

Open Access Article

The Deliberation of Pancasila Democracy Perspective in the Indonesian Constitutional System

Megawati Megawati¹, Absori Absori^{2,*}

¹ Faculty of Law, Ahmad Dahlan University, Yogyakarta, Indonesia

² Department of Law, Muhammadiyah University, Surakarta, Indonesia

Abstract: This research aimed to figure out the concept of deliberation in the Indonesian constitutional system and the Pancasila-based context. This research used the normative study methods and philosophical approach as the research methodology. According to the results of this research, it can be concluded that the democracy development in Indonesian constitutional practice was more directed to the modern system or, in other words, was more directed to the liberalism (election) rather than the traditional system (discussion). Thus, the democracy in Indonesia was not in parallel with the aspiration and the purpose of the country arranged by the founder of the Indonesian nation, which was aspired by the Pancasila-based nation and the 1945 Constitution of the Republic of Indonesia.

Keywords: deliberation, democracy, Pancasila.

潘卡西拉民主视角在印尼宪法体系中的审议

摘要：这项研究旨在弄清印度尼西亚宪法体系和基于潘卡西拉背景下的审议概念。本研究采用规范研究方法和哲学方法作为研究方法。根据这项研究的结果，可以得出结论，印度尼西亚宪政实践中的民主发展更多地针对现代制度，换句话说，其更针对的是自由主义（选举），而不是传统的制度（讨论）。因此，印度尼西亚的民主与印度尼西亚民族的建立者所安排的国家的愿望和宗旨并不一致。印度尼西亚民族的创立者是基于潘卡西拉的民族和 1945 年印度尼西亚共和国宪法所向往的。

关键词：审议，民主，潘卡西拉。

1. Introduction

Indonesia is one of the countries in the world using the principle of democracy to perform the national and state life of the nation, as the manifestation of the community involvement and participation in the organization of the country life, which also poured out in the 1945 constitution of the Republic Indonesia *preamble* or *mukadimah*. It then described further in the formulation of articles within the 1945 constitution of the Republic Indonesia as the values of mass sovereignty, corresponding to the meaning of the democracy stated by the 16th President of the United States of America Abraham Lincoln (Period of 1861-1865), which stated that the democracy was simply

interpreted as "the government from the people, by the people, and for the people". Law is a life pattern in the society, due to the willingness of the normal social process by the society, by the presence of harmony between the prominence of the group life and the personal prominence of the private life. The goal to reach the harmony between the group and the personal prominences was manifested in the law purpose to reach the harmony between the discipline and justice. It often stated that law was aimed to reach the just social order [1]. Pancasila is a core ideology of the Indonesian government based on the five principles: belief in God, Indonesian nationalism, humanitarianism or just and civilized humanity, democracy, and social

Received: 24 January 2021 / Revised: 20 February 2021 / Accepted: 25 February 2021 / Published: 31 March 2021

About the authors: Megawati Megawati, Lecturer of Legal Studies Program, Faculty of Law, Ahmad Dahlan University, Yogyakarta, Indonesia; Absori Absori, Department of Law, Muhammadiyah University, Surakarta, Indonesia

