



Integrated of Decree of the People's Consultative Assembly in the Directive Principle of State Policy: Back to the Original 1945 Constitution

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Abstract. This article examines how the direction of Indonesian legal politics toward the making of a sustainable state development plan. The plan for the presence of the Directive Principle of State Policy is still a long debate among academics and practitioners, but not yet finished with the clarity of the position of the Directive Principle of State Policy in the Indonesian state system, the issue arose of integrating the Decree of the People's Consultative Assembly which is still valid into the design of the Directive Principle of State Policy. The main study of this article is to find out whether the material and legal status of the Decree of the People's Consultative Assembly Decree is still relevant to the current state of the Republic of Indonesia, whether the procedure does not conflict with the state constitution and how urgent the integration of the Decree of the People's Consultative Assembly into the main points of state policy in the constitutional system of Indonesia. The approach method in this article uses the normative juridical method, this method is carried out based on legal materials as the main source by examining theories, concepts, legal principles, and legislation related to the material, It is hoped that this research will produce a theory legal opinion that can provide fair legal values and legal certainty.

Keywords: Decree of the People's Consultative Assembly · Directive Principle of State Policy · Back to The Original 1945 Constitution

1 Introduction

The Preamble of the 1945 Constitution of the Republic of Indonesia is the direction of thought and aspirations of the Indonesian people in achieving independence which was formulated by a committee of 9 who sincerely fought for the independence of the Indonesian people on the basis of their country. The logical consequence is that all articles in the 1945 Constitution must refer to the Preamble to the 1945 Constitution. Article 1 paragraph (3) of the fourth amendment to the 1945 Constitution of the Republic of Indonesia states that "Indonesia is a country based on law". Indonesia is a state of law (*rechtsstaat*), not based on mere power (*Machtsstaat*). In understanding the concept of a rule of law state, between one country and another country, the concept of a rule of law state is not the same. Recognition of a state as a rule of law is very important

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because state and political power are not limited. There needs to be restrictions on the authority and power of the state and politics, to avoid arbitrariness from the authorities [1]. In Indonesia every article by article in the 1945 Constitution is based on the Pancasila precepts, so the understanding of a rule of law here is a rule of law based on Pancasila or a state based on Pancasila. Pancasila is a *modus vivendi* or noble agreement that unites all primordial ties into one nation and all of Indonesia's bloodshed [2]. Pancasila is also a *Rechts Idea*, which must be used as the basis and goal of every law born in Indonesia. The law must be based on Pancasila by containing hierarchical constituencies in accordance with statutory regulations [3].

The state of the law of Pancasila is a legal state concept with Pancasila as its fundamental values and the goals of the state based on the Preamble to the 1945 Constitution, namely: 1. To protect the entire nation and all of Indonesia's bloodshed; 2. Promote general welfare; 3. Educating the life of the nation; 4. Participate in carrying out world peace, based on independence, eternal peace, and social justice. The founding fathers of the Republic of Indonesia in the drafting of the 1945 Constitution never included personal and/or group interests, they really had a sense of the nationalism of Independent Indonesia, so article after article in the 1945 Constitution had no political content, but for the sake of interest's Indonesian nation.

Political dynamics in Indonesia created an amendment to the 1945 Constitution. From 1999–2002, the 1945 Constitution was amended four times: 1. The first amendment (14–21 October 1999); 2. Second Amendment (7–18 August 2000), 3. Third Amendment (1–9 November 2001) and Fourth Amendment (1–11 August 2002). There have been many changes in the constitutional system of the Republic of Indonesia, including regarding the repositioning of the position of the People's Consultative Assembly (MPR) which was amended through the fourth amendment to the 1945 Constitution. Previously, the MPR was the only highest state institution and the holder of Indonesian people's sovereignty, according to Article 1 paragraph (2) of the original 1945 Constitution (pre-amendment) "Sovereignty is in the hands of the people and fully exercised by the People's Consultative Assembly", changed to become a high state institution, which has the same position as other state institutions, and of course in terms of authority there has also been a very significant change, initially the MPR had the authority to stipulate the Constitution and Outlines of State Policy (GBHN), and the MPR also had the authority to appoint and dismiss the President and Vice President as the MPR's mandate. However, after the amendment, the MPR's authority became, 1) to amend and stipulate the Constitution, 2) to inaugurate the President and/or Vice President, 3) to dismiss the President and/or Vice President during their term of office according to the Constitution, and 4) to elect an alternate president and vice president. To ensure that government is truly run according to democratic principles, the legislature must stipulate policies or laws that serve as guidelines or references for the work of the executive body, then the executive body must be able to translate these general goals into procedures and decisions about how the council's policies are implemented [4].

