

EFFORTS TO INCREASE THE QUALITY OF DEMOCRACY: THE REALITIES OF IMPLEMENTING DEMOCRACY AND NOMOCRACY IN INDONESIA THAT BECOME OBSTACLES

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ABSTRACT

Indonesia is a country organised with both democracy and nomocracy. Both must complement each other and should not negate each other. This is because the supreme power is in the hands of the people and is limited by the agreement outlined in the rule of law, so there is no arbitrary action. This means that popular sovereignty and law are important instruments in the state. However, there are still many actions that do not reflect respect for both, such as abuse of authority; Pancasila values that are forgotten, not taken seriously, not used as the nation's way of life; not respecting human rights as part of efforts to realise a democratic state; not complying with laws and regulations; not respecting the law; not trusting law enforcement; non-participatory policy formation; and so on. Despite various efforts to improve the quality of democracy, many people still do not feel that democracy in Indonesia has quality. This research aims to analyse the concept of a democratic rule of law, a democratic state, the revitalisation of Pancasila, and the dynamics of the implementation of democracy and nomocracy by reality. This legal research uses a statute, historical, and conceptual approach with primary and secondary legal materials. Based on this research, it can be seen that Indonesia's ideals as a democratic country must be realised by forming laws that are in accordance with the values of Pancasila. This is because Pancasila is the noble value of Indonesian society. Incorporating it into legal activities will protect and respect human rights, so that democracy can ideally take place in any form, whether elections or others. If the law is enforced and departs from the values that the community believes in, namely Pancasila, then the support and trust of the community will be easily obtained. When public support and trust are gained, quality democracy is easily realized.

Keywords: Quality Democracy; Constitutional Democracy; Democracy and Nomocracy; Pancasila; Human Rights.

INTRODUCTION

Democracy based on the constitution is a phrase that originated in the history of the Indonesian state. Although it is not explicitly present, the phrase can be traced back to Ancient Greece and the Roman Empire. The phrase emerged in direct democracy in city-states, where political decisions were made directly without representation. Meanwhile, the term 'constitution' dates back to the Roman Empire, originally used as a technical language to refer to the act of legislation by the Emperor (Asshiddiqie, 2005, p. 2).

A constitutional democracy is a government where the constitution limits political and government power. Almon Leroy Way Jr calls this democracy to have 2 essential substances: constitutional and democratic ingredients. Almon also said: "The constitutional ingredient of modern constitutional democracy is called "constitutionalism," or "constitutional government." Meanwhile, Miriam Budiardjo argues that constitutional democracy is the idea of a democratic government whose power is limited by the constitution, so it is not justified to be arbitrary towards its people (Budiardjo, 2008, p. 107). Lord Acton's statement that power tends to corrupt, absolute power corrupts, becomes necessary for power to be limited.

The idea of constitutional democracy moves dynamically over time to abolish absolute power until the constitution becomes the supreme power in the state. Then related to the idea of statehood, the separation of powers by John Locke developed by Baron de Montesquieu, namely the legislature, executive, and judiciary, makes sense, namely so that there is no accumulation of authority in one institution, so that they can check and balance each other.

The idea of constitutional democracy also emerged in Indonesia's constitutional history. When formulating the 1945 Constitution of the Republic of Indonesia, which then positioned the People's Consultative Assembly or Majelis Permusyawaratan Rakyat (MPR) as the holder of full popular sovereignty and became the highest state institution. Adnan Buyung Nasution argued that the idea of a democratic state at that time was insufficient to explain constitutional government's nature because it demanded more fields (Nasution, 1995, p. 414). Furthermore, the 1945 Constitution at that time was not followed by the spirit of constitutional democracy. With the existence of guided democracy, Soekarno attempted to build a new meaning of Indonesian democracy. At that time, Soekarno placed himself at the centre of power and other state institutions were under his control. Then, in the New Order era, President Soeharto stuck to the centralisation of one-handed power.

Due to this history of centralisation of power, fundamental changes were made to the 1945 Constitution in the reform era. The reason for these changes was the weaknesses in the 1945 Constitution that prevented democratic governance (Isra, 2010, pp. 155-162). Studies related to the changes include the study of the Working Group on Legal and Legislative Reform or *Kelompok Kerja Reformasi Hukum dan Perundang-undangan* formed by President B.J. Habibie, which stated that the constitutional structure of the 1945 Constitution was very executive-heavy, resulting in insufficient regulation of checks and balances.