Corresponding author Absori Absori, absorisaroni@gmail.com

justice. Historically Pancasila had experienced the periods of myth and ideology. Pancasila underwent the “decaying” of its meaning as it became the ideological narrative since the early period we might learn about the democracy until the main figure of New Order (*Orde Baru*) stepped down the power and authority [2]. The opening, *preamble*, of the 1945 constitution of the Republic Indonesia showed the philosophical perspective towards the Republic Indonesia Nation as the democratic rule of law that was the law-based democratic state (*constitutional democracy*). The fourth paragraph of the 1945 Constitution of the Republic of Indonesia *preamble* states: “*National Independence shall be laid down in a constitutional of the state of Indonesia, which is to be established as the state of the Republic of Indonesia with popular sovereignty*”. It emphasized that democracy shared the principle of the constitutional state [3]. Democracy was selected based on the value and the equality of the people. As we know, etymologically, the word *asyura* originated from the verb *syawara*, which means show something or release honey from the beehive. While the word of deliberation or *musyawarah* was taken from the Arabic language, *syura* was absorbed in Indonesian with the meaning of “discuss” and “confer”. In the Arabic English Dictionary, *syura* is denoted as discussion or consultation [4]. Therefore, etymologically deliberation means stating an idea, confer, consult with other people. While terminologically, deliberation denotes the active deeds that were fulfilling the voluntary boundaries in the opinion, yet liven up from the voluntary to the efforts in the opinion or idea statement properly. The founders of the Indonesian nation had established Indonesia as the Unitary State in the ethnic differences from such a long time ago. Therefore in the formation of a nation was done following the principles of deliberation, agreement, and representation as to the cornerstone of the implementation in the national and state life to enforce popular sovereignty. The cultural order of deliberation already grew up from such a long time before the birth of the Unitary State of Indonesia Republic. However, at this moment, the influence of western democracy was inevitable; therefore, it affected the deliberation system and popular sovereignty democracy in Indonesia from the past time.

One of the Indonesian reform agendas was the alteration of the national constitution, namely the 1945 Constitution of the Republic of Indonesia. The modification, commonly known as the amendment of the 1945 Constitution of the Republic of Indonesia, was an actualization and the completion of the better constitution. Aside from the improvement of the shortcoming of the 1945 Constitution of the Republic Indonesia, the renewal also means to enforce the principles that are supposed to be maintained properly. The 1945 Constitution of the Republic of Indonesia is a

national constitution that was the goal/aspiration of the ideal country desired by the nation. The nation’s aims as the guidelines and guides for all the things related to a country and its administration gave guidelines or guidance related to the State’s organizational structure arrangement or the determination of the state’s policies.

The renewal of the 1945 Constitution of the Republic of Indonesia is expected to be The Big Law or The Supreme Law of the Land in the Indonesian law system. The main factor in determining the basic constitution renewal was the society’s condition. The democracy encouragement, the implementation of the *welfare state*, the modification of economic patterns and systems affected by industrialization, and the advancement of science and technology might become forces to push the renewal of the basic constitution.

Accordingly, as meant by the democracy-based nation, the law state is one characteristic of the modern country which expected by all the countries around the world, by the European countries having continental law tradition, England and the USA which had the Anglo-Saxon tradition, Arabic countries which were the Islamic countries, communist countries or even the third world countries which were governed by the totalitarian regime for such a long time.

Consequently, a democracy-based nation, along with the basic values of the law state, was the counterweight. The contained power in democracy will be more directed and will not deviate from basic national and state life values.

From the explanation above, we can pull out the main problem which can be formulated related to the Deliberation and the meaning of democracy perspective-based sovereignty of people in the Pancasila values, that is, in the democracy implementation or popular sovereignty with the deliberation principals based on the ideal foundation of Pancasila and 1945 Constitution of the Republic Indonesia.

2. Methodology

This research was done by using the descriptive philosophical normative study method. The secondary law materials in this writing were taken from the literature, papers, journals, and the other research related to this writing.

3. Results and Discussion

3.1. Democracy in the Society Consultation Concept

As we know, the meaning of democracy is initiated from the words *demos* and *kratos*, which means the government from the people, for the people, and by the people. The democracy conception always puts the people in the most strategic position.

In the history of democracy development, in the ancient democracy era in Athena, was used the pure democracy work model form or the direct democracy.

The ancient Greeks' direct property could be held effectively due to the restricted area condition and the social character, which was still modest and simple.

Modern countries were no longer possessing modest or simple characteristics. Their territory is already big enough, and the number of the people around the society was already enough with the presence complexity, which made the democracy implementation be an indirect or representative democracy, where the people elected their representatives to state their manner as the reality they should handle [5]. After the end of the Greek era, the Islamic thinkers took a natural law that stated that "human is a social animal." Humans can stay survived if they became society members, no one except for the Almighty Allah SWT, that was able to live alone by their selves, Human was created to live together [6].