In the past, we knew the term Outline of State Policy, which was translated as a guideline for the main goals of a country based on the political system, culture, and values that live in society. The function and purpose of the Outline of State Policy in general is to provide guidance in the development of national policies and programs

including regulating the direction of national development in order to maintain political stability by coordinating sector policies and encouraging sustainable development. But today, after more than twenty years, the Sleeping Outlines of State Policy are planned to be awakened with a different term, the Principles of State Policy is a term introduced by the MPR RI to replace the Outlines of State Policy.

If we look at the changes in position and authority over the MPR, then, as a high state institution that has the same degree as other high state institutions, the MPR does not have the authority to make Model Outlines of State Policy and can no longer issue Decree of the People's Consultative Assembly (which is called hereinafter TAP MPR), because all articles after articles that have been amended have been given to other high state institutions, for example, the authority to make laws that previously belonged to the MPR, based on the revised Constitution carried out by the DPR, the next example is related to the dismissal of the president who is considered impeachment or impeachment must go through the Constitutional Court before going to the MPR. Then when the GBHN is revived, the current democratic system will gradually disappear. The reason is, on the pretext that it is regulated through the GBHN, the MPR is considered to have the potential to change the presidential election system from a direct election system back to an appointment system by the MPR. This could disrupt the people's sovereignty, which since the reform era has held direct presidential elections. When the GBHN was revived, the people inevitably were led by people who were elected through political will. "It's not impossible, the GBHN is the most important part to manipulate politics [5].

In essence, the MPR has lost its authority in accordance with the amendments to the Constitution, so the position of the MPR is felt to exist and not exist. Based on this background, the author tries to examine how the MPR's authority is in creating the Principles of State Policy, what is the urgency of forming the Principles of State Policy, and what kind of solutions should be applied to problems that arise.

2 Methodology of Research

The method used in this research is legal research. Legal research is research that is applied or specifically applied to the science of law [6]. Morris L. Cohen said legal research is the process of finding the law that governs activities in human society [7]. More specifically, this research is normative legal research that examines legal principles, legal systematics, level of legal synchronization, legal history and comparative law [8]. Referring to the approach in legal research, the author uses a statutory approach, a conceptual approach, a comparative approach, and a philosophical approach [7]. Based on this, the problem under study is how rationality the integration of the Principles of State Policy - TAP MPR can be applied in Indonesia. Research is expected to help decide which rules to apply in a given situation by using a systematic legal formulation and legal doctrine. As well as aiming to clarify the ambiguity in the rules, place them in a logical and coherent structure and describe their relationship with other rules.

3 Results of Research

Based on the results of the research conducted by the author, there are several ideas that can be studied on the integration of the Principles of State Policy into the TAP MPR. First, it should be noted that a policy can be seen from two different sides so that the results of the analysis are seen from different perspectives. Integration between the Principles of State Policy and the TAP MPR can indeed form a structured and orderly system in the process of formulating state policies and development. However, it should be noted that integration that is not carried out carefully can open up opportunities for policy politicization. If political decisions that should be based on national interests and justice are influenced by the political considerations of certain parties or groups, then the integrity of public policies can be disrupted, this integration can also give the MPR greater power in determining the direction and policies of the state. However, this can shift the balance of power with other institutions, such as the government and the judiciary, as well as affect the mechanism of checks and balances in a democratic system.

Furthermore, the integration between the Principles of State Policy and the TAP MPR can provide a more comprehensive and coherent framework for state planning and development, however, the Principles of State Policy need to adapt to changes in social, political, and economic conditions that continue to develop. It is possible that long-term policies that are bound in the TAP MPR are difficult to change or adapt to changing circumstances that require rapid adaptation, there is a need for a more flexible mechanism that is effective and efficient.

This integration can also strengthen the legitimacy of MPR decisions and provide clear guidelines for policy formulation by the government. If the Principles of State Policy which are part of the TAP MPR can provide a consistent and sustainable direction in the development of the country, and ensure that decisions are taken based on the fundamental values contained in the Principles of State Policy, it also creates legal uncertainty. If the Principles of State Policy become part of the TAP MPR, MPR decisions that change or revise the Principles of State Policy can result in legal uncertainty. Changes that often occur in the TAP MPR can affect long-term policy stability and create doubts in the implementation of development plans. Lastly, the integration of the Principles of State Policy into the TAP MPR can indeed strengthen the role and function of the MPR as a people's representative institution which has the responsibility of formulating and determining the direction of the country's development.

