing joint decisions
- c. There is no clear boundary between the government and those who are governed by a kind of self-government/government system and those who are governed are the same person.

Direct democracy is also known as clean democracy. This is where the people have absolute freedom to give their opinion, and all their aspirations are immediately contained in one meeting. This type of democracy can be practiced only in small towns and relatively undeveloped communities, where it is physically possible for all electorates to convene in one place, even if the governance problems are minor.

Direct democracy flourished in the small states of ancient Greece and Rome. This democracy cannot be implemented in a complex society and a large country. Pure democracy that can still be taken as an example is in the territory of Switzerland. Changing the form of pure democracy is still valid in Switzerland and some countries in which there are forms of referendums and initiatives. In some countries the people can initiate and adopt laws, even to amend the constitution and set political public issues directly without the intervention of representatives.

2. Representative Democracy

- a. The practice of democracy came later in response to some of the weaknesses of direct democracy; democratic practice in large associations such as countries;
- b. Based on limited participation, citizen participation is only for a short time and is only carried out several times within a certain period, such as in the form of participation in general elections;
- c. Based on indirect participation, the community does not operate its power but chooses representatives who will make policies on behalf of the community.
- d. The government and the governed are strictly separate, democratic or not. This form depends on the ability of elected representatives to establish and maintain effective relations between the government and the governed.

3. Deliberative Democracy

- a. The most contemporary form of democracy; practiced in a complex and large society is a form of democracy that combines aspects of direct participation and a form of representative democracy.
- b. Giving different pressures in understanding the meaning of people's sovereignty. Sovereignty relates to community involvement in discussing, discussing, and debating common issues or in determining what is appropriate to be considered a common issue. Democracy is at least a policy depending on whether the policy has gone through a process of discussion, discussion, and debate (deliberations) involving the wider community.
- c. There is a clear separation between the government and the governed. But the more important separation is between the state and civil society. The state is a place to discuss and implement policies. Civil society is the place where "deliberations" take place.
- d. In addition, there is also a separation between public and private areas. The public domain is the area of "consultation; The private sphere is the area where one thinks about what issues are important and why those issues need to be discussed, discussed, and debated publicly.

Referring to the understanding of democracy and with firm characteristics: there is no element of coercion by others against someone individually or in groups, through power or force, but through agreements made and approved by the people, then democracy is deliberation that results in consensus without there are parties who are harmed and the agreements made together are held accountable together.

Thus, the stronger the notion that to make democracy work, stand up and live in the community, the principles of democracy must be included in the constitution and open space for the people to control the power that is exercised and this space undergoes a process of social institutionalization.

Problems will arise if the democratic material that is included in the constitution experiences a fundamental rejection due to the existence of two paradoxical sources of value, namely if people's habits of practicing democracy in a representative system as a norm or lifestyle are then applied in state life in the form of a representative system. but this is not accommodated by the constitution. This is not only a dilemma but is included in the category of a democratic paradox, the emergence or existence of two conflicting sources of law.

In the course of the history of the Indonesian state administration, all the constitutions that have ever been in effect adhered to the principles of democracy. This can be seen for example:

- 1) In the 1945 Constitution (before the amendment) article 1 paragraph (2) reads: "Sovereignty is in the hands of the people and is exercised by the People's Consultative Assembly".
- 2) In the 1945 Constitution (after being amended) article 1 paragraph (2) reads: "Sovereignty is in the hands of the people and is carried out according to the Constitution".
- 3) In the constitution of the United States of Indonesia, Article 1:
 - a) Paragraph (1) reads: "The independent and sovereign Republic of the United States of Indonesia is a democratic constitutional state in the form of a federation".
 - b) Paragraph (2) reads: "The sovereign power of the United States of Indonesia is exercised by the government together with the House of Representatives and the Senate".
- 4) In the 1950 Constitution Article 1:
 - a) Paragraph (1) reads: "The independent and sovereign Republic of the United States of Indonesia is a democratic legal state in the form of a unitary state".
 - b) Paragraph (2) reads: "The sovereignty of the Republic of Indonesia is in the hands of the people and is exercised by the government together with the House of Representatives".

The four basic laws that have been in force and are currently in force in Indonesia today all adhere to and include a democratic political system, as well as marking Indonesia as a state of law or a state whose government is based on the constitution. It's just that the results of the amendments to the 1945 Constitution of 1999-2000 there was a fundamental change that "Sovereignty is in the hands of the people and is carried out according to the Constitution".

In terms of according to the Constitution, then it is a sign to make organic laws as the implementation of the constitution. In this case the election of the president and vice president, carried out directly under the law. Likewise, elections for regional heads and deputy regional heads, provinces and districts as well as cities are carried out democratically according to law.

The constitutional problems do not only extend to direct elections, a system that is not rooted in the history and governance of people's lives; but also direct election is not under popular ideas.

The democracy agreed upon by the founders of the unitary state or the founding fathers is: "People who are led by wisdom in deliberation/representation", as contained in the 4th paragraph of the Preamble to the 1945 Constitution which is an integral part of the body of the Constitution.

In the formation of character building, the reading of the Preamble to the Constitution has a reading procedure as practiced in various important events, read as: "The Constitution of the Unitary State of the Republic of Indonesia, Preamble! " This emphasizes that the Preamble to the 1945 Constitution is an integral part of the state constitution or the 1945 Constitution which is the body of the preamble or preambule.