To avoid repeating this weakness, the MPR redesigned the relationship between institutions in the constitutional reform (1999-2002). As a result, no single state institution holds the sovereignty of the people. The result of these changes is: "sovereignty is vested in the people and exercised according to the Constitution." in the 1945 Constitution of the Republic of Indonesia. The president's power was limited, so it was not centralised like the Old Order and New Order, the legislative authority was open to correction through the judicial review mechanism.

This article aims to present an elaboration of the understanding and practice of constitutional democracy after the amendment of the 1945 Constitution of the Republic of Indonesia. The author tries to explain several things. *First*, what does popular sovereignty and legal sovereignty look like after the amendment of the 1945 Constitution, which should be complementary-democracy and nomocracy should not negate each other, but complement each other. In addition, the author also explains the meeting point of democracy and nomocracy that realises a democratic rule of law.

Secondly, the author explains the relations between state institutions such as the DPR and the president in forming laws whose arrangements can build *checks and balances* between the DPR and the government. Then, the authority of the Constitutional Court to assess the constitutionality of laws produced by the DPR and the President. This process of *checks and balances* is important.

Third, the author considers long-lasting substances relevant for a long time. Fourth, the author explains his thoughts on legal and constitutional issues the Indonesian people face today. Fifth, the author also discusses constitutional democracy from a historical perspective. Overall, the purpose of this writing is also to add to the legal literature, especially in Constitutional Law.

RESEARCH METHODS

This legal research uses statute, historical, and conceptual approaches. The statute approach is to study the ratio legis and ontological basis of a law (Marzuki, 2022, p. 134). The historical approach tracks the history of legal institutions, thus helping researchers understand the philosophy of legal rules over time and their development (Marzuki, 2022, p. 166). Meanwhile, the conceptual approach is taken when what is found is a general meaning and must build concepts to become a reference in their research. In building concepts, researchers depart from the views and doctrines that develop in the law (Marzuki, 2022, p. 178). This research uses primary and secondary legal materials. Primary legal materials are the 1945 Constitution of the Republic of Indonesia. Secondary legal materials are books, journals, reports, websites, theses, dissertations, proceedings, and other scientific articles relevant to the research issue. This research aims to analyse the concept of a democratic rule of law, a democratic state, the revitalisation of Pancasila, and the dynamics of the implementation of democracy and nomocracy in accordance with reality. Then, the author will present ideal suggestions for the life of the nation and state.

RESULT AND DISCUSSION

The Concept of the Rule of Law and its Relationship with the 1945 Constitution of the Republic of Indonesia Up to 3 Separation of Powers of State Institutions

The concept of a state's sovereignty as supreme power is very influential in the structure of the state. Supreme power is generally understood as abstract, single, whole, undivided, and does not come from a higher power. However, the supreme sovereignty of a state is not absolute because it has developed in terms of thought and practice, starting from the sovereignty of God, the sovereignty of law, and the sovereignty of the people.

According to Thomas Hobbes in the book *De Cive* (1642), sovereignty is the essential function of the state. Jimly Asshiddiqie in the book *Konstitusi dan Konstitusionalisme Indonesia* (2005), explains Hobbes's view that sovereignty distinguishes state organisations and social organisations and is the soul of political institutions called states, invulnerable, and invincible (Asshiddiqie, 2005). However, the concept of absolute sovereignty should not be maintained. It must be understood as the concept of supreme power that can be divided and limited by law and constitution. In the history of state practice, there are five theories of sovereignty, namely, the sovereignty of God, the sovereignty of the King, the sovereignty of the state, the sovereignty of the people, and the sovereignty of the law. The sovereignty of the people and the sovereignty of the law are most widely embraced after the rationalist civilisation.

Popular sovereignty is a form of democracy, a government of, by, and for the people. However, in practice, the practice of representative democracy emerges. The people are only directly involved in elections to elect their representatives, but they only participate indirectly in governance. Participation is the act of participating in activities, from planning to evaluation (Sirajuddin, Sukriono, & Winardi, 2012, p. 171). This is a weakness of democracy, namely that it is difficult to reach a general agreement on state administration, which results in laws and policies representing the will of the majority. Meanwhile, legal sovereignty or nomocracy is the supreme power of the law. Law is seen formally as a product that binds citizens. This means the ruler can determine the law in favour of his interests rather than public justice (Gaffar, 2012, p. 11).

