

Musyawarah and Meaning of Sovereign People in People's Democracy Perspective Pancasila values

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Abstract—People's sovereignty or modern democracy is a democracy with a representation system, people choose someone from themselves to represent it. The Indonesian state, which has known the order of democratic life since before the Indonesian state was born, namely people's sovereignty or democracy based on the values of consideration to reach consensus. The sovereignty of the people is designed to empower the important role of representative institutions that develop with the power of the people that are adapted to philosophical values in the life of the nation and state. The results of this study are development, democracy in Indonesia, more directed towards modern systems leading to liberalism (west / election) than traditional systems (deliberations). So that Democracy in Indonesia is no longer in line with the ideals and goals of the country compiled by the founder's nation based on the state of Pancasila and the 1945 Constitution. This study uses descriptive philosophical normative study methods.

Keywords—Pancasila, Democracy, Deliberative

I. INTRODUCTION

This In the history of Indonesian State Administration since independence on August 17, 1945, that Indonesia was founded on the principle of a legal state that has people's sovereignty or democracy is not a mere state of power. This was then stated in the Explanation of the 1945 Constitution, that Indonesia is a state based on law (*rechtsstaat*) not based on mere power (*machtsstaat*).

In non-systemic law gives a different reading of the *Pancasila*. The views given to *Pancasila* provide a meaning far from the meaning of *Pancasila* as a whole and holistic unity, namely meaningful intact and relations. The context of this reading is very important, because *Pancasila* is often seen as one of the foundations for the development of legal science in Indonesia. Therefore it is necessary to change the reading of the text of the *Pancasila* which was originally a single, definite and absolute, into values that have a very high plurality.[1]

Thus, as stated by *Muhammad Koesnoe*, the provisions contained in the Preamble of the 1945 Constitution are in resolving a problem, discussed together with the intention of reaching a decision made through deliberation by the people or through their representatives (representatives).[2] Whereas according to *Padmo Wahyono*, in deliberation there is dialogue or discussion by not ignoring the dynamics of society, all problems, and all flows, then deliberation contains principles; togetherness

in solving problems, equal rights in conveying problems, tolerance and openness.[3]

Whereas terminologically *musyawarah* means active actions that do not stop at the voluntary limits of opinion, but increase from voluntary to an act of acting expressing opinions as well as possible.[4]

The founders of the state of the Republic of Indonesia have established themselves as a Unitary State in ethnic differences from time immemorial. Therefore in the formation of the state carried out with the principles of deliberation, consensus, representation as the basis for the implementation of the life of the nation and state of Indonesia for the establishment of popular sovereignty. Cultural arrangements with deliberation have grown from the time the Unitary Republic of Indonesia was born. But now the influence of western democracy is inevitable, thus affecting the previous system of deliberation and democracy (people's sovereignty).

From the description above, a main problem can be drawn that can be formulated regarding Deliberation and the Meaning of Sovereignty of the People's Sovereignty The Democratic Perspective in *Pancasila* Values, namely that the implementation of democracy or popular sovereignty with the principles of deliberation is based on the ideal foundation of *Pancasila* constitutional foundation of the 1945 Constitution. The object of this study focuses more on "how the basic values of *Pancasila* influence the realization of popular consultation and sovereignty on the life of the nation and state.

II. RESEARCH METHODS

This study was conducted using descriptive philosophical normative study methods. As a secondary legal material, this writing takes from the literature, papers, journals and research related to this writing

III. RESULT AND DISCUSSION

A. Democracy in the Concept of People's Consultation

Democracy can be called a mechanism in the system of state governance in order to realize popular sovereignty (citizen power).[5] Democracy provides many benefits if done in a directed and orderly manner.[6]

The implementation of democratic values of life is, inevitably, requires the support of the people in administering the constitution. All decisions from the

government cannot be separated from people's opinions in the form of voice, supervision, and participate in the process of forming and implementing all policies taken by the government.