Pancasila Ideological Philosophy

R. Suprpto, 2004 ideology is rooted in a philosophical system and is the implementation of a philosophical system. Based on theoretical principles, a nation can't adopt and implement an ideological system that does not originate from the philosophy of life or the philosophy of its own country. Considering that national ideology originates from the philosophy of life and the philosophy of their own country, the manifestation of its basic values tends to be integrated. For example, Communism is rooted in the philosophy of materialism which gave birth to the notion of atheism and the notion of class struggle and the dictatorship of the proletariat; Colonialism is rooted in the philosophy of liberalism which gave birth to the notions of democracy, politics, liberal social economy, and forms of parliamentary multi-party system and capitalism; Pancasila comes from the philosophy of the Indonesian nation itself since time immemorial in the *triprakoro* (Notonegoro term), namely Customs, Culture, and Religion. From there, with deep thought, according to R Suprpto, the founding fathers made Pancasila the state ideology.

It is clear, in this case, the 1945 Constitution with its preamble is a conflicting legal system, meaning different or paradoxical which should be parallel because it has a "common thread", R Suprpto said: "basic values tend to be integrated".

The preamble to the fourth paragraph is based on "God Almighty, just and civilized humanity, Indonesian unity, and democracy led by wisdom in deliberation/representation, and by realizing social justice for all Indonesian people".

Chairul Anwar, 1999, stated that the Constitution created the main ideas contained in the "Preamble" in its articles. According to him, the main ideas include the spiritual atmosphere of the Indonesian Constitution, where these ideas embody the ideals of law (Rechtsidee) which control the basic state, both written law (Basic Law) and unwritten law.

The last paragraph in the Preamble explicitly emphasized "... Democracy led by Wisdom/Representation", and at the same time emphasized that Indonesia, in this case, uses representative democracy. While the Constitution of the Unitary State of the Republic of Indonesia, article 1 paragraph (2) reads: "Sovereignty is in the hands of the people and is exercised according to the Constitution" (amendment). Unlike before the amendment: "Article 1 paragraph (2) reads: "Sovereignty is in the hands of the people and is exercised by the People's Consultative Assembly".

This explains that the Republic of Indonesia has historically and culturally adhered to representative democracy (representative democracy), but after the reformation, the results of the amendments directed it to direct democracy. With such articles/constitutional paragraphs, laws concerning presidential elections and direct regional head elections were born.

Indonesia not only adheres to representative democracy but also deliberative democracy which is completely different from the direct democracy system which adheres to the term voting, one man one put which is practiced in liberal democracies.

In a large and modern country, democracy cannot be successful. This can be observed in the practice of democracy in several countries with large populations, large territories, and ethnographically diverse societies.

Therefore, to overcome this problem, a representative democratic system is needed. These representatives will carry out or convey all the aspirations of the people in the meeting. Where they are elected by the people and may side with the people. This system is based on ideas, where the people are not directly present in conveying their aspirations, but they convey or suggest their suggestions through representatives or representatives. However, in this form of government, the "authority is presumed right" (a term that is not uncommon but is often used by experts) lies in the hands of the people, but everything is practiced by representatives.

Democracy in substance should be reflected in individual behavior. A large population will find it difficult to instill democratic behavior in a massive and well-established manner. In addition to the cultural aspect, habits are very influential. Likewise, with the microeconomic aspect, per capita income with a low level of welfare is difficult to expect democracy to run ideally. The alternative for a country like this, is a representative democracy, representative democracy.³⁰

Microeconomic developments are the foundation for economic growth in Indonesia. This show is small and medium industries have good prospects to be developed and have competitiveness and competitive advantage well and contribute to employment safety (Pradata et al, 2020). One form of microeconomics that can combine large amounts of ¹⁵or with small capital is small and medium micro enterprises (Ulfha, 2019). The economic condition of the population is a condition that describes human life that has economic score (Shah et al, 2020).

Grassroots, professional and functional community groups will be represented by a group of political elites who have been educated and trained through the cadre process by political parties. These are the ones who are educated to represent the people in parliament.

From this approach, the aspect of equality embraced by democracy can be achieved. This happens because a group of individuals who make up the representation has the same intellectual capacity and relative competence. Economic ability, social awareness, and level of service with the level of economic stability make him not budge on destructive things that affect him. The representatives struggled and experimented and argued with the average capacity they had, they had relatively the same intellectual level. In contrast to direct democracy, individuals in society vary widely with different capacities and subjective interests, making their choices relatively far from the meaning of democracy, both as an end, as a process, especially as a source of authority.

The benefits of democracy or the wisdom of democracy as described above will be felt if the application or implementation is following the system and with the people who accept it as a value.

Each country has its government system, which of course differs from one country to another. An authoritarian or absolute system may be suitable for certain countries and not necessarily suitable for other countries. The same is true of other systems, including democracy. One country may be compatible with a direct, representative, or deliberative democracy, but not necessarily with another. In this context, the adoption of a government system from one country to another requires a transplant process, namely how the system is recognized and accepted with the result providing benefit, peace, and prosperity.

IV. Conclusion

Representative democracy is under the unitary state of the Republic of Indonesia because it has become part of history, customs, culture, and religion which are accommodated based on the state or the ideology of Pancasila.

The Preamble to the 1945 Constitution is an integral part of the Body of the 1945 Constitution, where the philosophical values contained in the preamble must be spelled out in the body, namely the articles of the constitution.

The electoral system has directly directed the Indonesian nation to a vulnerable atmosphere of division and has proven to be of no benefit in the life of the nation and state, both in the economic and social fields.

Suggestion

It is time for the direct election system implemented in Indonesia to be reviewed because it is not under the philosophical values of the Pancasila ideology and it is time for Indonesia to implement an electoral system that is adopted and following the state ideology that has become a legacy of its ancestors.

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