A democratic rule of law will be realised if democracy and nomocracy are embraced. In short, the state's supreme power is in the people's hands. It is limited by agreements determined by themselves collectively and set out in the rule of law, culminating in formulating the constitution. The rule of law limits and regulates how the sovereignty of the people is exercised; this is the doctrine of the rule of law.

Laws must reflect the interests and sense of justice of the people of a country, so they must be made democratically. The constitution as the highest law must reflect the agreement of all the people and all other laws made must not contradict the constitution. This is because laws based on the constitution are the product of the majority of the people, while the constitution is the product of all the people.

The concept of democratic rule of law means that democracy is regulated and limited by the rule of law, while the substance of the law is determined in a democratic manner in accordance with the constitution. Democracy and nomocracy unite two approaches, namely quantitative in the democratic mechanism, and the logical approach to legal truth and justice based on the will of the people as outlined in the constitution.

Sovereignty in the 1945 Constitution of the Republic of Indonesia, precisely in paragraph 4 of the preamble, is the sovereignty of the people as well as the sovereignty of the law. All actions of state administrators and citizens must be in accordance with the applicable law, namely the law at the level of norms that culminate in the 1945 Constitution of the Republic of Indonesia. Then, the law that is applied and enforced must be in accordance with the law.

The will of the people, so the participation of citizens in decision-making must also be real. This is because the law does not only guarantee the interests of a few people, but all citizens. The will is reflected in the 1945 Constitution of the Republic of Indonesia, making it the supreme law.

In implementing the conception of a democratic rule of law, the principle of balancing and supervising each other between state institutions is applied. These state institutions have 3 functions, namely as a space for democratic political mechanisms in determining legal products and policies in accordance with the will of the majority of the community, as well as supervisors; implementers of laws and policies; and perpetrators of judicial power and balancing these powers in order to comply with the rule of law and justice hierarchically. The authority and position of each institution is equal based on the 1945 Constitution and is a form of separation of legislative, executive and judicial powers with the principle of mutual supervision and balance.

Indonesia as a Constitutional Democracy and the Concept of Separation of Powers

The existence of humans and society is inseparable from the organisation of power that fulfils the nature of a state. The state must be organised to achieve ideal goals for its people. This has been highlighted because it is still often the case that the state harms or sacrifices humanity and civilisation.

During the time of Ancient Greece, democracy had a negative meaning, namely the rule by many people who did not understand the direction and the excellent way. Today, democracy and nomocracy have evolved and given rise to the concepts of a democratic rule of law and a democratic state based on law or constitution. Democracy was chosen because it is based on human dignity and equality, which are important aspects of legal objectives: justice, certainty and expediency. Democracy that relies on freedom and the majority vote becomes tyranny and anarchy, so the law also acts as a framework for democracy so that it does not deviate from its goals.

From a normative perspective, law as a legitimisation of power can be abused if it does not provide limits. Law can become a tool of justification and give birth to authoritarianism that deviates from justice and respect for human dignity. To prevent this, the law should be democratised in accordance with the values and goals of democracy. There are three main aspects to implementing democracy and nomocracy in constitutional democracy. These are structuring relations between state institutions, the legislative process, and judicial review.

Structuring the relationship between institutions is important because these institutions will exercise state power. The aim is to achieve the goals of the state, democracy and law; and to limit and prevent the accumulation of power that leads to abuse of power. Then the concept of separation of powers was born so that each institution supervises and balances each other. The rule of law contains limitations, structuring, and legitimisation of institutions.

Secondly, the legislative process is important because the law determines the administration of the state in accordance with the principle of rule of law and not of man. The law that becomes the basis of state administration must be in accordance with the will of the people through a democratic legislative process. Third, the constitution is the supreme law where the principles and basic norms of the rule of law reside. Therefore, to guard and guarantee democracy and nomocracy in state administration, there needs to be a mechanism to support the supremacy of the constitution. Therefore, a judicial review mechanism includes constitutionality testing and testing of lower rules.