The establishment of the Madinah Charter was one of the Prophet's tactics after moving to Madinah, which was meant to build the unity of life from several groups of Madinah citizens. In the charter, there were formulations about religious freedom, inter-group relations, the obligation to maintain the unity of life, etc. According to the Madinah Charter content, the complex Madinah citizens were politically supervised by our Prophet Muhammad SAW [7]. Therefore, Our Prophet in the Madinah Charter organization and the social groups have fused themselves and struggle together. In contrast, previously, the Prophet had been stated as the political and religious leader. So that, the Madinah Charter was organized democratically because it came from a democratic process.

The implementation of the democratic life values enabled to avoid the need for support from society in the state administration organization. All the government's decisions are inseparable from the society's ideas/opinions in the form of voice, supervision, and participation in the formulation and the implementation process of all the policies taken by the government. Practically, the democratic principles or the sovereignty of the society were able to guarantee society's role in the decision-making process so that each regulation established or implemented properly represented the feeling of social justice. However, democracy was not the only form of arrangement in national and state life. Other formulations also could be used for decision-making. However, this democratic system was expected to be the most comfortable and parted us away from the injustice. Due to the democratic system, the citizen's right is the main power in the national implementation.

In several state systems which used their citizen as the source of their legitimation, the representation system became the rational system. This rationality could be explained with one comprehension that, in

social life, there will be room for plurality. It could be controlled without putting forward the anarchy roles and domination of one group over another [8].

Hans Kelsen stated that democracy is a government from the people and to the people. With the acceptance of the Kelsen descriptions about the basic of democracy, so we could now answer that;

1. The one who performs the democratic country power was the selected society representation. Society believes that all their wills and interests would be considered to perform the country's power.

2. One way to perform the democratic country power was always to remember the society wills and interests so that in each action to perform the country power was not conflicting with the will as well as the interest of the society, that should always try the best to fulfill the society will and interest.

3. The democratic country power that could be performed may not be determined by the numbers, yet as much as possible, to obtain the expected results by society, as long as it did not deviate from the basic of the main democracy (Christine S.T. Kansil, 2004)

At this moment, almost all countries think that they are based on democracy or are the sovereign states of the people; even the communist countries admitted that their governmental system was based on democracy or popular sovereignty. So, the meaning of democracy or popular sovereignty became larger, depending on each country that implemented it. As stated in [8], that the principle of democracy contained two meanings, they are 1) Democracy connected to the governmental system; in this case, the problem was laid on the citizen role in the governmental administration, 2) the principle of democracy, which was influenced by the history, socio-cultural from the nation itself, so that brought up the constitutional democracy terminology, social democracy and Pancasila democracy. In the modern countries, which were not simple anymore related to democracy implementation. It was due to the characteristics and its territory, which was large already as well as the number of their society that already pretty much with the possible complexity making the democracy implementation turned out to be undirect democracy or the representative democracy, to which the citizens were choosing their representatives to state as the reality which should be performed—looking at those reasons above the need of the legal device to keep the national and state life. The overview was not looking at the law only as a logical and consistent system, which were separated from its social environment, yet it should view the law as an institution which always related to its public order, it always being accused to give more attention between the law and the social fact which lived and developed. Law should not be the esoteric realm or the region only, which could only and abled to be entered by the policies maker, the law authority, and the lawyer, even though their thought were specialistic, which

frequently only struggle with the "rules and logic" until this day that the way of thinking and the law performance as mentioned before were still dominant, that commonly known as the term of *analytical jurisprudence* or *legal dogmatics* in the law sociology [9].

Muhammad Yamin utilized the word law country same with *constitutional state* or *government of law*, clearly explained that "the Republic of Indonesia is a law-based country (*constitutional state, government of law*)..., was not a police-based or military-based country... was not a power state also..." [11]. The terminology of the law-based country or constitutional state was used in [12]. As stated in [13], in a law-based country, there was a country power restriction for personal/ private..., this term by the law experts from England was commonly known as *the rule of law*. Besides, the term of *the rule of law* was also used in the enforcement of a law-based country, "it was impossible to ensure the law in the whole meaning in our Nation, *the rule of law* is absent in Indonesia, our country is not even a law-based country..." [14].