The basic policies for development plans must be formulated together through a consensus mechanism for all representations of people's political power in one of the most comprehensive representative institutions. Because of this, the founding fathers formulated the 1945 Constitution by placing the MPR as the most complete representative institution because it includes elements of the DPR, group representatives, and regional representatives, each of which reflects political, functional, and territorial representation so that all elements of society want to be embraced and given a place in the representative body [9]. By involving the MPR directly in the process of drafting the Principles of State Policy, wider involvement, and participation will be created from various elements of society. And through a transparent and democratic process. Good coordination is required between related institutions and involves the active participation of various stakeholders to reach a comprehensive and accommodative agreement.

4 Discussion

4.1 The Urgency of Integrating the Principles of State Policy and the TAP MPR

Changes to a policy often reap pros and cons, but it needs to be agreed that changes that can lead to good need to be supported while policies that are not pro-people need to be evaluated and corrected. Support is not only based on likes and dislikes but also needs to be based on rational thinking coupled with qualified knowledge. The integration of the main points of state policy and the TAP MPR is based on the premise that by integrating the main points of state policy in the TAP MPR, the MPR can strengthen its oversight role and evaluate government performance. In the TAP MPR, the main points of state policy can become the basis for evaluating whether the government has implemented programs that are in line with the country's vision and mission.

The second idea is that the integration of the main points of state policy in the TAP MPR can ensure continuity and consistency in national development. By having a clear direction that is reflected in the main points of state policy, the government can direct its policies and programs to be in line with the country's long-term goals. The next thought is the integration of the principles of state policy in the TAP MPR can also strengthen national identity. The main principles of the state policy should ideally reflect the basic values and ideals of the Indonesian nation. By reminding and actualizing the main points of state policy in the TAP MPR, we can build collective awareness about national identity and strengthen a sense of unity and oneness.

According to Bagir Manan, the existence of the GBHN in the 1945 Constitution before the Amendment could not be separated from the issue of people's sovereignty [10] Manan said: "The desire of the founding fathers and drafters of the Constitution was to create and implement directed and guided people's sovereignty. As an embodiment of directed and guided people's sovereignty, a system of outlines for the direction of the state was created, not merely as a form of a working system on the basis of a planning (planning system), but as a means of implementing directed and guided popular sovereignty).

The principles of state policy can provide long-term direction and vision for national development, by integrating them in the TAP MPR, this provides guidance for the government and related institutions in formulating development policies and programs in accordance with the aspirations and ideals of the Indonesian people. However, it is important to note that the implementation and implementation of the integration of the main points of state policy in the TAP MPR must be sustainable and carried out proportionally, given the diversity of interests and social dynamics that exist in society.

According to Saldi Isra, the discourse on reviving the GBHN should be rejected because it is no longer in accordance with the building of the presidential government system which was agreed to be maintained when the 1945 Constitution was amended. Because imagining the GBHN to be created by the MPR certainly places the MPR back as the highest state institution. In this position, the GBHN drawn up by the MPR will of course present a pattern of the presidential accountability system to the MPR [11].

Indonesia is a state of law based on the principle of legality, including in the realm of state administration. The principle of legality means that every act of the state apparatus must be regulated in law so as to minimize losses that can impact the state and citizens. The position of the MPR TAP, currently the MPR TAP still has an important position in

the life of the Indonesian nation and state because it is regulated in Article 7 paragraph (1) of Law No. 12 of 2011 concerning the Formation of Legislation that the MPR TAP is recognized as types and hierarchies of laws and regulations in Indonesia. However, the current role and position of the TAP MPR are different from when it was first created during the New Order era. After the 1998 reform, Since the amendment to the constitution in 2002, the role of the MPR as the highest state body has changed to an institution that is more focused on specific tasks such as selecting the president and vice president, as well as the ratification and amendment of the 1945 Constitution.