At the practical level, the principle of democracy or popular sovereignty can guarantee the participation of the community in the decision-making process, so that any legislation that is implemented and enforced truly reflects a feeling of community justice.[7]

However, democracy is not the only form of regulation in the life of the nation and state. There are other forms that can also be used in decision making. However, this democratic system is considered the safest and keeps away from injustice. This is because, with a democratic system, people's rights are the main force in the administration of the state.

In many state systems that make the people the source of legitimacy, the representative system becomes a rational system. This rationality can be explained by an understanding that plurality will emerge in social life. This can be controlled without prioritizing anarchic roles and domination of one group by another group.[8]

According to *Hans Kelsen*, basically democracy is a government by the people and for the people. With the acceptance of *Kelsen's* descriptions of the basis of democracy, now it can be answered, that:[9]

1. Those who exercise the power of a democratic state are elected people's representatives where the people are convinced that all their wills and interests will be considered in carrying out state power.

2. The way to implement the power of a democratic state is always to remember the wishes and desires of the people, so that every action in exercising state power is not contrary to the will and interests of the people, that as much as possible try to fulfill the wishes of the people.

3. The number of democratic state powers that can be implemented cannot be determined by numbers, but as much as possible to obtain the desired results of the people, provided that they do not deviate from the basic principles of democracy.

At present, almost all countries regard their country as based on democracy or sovereignty of the people, even countries based on communist ideology, recognize that their government is based on democracy or based on popular sovereignty. Thus, the meaning of democracy or popular sovereignty is broad, depending on each country that uses it.

As stated by *Dahlan Thaib*, that the principle of democracy contains two meanings namely; 1). Democracy related to the system of government; in this case is the role of the people in the administration of government, 2). The principle of democracy that is influenced by history, the social culture of the nation itself, has led to the term constitutional democracy, popular democracy and *Pancasila* democracy.[10]

In modern countries it is no longer simple in carrying out democracy. Because the nature and territory of the country are vast and the number of citizens has a lot with

the complexity that makes the implementation of democracy into indirect democracy (indirect democracy) or representative democracy, where the people choose their representatives to declare the attitude to be a reality that must be done.

By looking at the reasons mentioned above, of course legal instruments are needed to maintain the life of the nation and state. As stated by *Satjipto Rahardjo*, that no longer sees law only as a logical and consistent system, which is separate from its social environment, but must see the law as an institution that is always related to its community order, it is always required to pay more attention between the law with social reality that lives and develops. Law must not be allowed to become an esoteric realm or region only, which can only be permitted and can be entered by policymakers, lawyers, and lawyers, even if their thoughts are very special, which usually only deals with "rules and logic" until now. and implementing such a law is still dominant, which in legal sociology is known as analytical jurisprudence or *rech dogmatiek*. [11]

Muhammad Yamin uses the word law as the same as *rechtsstaat* or government of law, he explained, saying: "The Republic of Indonesia is a legal state (*rechtsstaat*, government of law) ... it is not a police state or military state *machtsstaat* ..." [12] *O. Notohamidjojo*, uses the term "legal state or *rechtsstaat*". [13]

Sudargo Gautama said that: "... in a state of law, there are restrictions on state power on individuals ..., this term by legal experts in the UK is known as the rule of law". [14] Besides that, *Ismail Suny* also uses the term the rule of law in terms of the rule of law, "... legal certainty does not exist in the fullest sense in our country, the rule of law absent in Indonesia, our country is not a legal state ...". [15]

Like Indonesia as a country that adheres to a system of democracy or popular sovereignty, the administration of the government cannot be separated from the participation of the people to determine the course of government and the direction of the country's development. The implementation of popular sovereignty was not fully implemented by the people even though the 1945 Constitution had made changes so that the administration of the government was carried out democratically. This is due to the rapid development and growth of the state and people, especially in the field of popular sovereignty.