Practice of Pancasila Values in the Life of the Nation and State

Indonesia as a state of law is related to Pancasila, which is contained in the fourth paragraph of the 1945 Constitution of the Republic of Indonesia. The values of Pancasila are not present as a form of political agreement, but grow and develop in line with the formation of the Indonesian national entity (Yusdiyanto, 2016, p. 266). Pancasila has a constitutional political foundation, but also historicity and rationality. Pancasila is the source of all sources of law (Atmoredjo, 2020, p. 191). Therefore, Pancasila is often referred to as the basic norm (grundnorm) (Pinasang, 2012, p. 2).

For Soekarno, Pancasila was the "*philosophische grondslag*", the philosophy, basis, fundamentals, soul and deepest thoughts to establish Indonesia. For Hatta, Pancasila is the state ideology that directs state politics and Indonesian constitutional law. Pancasila as a philosophical and moral foundation (Siallagan & Syuhada, 2023, p. 3). Pancasila as a national-state direction has an ontological, epistemological, and axiological foundation. Each of its precepts justifies its historicity, rationality, and actuality, which if understood, lived, believed, and practised consistently and can sustain the achievement of national civilisation and approach the realisation of the "Plenary State" (Latif, 2022).

The problem is that Pancasila, which is believed to be the basis and ideology of this country, cannot be fully seen in the reality of the life of the nation and state (Hangabei, Dimiyati, Absori, & Akhmad, 2021, p. 80). Instead, Pancasila is marginalised, poorly understood, and does not even know the values of Pancasila. In fact, these Pancasila values come from values that live and develop in society (Andriawan, 2022, p. 3). This is based on a survey conducted. In addition, social phenomena also reflect the forgotten values of Pancasila. Examples are rampant corruption, difficult eradication of corruption and legal mafia, violence, conflict, and so on. This cannot be allowed because glory and majesty will not be realised if the nation loses its foundation and orientation. Therefore, the National Awakening Day on 20 May and the Birth of Pancasila must be used to raise awareness and restore the meaning of Pancasila as a basis and way of life. Pancasila must be imbued and realised in legislation and social reality.

Revitalising Pancasila is done through thought and action. Pancasila must also be made more operational, so that it can be applied and functional. Efforts to revitalise the value of Pancasila are the responsibility of the community and state administrators at the central and regional levels. If they are accustomed to applying it in the life of the nation and state, it will automatically affect the suitability of social reality, state actions, and laws and regulations with the values of Pancasila.

Every state organiser is obliged to increase knowledge, understanding, and public awareness of the value of Pancasila. This is because Pancasila is the ideology of the nation (Prabowo, Handayani, & Isharyanto, 2019, pp. 61-62). This means that Pancasila acts as a knife to criticise state policies. This action will make Pancasila continue to be revitalised in a structured, systematic, and massive step.

Implementation of Democracy and Nomocracy in Indonesia

Most modern countries practise democracy and nomocracy. Modern democracy is democracy manifested in the form of a representative body of the people whose primary function is to make laws, hence the name legislature. In addition, this institution supervises the implementation of these laws, so it is called a parliament.

The law was made in accordance with the will of the people as a whole, but it was impossible to achieve this because at the level of the law-whose content is concrete and must be implemented-the content is difficult to decide unanimously. In fact, many members of the representative bodies do not represent the voice of the people. For this reason, most laws are enacted on the majority principle, and fundamental rights must be guaranteed that cannot be violated even with a majority vote. Hence the idea of nomocracy with one of its main elements being the supremacy of the constitution. The term 'supreme' is assumed to embody the agreement of the whole people, not the majority.

One form of nomocracy is the judicial power with the authority of judicial review carried out by the Supreme Court (MK) or the Constitutional Court or *Mahkamah Konstitusi* (MK). This mechanism is to guarantee the supreme nature of the constitution so that the laws and regulations under it are in accordance with the constitution. If it is contradictory, then this is a form of denial of democracy because it overrides the voice of all the people by the voice of the majority of the people. Therefore, judicial review complements democracy and is a form of limitation of legislative authority but is a rational restriction that is not contrary to democracy, but rather the essence of democracy.

However, in practice, the dynamics of democracy and nomocracy, especially in lawmaking and its testing, emerge. This is especially true for countries that authorise judicial review of laws. Then, the relationship between the judiciary and the legislature becomes very dynamic.