Indonesia is a country that embraced the democratic system or popular sovereignty so that governmental implementation could not be separated from social participation to determine the government's flow and the direction of the country's development. In the implementation of popular sovereignty, it was not fully carried out by society even though the 1945 Constitution of the Republic of Indonesia had already been amended so that the administration or implementation of the government was successfully carried out democratically. It was due to the development and the growth of the nation and the society, which occurred rapidly, especially in popular sovereignty.

The principle of "popular sovereignty" states that there is no human being, an elite, a group of ideologists, nor a group of priests/pastors/ulama have the right to determine and impose (demand by using threats) how others should or may live. Democracy is 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 "popular sovereignty plus the principle of representation" [15].

As a theory, none of the teachings about popular sovereignty can be called the most modern. It is just that it must be recognized, almost all modern countries today formally claim to adhere to the principle of popular sovereignty [15].

The principle of popular sovereignty or understanding democracy contains two meanings:

a) Democracy as related to the government system or how people are included in the administration of government.

b) Democracy as a principle influenced by the cultural, historical condition of a nation that in the end

occurred terms, constitutional democracy, people's democracy, and Pancasila democracy emerge.

Along with the changing times, 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. In connection with the system of representation in the context of popular sovereignty, large-scale government of the people (nation-state) can only be formed with a system of representation as a form of democratic government, which is sovereign of the people.

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

The concept of democracy emerged from the Western Europe, but democratic values have existed in Islam. As we know with the Medina Charter, which was raised by the Prophet Muhammad and Muslims in Medina, is the first concept in the Islamic world regarding democracy. Humans could be much wiser to nature, science must stand in the form of values: first, the principle of monotheism, which implies that the entire universe, heaven, and earth, all of its contents are at the will of God. Second, the Principle of Khilafah and Mandate, namely human presence on earth, to carry out its function as *Khalifah* (2:30), which is mandated by God to prosper and preserve the natural environment. Everything is done in the context of the worship of God (51:56). Third, the Sharia Principle, namely to be a good human being, then what is done in life in the world, including in carrying out natural management, must be based on shariah provisions. Humans do implications in the field of law (shari'ah) in the form of things that are allowed (halal) and are not allowed (kharam). Humans as noble creatures, leaders (caliphs) are not allowed to do damage and exploitative (facade) on earth and to waste. Calling for good deeds (Ikhsan), in the form of sustainability, and reconciliation for peace [16].

In the perspective of transcendental jurisprudence, jurisprudence is based on the truth at the level of the truth of uncertainty (*haqq alyakin*), which is gathered in the Qur'an and Hadith, and on the truth obtained by the ability of human potential through contemplation, reasoning, and discourse that develops in society. Humans explore the process and formulate knowledge with the aim not only for knowledge but also for policy, the benefit of the wider community, with the pleasure and love of God [2].

The teachings of Islam have also set the life of society, nation, and the state as the implementation of shura or deliberation. Therefore, in a democratic system, society is the source of law. The law in question supports fundamental rights that guarantee individuals' existence and interests as part of a sovereign community. This issue of sovereignty is

central in the discourse of democracy. Whereas classical Juris as puritans believe that the principle of sovereignty in a democratic system is not legitimate because God is the sole owner of sovereignty and the source of law. Democracy, in this case, is considered to have doubted God [17].

It can be ascertained, the founder of the country at that time that the Indonesian State had a specific goal, namely, so that the Indonesian state would later not fall into a certain group or political power, but instead belonged to all Indonesian people who in their constitutional reality recognized their sovereignty – especially considering that, Indonesia, which has a very large area and pluralistic composition of society, then democracy in the practice of state administration 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.

The ideal foundation of 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. Popular sovereignty is based on the perception that the people hold the state's highest authority rather than the authorities or state administrators. Authorities tend to maintain and expand their power, so these powers need to be restricted.