The principle of "people's sovereignty" states that there is no human being, or an elite, or a group of ideologies, or a group of priests / priests / *ulama* have the right to determine and force (demand using threats) how others should or may live. Democracy based on the awareness that those who are led have the right to determine who leads them and where they want to be led. Democracy is "people's sovereignty plus the principle of representation". [16]

As a theory, none of the teachings on popular sovereignty can be called the most modern. It's just to be admitted, almost all modern countries today, formally claim to adhere to the principle of popular sovereignty.

The principle of the People's Sovereignty or the notion of democracy contains two meanings: [17]

a. Democracy relating to the system of government or how people are included in the administration of government.

b. Democracy as a principle that is influenced, cultural conditions, a nation's history so that the term appears, constitutional democracy, people's democracy and *Pancasila* democracy.

Along with the development of time, the implementation of popular sovereignty or modern democracy is a democracy with a system of representation, meaning that people choose someone from themselves to represent it. Regarding the system of representation in the context of popular sovereignty, as stated by Robert Dahl, seeing that people's government on a large scale (nation-states) can only be formed with a system of representation as a form of democratic government, government with people's sovereignty.

B. The Influence of Islamic and Western Democracy on the Implementation of Deliberation and the Meaning of Popularism in Pancasila.

The concept of democracy is not new. It can be said that this concept has become everyday public consumption like primary needs.[18] However, in reality it emerged from the West (Europe), but the values of democracy actually existed in Islam. As we know with the Medina Charter that was raised by the Prophet Muhammad and Muslims in Medina was the first concept in the Islamic world regarding democracy.

In the perspective of transcendental law, the science of law is not only based on the truth on the level of belief, collected in the Qur'an and *Hadith*, but based on the truth obtained with the ability of human potential through reflection, reasoning and discourse that develops in society. Humans explore, process and formulate knowledge with the aim not only for science but also for policy, the benefit of the wider community, with the pleasure and love of Allah.[19]

In Islamic teachings also regulate the life of the community, nation and state is the implementation of *shura* or deliberation. In terms of language (etymology) *lafaz al-Shura* and *al-Musyawarah* and *al-Masyurah* are forms of *masdar fi'il* (verb) of the word *syâwara-yusyâwiru* which is with the roots of word *syin*, *waw*, and *ra* 'in the pattern of *fa'ala*. The root structure of the word means the principal "revealing and offering something" and "taking something" from this last word from the expression *syâwartu fulânan fi amrî*: "I take the opinion of *Fulan* about my business".[20]

Therefore, in a democratic system, society is a source of law. The law in question is that which supports fundamental rights that guarantee the existence and interests of individuals as part of the sovereign ownership community. This issue of sovereignty, according to *Abou El Fadl*, is central to democratic discourse. Whereas classical Jurisprudence as puritan groups believe that the principle of sovereignty in a democratic system is not legitimate, because God is the only owner of sovereignty and source of law. Democracy in this matter is considered to have made God superstitious.[21]

It can be ascertained, the founder of the country at that time that the State of Indonesia had a specific purpose, namely, that the Indonesian state would not fall into the power of a group or certain political power, but belong to all the people of Indonesia whose sovereignty recognized. Moreover, given that, Indonesia, which has a very broad state territory and a pluralistic structure of society so that democracy in constitutional practice is carried out with a model of indirect democracy or representative democracy based on *Pancasila* as the ideal foundation and the 1945 Constitution as a constitutional basis.

Indonesia has established itself as a National Nation with the principle of deliberation, consensus, representation which is used as the basis for the life of the nation and state for the sake of upholding the sovereignty of the people.[22]

The ideal foundation for *Pancasila* is contained in the fourth paragraph of the Preamble of the 1945 Constitution as a constitutional foundation, which is the basic philosophy of the purpose of establishing the Republic of Indonesia. The sovereignty of the people is based on the perception that, in fact, it is the people who hold the highest authority in the country, not the authorities or administrators of the state. The authorities tend to maintain and expand their power, so there needs to be restrictions on these powers.