For example, the case of *Marbury v. Madison* (1803) which overturned the Judiciary Act of 1789 initially concluded pros and cons (Casagrande & Tibúrcio, 2019, p. 203). Then-President Jefferson argued that judicial review made the Constitution like wax in the hands of the judiciary because it could be twisted and moulded as it wished (Tripathy & Chaudhury, 2019, pp. 521-522). Another example is that in the 1930s, the Roosevelt-led US government implemented the New Deal policy, one of which was oriented towards the centralisation of the federal government through various laws and was then overturned by the Supreme Court. This drew reactions from Congress and the President at the time, so Roosevelt intended to replace 7 of the 9 US Supreme Court judges at that time (Britannica, 2023, p. 1). This means that the dynamics in Indonesia over the Constitutional Court's decision are natural and positive because it encourages all parties to make the 1945 Constitution as a neutral discourse for debates on legislation and policies.

The events of other countries must be used as lessons and dynamics must be appropriately managed so that they have a positive impact on the constitutional system. This can be realised if all parties understand their respective constitutional functions and authorities, in a democratic state of law and a democratic state based on law - both of which are inseparable. The institution and mechanism of lawmaking, complemented by the institution and mechanism of judicial review, are manifestations of democracy and nomocracy. Changes to both will change the ideals of democracy and nomocracy.

Democracy and its Relation to Human Rights

Changes in the reform era are closely related to democracy and human rights. These changes aim to create a democratic government that is able to protect, fulfil and promote human rights. In Indonesia, democracy and the protection and respect of human rights have been an option and recognised since the founding of the country. The two are like two sides of an inseparable coin. The protection of human rights is the goal and prerequisite of democracy. Failure to protect and respect human rights is a threat to democracy.

A monarchy or aristocracy that gives absolute power to the king causes human suffering. This is because the purpose of the state is orientated towards this absolute power. Therefore, almost all modern states have opted for democracy. States began to realise that their establishment and formation was aimed at protecting and fulfilling the rights that humans already had before the existence of the state, and only because of their status as humans. Because, initially humans are free humans and then bind themselves to the state government, giving the state power to regulate life with other humans and run the government. The goal is for humans to be protected and their rights fulfilled.

Human rights are not only a goal of democracy but a prerequisite for democracy. This is because democracy is a system of government of, by and for the people. To implement democracy, there must be guarantees of freedom of belief, opinion and association. These guarantees have grown in line with the development of democracy.

The choice of the government that is formed, based on their respective beliefs, based on the freedom to determine what to choose, and based on the freedom of speech to express these beliefs, so that they have the ability to express their will. Aspirations must also be fought for so that they become state policy. Then, there are rights that can only be achieved if people work together or fight collectively. This also requires freedom of association and assembly. Without this freedom, democracy is impossible. Improving the quality of democracy is also needed so that it is not distorted by money power, political oligarchy, and so on.

In accordance with Article 28I paragraph (4) of the 1945 Constitution, there must be protection, promotion, enforcement and fulfilment of human rights because human rights are the goal and prerequisite of democracy. Failure to do so threatens democracy. This is evident in the history of the country where the government collapsed and was replaced by an authoritarian regime because the previous regime failed to protect and fulfil human rights.

In Indonesia, there have also been questions and criticisms of democracy because it has not been able to protect and fulfil human rights, especially equality before the law, education, welfare, and health. Fraudulent democracy and legal injustice have undermined confidence in democracy. If democracy is ignored, there will be authoritarian power. This is a challenge to safeguard democracy by prioritising the protection and fulfilment of human rights.

Forms of Democracy in Indonesia

Democracy in Indonesia has been challenged and critically questioned. Some argue that democracy has fuelled regionalism, weakened national unity, and failed to realise economic development. This has led to public distrust of democracy which occurs when there is no improvement in society. This condition occurred at the end of President Soekarno's term, which also ended with the implementation of guided democracy.

The view that democracy is a way to achieve certain goals - unrelated to democracy - is the background to people's challenges and distrust of democracy. If democracy is seen as a means, the fundamental values and principles that underpin it are lost. In the end, the practice of democracy becomes just a mechanism to gain legitimacy for power. In fact, it is done by legalising various means that are contrary to the fundamental values and principles of democracy.