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

The term "deliberations" has been listed in the 1945 Constitution, RIS 1949 Constitution, and 1950 Constitution. In the process of preparing the 1945 Constitution, the term "deliberation" was first conveyed by Yamin in his speech on May 29, 1945, in front of the BPUPKI Session, referring to Al-Qur'an Surat Asy-Shura verse 38, which means "... all their affairs are deliberated ...". There are three basic things from the urgency of deliberation for the state's progress in protecting God, namely; 1). Broadening horizons, 2). Togetherness in responsibilities, 3). Minimize erroneous establishment or behavior. Yamin also expressed the thought that among the Islamic countries in the world, the Indonesian people gave a special color in implementing the nation's life and state life [10].

Thus it can be concluded that the founding fathers do not want liberal democracy. Therefore, the concept of deliberative democracy was chosen, as outlined in the formulation of the fourth precepts of Pancasila. This thought is special because there is a contribution to Islamic thought. While the results of the concept of deliberation in the socio-political and cultural context of society are, first, deliberation as solidarity, strength, and independence of individuals and their rights as human beings, secondly, deliberation can be said as an instrument of da'wah if deliberation can become a place to glorify and guide someone towards a better direction, the third is, deliberation as a social principle. The fourth is deliberation as Khilafah following its natural rights.

The opinion of Indonesia's founding fathers determined that the state which was to be established was based on the people's consultation principle as the basis of a democratic state. With a democratic government, every problem will be deliberated and resolved in the people.

The 1945 Constitution contains the principles of deliberation set out in the Articles of the Body of 1945 Constitution, which impact government administration both at the central and regional levels. However, the implementation of consultation by the people directly cannot be held in Indonesia because of the territorial conditions, number, and Indonesian people's diversity. The Republic of Indonesia, using a modern democratic system or indirect democracy or in the administration of its constitution, is called a representative system democracy. However, the implementation of democracy with a representative system is not as simple as direct democracy. In the exercise of power in the Unitary State of the Republic of Indonesia, before Indonesia was made as a state, it has used the principle of deliberation, which is popular sovereignty, as the basis for carrying out community life. In the state administration, deliberation is a dialogue or deliberation by paying attention to a). community dynamics, b). everything that happens, c). all streams [18].

From this formulation, the nature of deliberation contains the following principles: 1). Togetherness in negotiating and solving problems, 2). Similarities in conveying interests, 3). Tolerance in differences in class and opinion, 4). Openness to all the flow and dynamics that occur in the society [19].

The problem facing indirect democracy or representative system democracy is that the state must form an institution to organize or act as popular sovereignty. Institutions that are formed must truly represent the people as holders of popular sovereignty. Therefore, the establishment of representative institutions must reflect democratic values to carry out the people's mandate well. Besides that, rules are also needed to regulate the implementation of democracy with an indirect model or a democratic system of

representation. An indicator that qualifies democratic practice in Indonesia is the function of people's representative institutions. The Republic of Indonesia as a unitary state embracing democracy, in which the people participate in determining the course of the government and the direction of development. As a country whose territory and plural society makes Indonesia use indirect democracy or democracy with a representative system. Therefore, before the amendment of the 1945 Constitution, popular sovereignty has been fully implemented by a representative body, namely, the People's Consultative Assembly (MPR), as stated in Article 1 paragraph (2) of the 1945 Constitution. Thus, the People's Consultative Assembly occupies a position of the State's Highest Institution. The Elucidation of the 1945 Constitution was also emphasized in the seven main key systems of government No. 3 that the People's Consultative Assembly is the incarnation of all Indonesian people.

Over time, the government administration in Indonesia does not reflect democratic values. Therefore, the Indonesian people made a change because the 1945 Constitution as a source of state administration needs to be changed to create a more democratic government.