Provisions in the opening of the fourth paragraph of the 1945 Constitution which are implemented in Article 1 paragraph (2) of the 1945 Constitution of the Unitary State of the Republic of Indonesia, wherein before declaring that, "Sovereignty is in the hands of the people and fully carried out by the People's Consultative Assembly" and compare with Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia after the amendment, that, "Sovereignty is in the hands of the people and carried out according to the Constitution". By looking at the 1945 Constitution of the Republic of Indonesia, it can be concluded that the Indonesian state follows a model of indirect democracy or representative democracy.

The term *musyawarah* has been stated in the 1945 Constitution, RIS Constitution 1949, and the 1950 Constitution. In the process of drafting the 1945 Constitution, the term *musyawarah* was first delivered by *Muh. Yamin* in his speech on May 29, 1945 in front of the BPUPKI Session which referred to *Al-Qr'an Surat As-Shura* verse 38 which meant "... all their affairs were discussed ...". There are three basic things from the urgency of deliberation for the progress of the country under God's protection, namely; 1). Expand Insights, 2). Togetherness in responsibility, 3). Minimizes establishment oversight or behavior. *Muh. Yamin* also gave the thought that among Islamic countries in the world, the Indonesian nation gave a special color in the deliberation of the life of the nation and state.[23] Thus it can be concluded that the founding fathers did not want liberal democracy. Therefore, the concept of deliberative democracy was chosen, which was outlined in the fourth formula of the *Pancasila*. This thought was special because there was a contribution of Islamic thought.[24] While the results of the concept of deliberation in the socio-political

and cultural context of society are, first, deliberation as solidarity, strength and individual independence and their rights as human beings, secondly, deliberation can be said to be a missionary instrument if deliberation can be a place of glorification and guiding someone towards a better direction, third is, deliberation as a social rule and the fourth is deliberation as *Khilafah* along with their rightful rights.[25]

In the exercise of power in the Unitary State of the Republic of Indonesia, before the State of Indonesia as a country, it has used the principle of *musyawarah*, which has people's sovereignty as the basis for implementing community life. As stated by *Padmo Wahjono* that, in a constitutional manner, deliberation is dialogue or counseling by paying attention, a). community dynamics, b). everything that happened, c). all flow.[26]

From the formulation, the essence of deliberation contains principles, among others, namely; 1). Togetherness in negotiating and solving problems, 2). Similarity in conveying interests, 3). Tolerance in differences in groups and opinions, 4). Open to all streams and dynamics that occur in society.[27]

The problem that will be faced in indirect democracy or representative system democracy is that the state must form an institution to carry out or as an actor of the people's sovereignty. The institution formed must truly represent the people as the holders of popular sovereignty. Therefore the establishment of such representative institutions must reflect democratic values in order to be able to carry out the mandate of the people well. Besides that, a set of rules is also needed to regulate the implementation of democracy with an indirect model or representative system democracy.

The indicator of classifying democratic practices in Indonesia is the function of people's representative institutions.[28] The unitary state of the Republic of Indonesia is a country that adheres to the notion of democracy, where people participate in determining the course of government and the direction of development. As a country whose territory and pluralistic society make the Indonesian state use indirect democracy or democracy with a representative system. Therefore, the implementation of popular sovereignty when prior to the amendment to the 1945 Constitution is to show that popular sovereignty has been fully implemented by a representative institution, namely the People's Consultative Assembly (MPR) as stipulated in Article 1 paragraph (2) occupies the position of the highest state institution. As also affirmed in the Explanation of the 1945 Constitution in seven key government systems No. III, that the People's Consultative Assembly is the embodiment of all the people of Indonesia.