Democracy can actually improve welfare: politics is a general human freedom; democracy gives people the means to express and support certain aspirations; and people are able to learn from each other and form shared values and priorities. Our founding fathers saw democracy as a system that has fundamental values and principles in addition to instrumental mechanisms.

Democracy in Indonesia is affirmed in the preamble of the 1945 Constitution. Democracy is a manifestation of the belief in human independence and freedom in the context of a state being a recognition of the sovereignty of the people. Democracy is manifested in the political, economic and socio-cultural fields. Its manifestation is more specific through state institutional arrangements based on a system of checks and balances.

In the economic field, there is Article 33 paragraph (4) of economic democracy with the principles of togetherness, equitable efficiency, sustainability, environmental insight, independence, and by maintaining a balance of progress and national economic unity. In the socio-cultural field, namely in Article 18B paragraph (2) recognition and respect for the unity of customary law communities and their traditional rights, as well as Article 32 which guarantees the existence and even maintains community culture and regional languages. Democracy is not a closed system and constantly evolves according to the development of society. Therefore, criticism of democracy is needed to improve the implementation of democracy.

A Series of Efforts Towards a More Qualified Democracy

The mainstream of the reform era is to strengthen the democratisation process by structuring the life of the nation and state according to democratic principles. The reform era is called the period of democratic consolidation. According to Linz and Stepan

in the book *Problems of Democratic Transition and Consolidation* (1996), there are five conditions for successful democratic consolidation: an autonomous civil society and legal guarantees of freedom of association and opinion; a political society that has the opportunity to compete fairly to control and exercise power; the ideology of the rule of law is adopted; there is a legal-rational bureaucracy; and an economic society as an intermediary between the state and society is created (Linz & Stepan, 1996, p. 344).

This process of democratic consolidation began with renewing the political legitimacy of power in the 1999 elections. Then the 1945 Constitution was amended by the MPR. The consolidation of democracy has fulfilled several prerequisites for realising a democratic rule of law, namely constitutional and legal guarantees of freedom of association, expression of opinion; the opportunity to compete in general elections; the 1945 Constitution as the supreme law that affirms the principle of the rule of law; the beginning of the democratic process; the structuring of the bureaucratic apparatus, which is still being pursued; and starting to organise the national economy and the formation of a society that drives the national economy in the real or monetary sector.

The consolidation of democracy has indeed been successful, but it is still underestimated because it is only a mechanism. Therefore, the democracy that has been successfully realised is mechanical democracy, not yet substantive democracy. In 2007, there was an effort to improve the quality of democracy, with the Constitutional Court declaring that the article on insulting the president and the article on public order in the Criminal Code were contrary to the 1945 Constitution and did not have binding legal force. In addition, there were also decisions on the opportunity for individual candidates to compete in regional elections, decisions on the requirement of never being convicted with a sentence of 5 years to become a public official, the non-applicability of criminal offences of negligence and not political crimes.

The agenda to improve democracy was the establishment of a general election law, followed by a selection process and the appointment of KPU members to ensure democratic elections. The House also discussed the Political Party Bill, the Presidential Election Bill, the General Election Bill, and the Draft Amendments to the Supreme Court, Constitutional Court, and KY Laws. Then there is also bureaucratic reform with several agencies as examples.

Efforts to improve the quality of democracy towards substantive democracy are carried out by completing and perfecting the rules that must be implemented according to the rule of law. This depends on the actors of democracy consisting of political superstructure and infrastructure. The superstructure is the state institutions and government officials. The infrastructure is society, social organisations and political organisations.

The next effort was to organise the judiciary, namely the authority and relationship of the Supreme Court, Constitutional Court, and KY in 2007. In the executive sector, the effort is to evaluate and consolidate the existence of many government commissions whose duties and authorities overlap. Then from the aspect of political infrastructure, improving the quality of democracy requires high public awareness of the rights and freedoms guaranteed by the constitution and the rule of law.

At the infrastructure level, freedom of association and expression has led to a proliferation of political organisations and parties. At the beginning of the reformation, more than 100 political parties were formed, but only 48 parties could participate in the 1999 elections. Meanwhile, in the 2004 elections there were only 24 political parties. If they are to serve as political infrastructure, community organisations and political parties must be democratic. Therefore, oligarchy in political parties and community organisations must be minimised with rules that are in accordance with the principles of the rule of law.