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 a representative institution has been amended. Even though the position and authority of the People's Consultative Assembly experienced a shift, the duties and authority of the People's Consultative Assembly as the bearer of popular sovereignty were not lost. The People's Consultative Assembly was formed more democratic than before the 1945 Constitution underwent a change. All MPR members, consisting of the House of Representatives (DPR) and the Regional Representative Council (DPD), are formed through a general election process; they are directly elected by the people.

In the fourth paragraph of the Preamble of the 1945 Constitution, the founders of the State have taken political decisions in the process of establishing a state, namely:

"To form an Indonesian government that protects all Indonesian people and all Indonesian blood and to promote public welfare, educate the nation's life and participate in carrying out world order based on freedom, eternal peace, and social justice, then the Indonesian national independence was arranged in a Constitution of the Republic of Indonesia, which was formed in an arrangement of the Indonesian state, which sovereignty of the people based on the Godhead of the Almighty, just and civilized humanity, the unity of Indonesia and the populace led by wisdom in

Consultation/Representation, and by realizing a social justice for all Indonesian people".

The provisions above show that the Basic Law has the character of current statutory regulation because the modern state, in general, is based on democracy or a sovereign state 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 as a state, especially in the context of facing this globalization. With Pancasila as the country's ideology and basis, all challenges and hopes are expected to be resolved and can unite the diverse nation of Indonesia and its interests.

Provisions in the Preamble to the 1945 Constitution on the fourth paragraph are then implemented in Article 1 paragraph (2) of the 1945 Constitution of the Unitary State of the Republic of Indonesia, wherein before the amendment states that "sovereignty is in the hands of the people and fully exercised by the People's Consultative Assembly". And comparing to Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia after the amendment, sovereignty is in the hands of the people and implemented according to the Basic Law. By looking at the 1945 Constitution of the Republic of Indonesia, it can be concluded that the Indonesian State follows the model of indirect democracy or representative democracy based on consultation values.

Likewise, Jakarta Charter (a document stipulated by BPUPKI on June 22, 1945) provides a formula that reads Godhead by carrying out Islamic sharia for his adherents. The formulation changed when the 1945 Constitution was stipulated by PPKI on August 18, 1945, and reads now: Belief in the one and only God. The change in the formulation shows that the democracy contained in the Preamble to the 1945 Constitution eliminates one of the thoughts that the Indonesian state pays attention to the privilege of the largest population, which is Muslim. Thus, the sociological representation of Islam in the life of democracy in Indonesia is also missing in the form of the enactment of Islamic sharia. Democracy is really based on the idea of nationality, which is solely based on the values of independence or freedom and sovereignty of the people [20].

Together 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 is inseparable from all kinds of the complexity of problems inherent in the ideas of modern democracy. For this reason, the discussion on the idea of democracy in the 1945 Constitution will begin first with a review of the basic ideas of modern democracy developed among European and American thinkers. The study on the idea of modern democracy is needed to be able to trace the influence of the idea of democracy that developed in the 1945 Constitution and

its contact with the notion of democracy that originates from Islamic teachings and traditions of the Indonesian people whose influence was also very strong in the formation of democratic ideas in the 1945 Constitution [20].

However, we know together that the ideology or ideals of democracy championed by the country's founders and leaders of the Indonesian movement, that the establishment of the Republic of Indonesia is inseparable from the achievement of the compromises and formulations as contained in the Preamble to the 1945 Constitution, which according to [21] Hatta contains three basic statements; 1). The basic statement of politics and ideals of the Indonesian people, 2). Statement about the success of the Indonesian people's political demands, with the gift of God, 3). Statements about Pancasila as the state's philosophy or ideology, namely the Almighty God, Humanity, Indonesian Unity, Democracy, and Social Justice. If observed, Pancasila has two basic things; first, morals, namely the Almighty God; second, politics, namely Humanity, Indonesian Unity, Democracy, Social Justice [21].

4. Conclusion

Based on the discussion above, a conclusion can be drawn that as a unitary state, the Republic of Indonesia is a country that adheres to the understanding of democracy, where the people participate in determining the course of government and development direction. As a country whose territory and plural society makes Indonesia use indirect democracy or democracy with a representative system. Therefore, the implementation of popular sovereignty before the amendment of the 1945 Constitution shows that popular sovereignty has been fully implemented by a representative institution, namely the People's Consultative Assembly (MPR), as stated in Article 1 paragraph (2) of the 1945 Constitution.