4.2 Building the Constitution: Returning to the Original 1945 Constitution

To create an understanding of political and legal issues, an in-depth analysis is needed, not only based on mere skepticism. In studying the issue of integrating the Principles of State Policy into the TAP MPR, it must return to the estuary of constitutional thinking, namely the 1945 Constitution. The public needs to be given a better understanding of the constitutional values contained in the 1945 Constitution, then the public needs to be given the opportunity to participate in the process of drafting, monitoring, and evaluating public policies. Thus, the public can ensure that the policies taken are in accordance with the constitutional values mandated in the 1945 Constitution. Citizens need to know and understand what changes to the 1945 Constitution are, what is the background and what is the impact of these changes.

Amendments to the 1945 Constitution aim to strengthen the democratic system in Indonesia. This amendment resulted in changes in the government system in Indonesia, such as the direct election of the president and vice president by the people. This provides greater opportunities for Indonesian citizens to participate in the political process and elect their leaders. The amendments to the 1945 Constitution also aim to strengthen the protection of human rights in Indonesia. Some of the amendments cover broader individual rights, such as freedom of speech, freedom of religion, and the right to equality before the law. This provides a stronger legal basis for protecting and promoting human rights in Indonesia.

Amendments to the 1945 Constitution also resulted in changes in the local government system. This amendment gave local governments more powers to regulate and manage affairs within their own spheres. It aims to improve public services, be responsive to local needs, and strengthen regional autonomy.

Amendments to the 1945 Constitution also focus on legal reform and more effective law enforcement. This amendment includes increasing the independence and independence of the judiciary, increasing supervision of law enforcement officials, and increasing transparency and accountability in the justice system. However, this amendment process can also create political vulnerability and ambiguity over the law which can create legal loopholes so that interested parties are at risk of being exploited for their own interests. This can allow legal or policy manipulation to the detriment of society.

The 1945 Constitution is the basis of the Indonesian constitution which has been in effect since the independence of this country in 1945. The values contained in the original text of the 1945 Constitution represent the fighting spirit and vision of the nation's founding fathers. Some people argue that it is important to maintain historical

continuity and respect the legacy of their struggle while still referring to the values outlined in the 1945 Constitution.

For some people, the 1945 Constitution in its original form is considered to have authenticity and integrity which must be maintained. They argue that the amendments that have been made since 1945 have changed the original character and spirit of the 1945 Constitution.

The amendments to the 1945 Constitution for some parties reflect the fading existence of the basic state philosophy of Pancasila. The fact is that the norms resulting from changes in the reformation era have created an inconsistency and incoherence of the basic values of Pancasila. The enactment of the amended Constitution was not based on the values of the Pancasila philosophy on August 17, 1945, because almost 75% of the articles in the 1945 Constitution were inconsistent and incoherent with Pancasila [3]. Return national sovereignty to the original Constitution, not the reformed Constitution that leads to global market sovereignty. With the original UUD, Indonesia can develop the nation and state in its own way based on its own philosophy of life [12]. By returning to the original values of the 1945 Constitution, it is hoped that they can restore the integrity and spirit of the Constitution. Only by returning to the original 1945 Constitution could the Indonesian nation be able to reorganize state institutions as the founders had aspired to. By amending this constitution, the Indonesian nation can restore its dignity and status [13].

Returning to the values of the original 1945 Constitution can be important because these values reflect the basic aspirations and ideals of the Indonesian nation when it became independent. Returning to the values of the original 1945 Constitution can help rebuild strong moral and political ethical foundations in Indonesia. These values can serve as guidelines for Indonesian leaders and citizens to make decisions and act with integrity and a high sense of responsibility. In this case, the original 1945 Constitution became a source of inspiration and motivation to build a stronger and more advanced Indonesian nation.

5 Conclusion

The development of law must be based on the reality of legal culture in society. Pancasila is the materialistic cause of the Indonesian nation's philosophy, the integration of the Principles of State Policy - MPR TAP can be possible because Indonesia is a developing country that requires guidelines for development planning, but it is necessary to pay great attention to juridical, sociological and philosophical aspects, lest statutory regulations invitations used as the legal basis are inconsistent and incoherent with the basic philosophy of the Pancasila State. The political turmoil that continues to increase in intensity stems from reforms that do not have a standard frame. Reforms tend to go too far, instead leading to hegemony of power, and always love of wealth. The solution, put the reforms back on track. Return the 1945 Constitution to its original form, except for limiting the term of office of the president. In this way, the nation and state of Indonesia can be saved. Returning to the original 1945 Constitution is to the 1945 Constitution which is based on Pancasila which is legally listed in the Indonesian legal order as *Grundnorm*. Pancasila values must be a source of value in normative and practical realization in state and national life.

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