Democratic Lawmaking

Indonesia has two basic principles that make it a constitutional democracy. These principles are democracy as a consequence of the recognition of popular sovereignty and the principle of the rule of law. Indonesian law must be formed with democratic mechanisms. This obligation is seen in terms of position and conditions of enforceability. The position side means that the law is in the middle of the ideal value level with sociological reality. This means that the law is a manifestation of certain ideal values that society wants to realise. Then on the other hand, the law must pay attention to the conditions of society. The ideal value level is called ideal if it is believed to be good and right by the community. Laws like this have benefits. The law thus formed will be able to achieve the objectives of law, justice, certainty, and legal benefits.

Next, a law that reflects the society means that the law is formed to solve social problems with the capabilities of the society. This kind of law can be enforced effectively because the community recognises it as a manifestation of values that are trusted as an instrument that solves human problems. A democratic law is one that addresses human concerns, is made through a democratic process, and is structured with public discourse that informs decision-making.

Democratisation of the formation of laws can be done by means of openness of the bill and the discussion process so that there is no turmoil when it is passed; the need for a public forum to discuss a bill so that the bill becomes public property and the bill becomes public.

The role of the media is indispensable in this regard, so that public participation in providing oral and written input can be fulfilled; public participation in public forums or directly to the legislators is called meaningful if it actually appears in the considerations in formulating and deciding on the provisions of the law, and this can be seen from the red thread of public opinion with the substance of the passed law and the reaction of the public when it was passed. The rejection leads to a request for a review of the constitutionality of the law to the Constitutional Court. Through all three, the law-making process is expected to

fulfil the criteria of democratic law-making, so as to achieve legal objectives - justice, certainty, and expediency - as well as having a sociological basis.

Space for Political Parties to Play a Constitutional Role

Political parties are present in political events with a decisive role. Political parties are the primary concern of the nation's components. This is different from previous conditions when political parties were powerless and under state power. Political parties have a constitutional role in Article 22E paragraph (3) which states that the DPR and DPD election participants are political parties. Article 6A paragraph (2) confirms that political parties can propose pairs of candidates for President and Vice President. Article 24C paragraph (1) determines that the authority to dissolve political parties lies with the Constitutional Court. This role needs more attention in the development of democracy.

Political parties and their role are also one of the pillars of the people's sovereignty. This is because democracy implies that how the government is formed is truly from, by and for the people, and how to determine the candidates for representatives of the people who will be elected in the elections. Another problem is the diverse aspirations of the people in policy-making.

Therefore, an aspiration systemisation mechanism must be easily absorbed and transformed into policy. Political parties also play a role in political conflict management. Increased political awareness in the reform era must be managed so that there is no uncontrolled mass movement. Political parties also play a role in maintaining this stability in addition to periodic elections. Therefore, political parties must have freedom in accordance with the principle of freedom of association so that political parties do not become the legitimisation of power.

Political parties also act as instruments to realise government by discussion in four stages. First, each political party is responsible for absorbing, formulating and sharpening public opinion through internal mechanisms. Secondly, political party programmes are presented and campaigned to voters, especially the candidates. Voters have the opportunity to analyse and compare the programmes offered by each political party and will vote according to their aspirations. Third, after the election, all representatives of the people will unite their agendas and adjust party programmes through discussions and the making of laws and public policies.

In this process, all parties play a role in criticising and correcting each other for the ideal state policy. This fourth stage protects the administration of the state from irregularities, abuses, and sharpens public debate, so that it does not only represent the aspirations and interests of the majority. That is the identity of the constitutional role of political parties according to the principles of democracy. This ideal has not yet been fully realised, but periodic elections will be the determining mechanism. Voters will see which political parties play a role and which do not.

The Role of the House of Representatives in Representing the People of Indonesia

Parliament plays a vital role in state administration. The DPR has three constitutional functions: legislation, budget, and supervision. These functions are a consequence of the DPR's position as the people's representative body in the administration and government.

The legislative function is the making of laws and is the manifestation of the DPR as the holder of the power to make laws. The second function is to discuss and approve or not the State Budget Bill or *Anggaran Pendapatan dan Belanja Negara* (APBN) submitted by the president. APBN is a document of programmes and activities that will be implemented within 1 year and budget allocations that the government will spend and obtain as state revenue. The state budget bill also contains programmes for the legislature and judiciary. The House of Representatives also determine and maintain that the programmes and activities to be carried out are truly for the benefit of the people by the mandate and aspirations of the people represented.