In the third amendment to the 1945 Constitution, Article 1 paragraph (2) of the 1945 Constitution concerning the position of the People's Consultative Assembly (MPR) as one of the representative institutions, has undergone a change. Even though the position and authority of the MPR experienced a shift, the task and authority of the People's Consultative Assembly as the carrier of the People's Sovereignty were not lost. In fact, the People's Consultative Assembly was formed more

democratic than in the period before the 1945 Constitution had changed. All MPR members consisting of members of the People's Legislative Assembly (DPR) and members of the Regional Representative Council (DPD) are formed through a general election process that is directly elected by the people.

By looking at the aforementioned provisions, it shows that the Basic Law has the character of modern legislation. This is because the modern state in general is based on democracy or a sovereignty of the people. Besides that, it is also known that the influence of *Pancasila* on the development of democracy in the life of the nation is state, especially in the context of facing this era of globalization. All challenges and expectations, then with *Pancasila* as an ideology and foundation of the state are expected to be resolved and can unite the diverse Indonesian nation and its interests.

Likewise at the Jakarta Charter is a document stipulated by BPUPKI June 22, 1945, there is a formula that reads; Godliness by carrying out Islamic *shari'a* for its followers. The formulation changed when the 1945 Constitution was stipulated by the PPKI on August 18, 1945 to become; Belief in the one and only God. With the amendment to the formula, it shows that the democracy contained in the Preamble of the 1945 Constitution, eliminates one of the thoughts that the Indonesian state pays attention to the privileges of the largest population, which are Muslims. Thus, the sociological representation of the Islamic *Ummah* was lost in the life of democracy in Indonesia, which manifested the enactment of Islamic *Shari'a*. Democracy is truly based on the idea of nationalism which is merely juxtaposed with the values of independence or freedom and sovereignty of the people.[29]

Along with ideas from Islamic thought and tribal traditions in Indonesia, the idea of modern democracy also influenced the formulation of the 1945 Constitution. Therefore, the 1945 Constitution cannot be separated from all kinds of complexity of problems inherent in the idea of modern democracy. For this reason, the discussion of the idea of democracy in the 1945 Constitution will begin first with a review of the basic ideas of modern democracy that developed in European and American thinkers. The study of the ideas of modern democracy is needed to be able to trace the influence of the ideas of democracy that developed in the 1945 Constitution and its intersection with the idea of democracy originating from Islamic teachings and the traditions of the Indonesian people whose influence is also very strong in the formation of democratic ideas in the 1945 Constitution.[30]

However, we all know that the ideals or democratic ideals championed by the founders of the state and the leaders of the Indonesian movement, that the establishment of the Republic of Indonesia is not free is a compromise and formulations as stated in the Preamble of the 1945 Constitution, which Hatta contained three fundamental statements; 1). Basic statements of politics and ideals of the Indonesian people, 2). Statement about the success of the Indonesian nation's political demands, with the grace of God, 3). A statement about *Pancasila* as a state philosophy or ideology, namely the Almighty God, the Election of

Humanity, the Unity of Indonesia, Population, and Social Justice. If observed, the *Pancasila* has two basic things; first, moral, namely God Almighty, second, Politics, namely Election of Humanity, Indonesian Unity, Democracy / Democracy, Social Justice.[31]

IV. CONCLUSION.

The Unitary State of the Republic of Indonesia is a country that adheres to the notion of democracy, where the people participate in determining the course of government and the direction of development. The 1945 Constitution has values in terms of consultation, namely by upholding human dignity and values. Besides that, prioritizing deliberation in solving problems, while still recognizing the diversity and diversity or heterogeneity in society, but prioritizing togetherness rather than group interests or individualism.

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Thus, Democracy in the values of deliberation, that on the one hand democracy is a modern political social system that prioritizes the interests or power of the ruler who is located as a representative of the people, while the values of consultation are as part of resolving all the problems that exist in life human beings themselves, both in their individual lives and in human life as part of the life of the nation, society and state, are resolved while respecting the pluralism that exists in Indonesian society or people.

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