The third function is supervision. Parliament's oversight is over the implementation of laws and the state budget. The aim is to prevent the concentration of power and its misuse. In addition, supervision is also conducted to ensure that state institutions and government agencies properly implement laws and APBNs. In doing so, the DPR must be transparent and accountable to the people in accordance with Law No. 27/2009 on the People's Consultative Assembly, House of Representatives, and Regional House of Representatives or *Majelis Permusyawaratan Rakyat* (MPR), *Dewan Perwakilan Rakyat* (DPR), dan *Dewan Perwakilan Rakyat Daerah* (DPRD)

The House of Representatives is expected to be an instrument to achieve a just and prosperous society. Members are elected by strict selection, starting from internal parties to general elections from the people. To carry out its three functions, it needs support from various parties such as the community, and so on. The role of the community can be realised such as direct delivery, work meeting forms, hearing forums, criticism, and so on.

Expectations for Parties Representing the People in Government

Law becomes the main concern, both in its formation, implementation, and enforcement. However, its development appears troubling because it is considered a harsh figure. The law is only seen when imposing sanctions, not protecting, providing justice, or welfare. Even court decisions are considered unfair from a social perspective, even though normatively, they have fulfilled the elements of the offence. This feeling of insecurity is getting stronger because the community is presented with cases of deprivation of rights, evictions, and so on. But on the other hand, the law is like a stunning, soft, and weak figure that is easily played,

engineered, and twisted by certain parties according to their interests. This phenomenon has made many people distrust the law. Horizontal and vertical conflicts increase public distrust. The law has lost its dignity. Compliance with it is also decreasing because it is starting to be abandoned. The causative factor is that people feel alienated from the law because the way of law is not in accordance with the nation's personality. As a result, quality democracy can be difficult to achieve.

Laws should have a clear purpose and character and be harmonious with their society. Laws that do not fit with it is actually uprooted from its roots. The consequence is not only that society is alienated from the law but social disorientation and conflict, namely social disobedience in law enforcement. For these problems, it must be understood that the law comes from the values of our own nation, namely Pancasila. Soekarno called Pancasila the *philosophische grondslag*, which is the foundation, philosophy, most profound thoughts, soul, and deepest desire to build an independent Indonesia. Hatta called Pancasila the state ideology so that state politics and constitutional law were directed. Pancasila is also stated in the Preamble of the 1945 Constitution of the Republic of Indonesia. Based on this, Pancasila must be a value in Indonesian law. Pancasila makes the character of Indonesian law different from other countries. Pancasila is also a guiding principle in determining the direction and characteristics of national law.

Next, the way to make people trust the law again is not by violence or coercion. The way the law must be changed is to return to the method according to Pancasila. Punishing is not only the act of implementing and enforcing the law, but also when making laws. Pancasila-valued law means putting the law back in the frame with the flow of Pancasila values. Law formation must be primarily oriented towards realising the values of Pancasila (Atmoredjo, 2022, p. 25). Pancasila is at the level of abstract basic values that must be the main consideration. In the context of enforcement, Pancasila must be used to read legal texts and facts. Legal texts and facts are not only read in a rigid normative manner, but also thoroughly. This means that the activity also includes divine value, humanity, and justice that are different in each case. This will make the legal text live and become part of the social norm.

CONCLUSIONS AND SUGGESTIONS

Based on this research, it can be seen that the ideals of Indonesia as a democratic country must be realized by forming laws that are in accordance with the values of Pancasila. Therefore, people must understand the values of Pancasila and incorporate them into national law. A country with quality democracy can be realized if it implements democracy correctly. By implementing true and ideal democracy, the applicable law is the will of the people and in accordance with Pancasila, thus becoming the embodiment of ideal democracy. Conversely, laws representing justice and protecting human rights can quickly become instruments for implementing quality democracy. This is because fair decisions will emerge, both in terms of individual and social humanity. If the law is enforced and departs from the values that society believes in, namely Pancasila, then public support and trust will be easily obtained. When public consent and trust are obtained, quality democracy is easily realised.

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