Besides that, the 1945 Constitution has values in the matter of consultation, namely by continuing to uphold human dignity. Besides that, prioritizing deliberation in solving problems by recognizing diversity and heterogeneity in society, but prioritizing togetherness rather than the interests of groups or individualism.

Therefore, the People's Consultative Assembly, before the 1945 Constitution was amended, occupied the position of the Supreme State Institution. As also emphasized in the Elucidation of the 1945 Constitution in the seven main key systems of government no. III, the People's Consultative Assembly is the incarnation of all Indonesian people. Over time, the government administration in Indonesia does not reflect democratic values. Thus, the Indonesian people changed the 1945 Constitution as a source of state administration to create a more democratic government in consultation values.

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 a representative institution has been amended. Even though the position and authority of the People's Consultative Assembly experienced a shift, the duties and authority of the People's Consultative Assembly as the bearer of popular sovereignty were not lost. In fact, the People's Consultative Assembly is formed more democratic than before the 1945 Constitution underwent a change. All MPR members, consisting of members of the House of Representatives (DPR) and members of the Regional Representative Council (DPD), are formed through a general election process; they are directly elected by the people.

Thus, Democracy in the values of deliberation, that on one side of democracy is as a modern social and political system that prioritizes the interests or power of the authorities located as representatives of the people, while the values of deliberation are part of solving all the problems that exist in life humans themselves, both in their individual lives or in human life as part of the life of the nation, community and state, are resolved while respecting the pluralism that exists in Indonesian society or people.

References

- [1] SOERJONO SOEKANTO. Use of Sociology of Law for Laws, Bandung: Citra Aditya Bakti, 1989.
- [2] ABSORI. Transcendental Law Epistemology and Its Implementation in the Development of the Legal Science Doctoral Program, Paper at the National Seminar with the theme, "Development of Legal Science Epistemology", 11 April 2015, Muhammadiyah University of Surakarta.
- [3] GAFFAR J.M. Constitutional Democracy in Indonesian State Administration Practices After Amendment to the 1945 Constitution, Jakarta, Constitution Press, 2013.
- [4] COWAN J.M. (Ed.) *Arabic English Dictionary*, Spoken Language Services; 4th edition, 2001.
- [5] BUDIARDJO M. Various Thoughts About Power and Authority, Sinar Harapan, Jakarta, 1986.
- [6] ARISTOTLE. Politics. STALLEY R ans BARKERS E. Oxford University Press; 2017.
- [7] THAIB D, et al. *Theory and Constitutional Law*. Jakarta, PT Raja Grafindo Persada, 12th edition, 2015.
- [8] THAIB D. People's Representation in the MPR: In terms of Political and Legislative Infrastructure. *Journal of Magister Hukum*, 1(1), September 1999.
- [9] RAHARDJO S. Progressive Law for the Presidential Election. in a Kompas Daily Article, September 20, 2004.
- [10] YAMIN M. The Preparatory Text for the 1945 Constitution, Jakarta, Siguntang, Cet. Second, 1971.
- [11] YAMIN M. Manuscript of the Proclamation and Constitution of the Republic of Indonesia, Jakarta, Ghalia Indonesia, 1982.
- [12] NOTOHAMIDJOJO. The Meaning of the Rule of Law, Jakarta, Christian Publishing Agency, 1970.
- [13] GAUTAMA S. Definition of the rule of law, Bandung: Alumni, 1983.
- [14] SUNNY I. *Seeking Justice*. Jakarta, Ghalia Indonesia, 1982.

[15] ASSHIDDIQIE J. Ideas of Popular Sovereignty in the Constitution and Its Implementation in Indonesia, P.T Ictiar Baru Van Hoeve, Jakarta. 1994.

[16] ABSORI. Idea of Pancasila Law, Variety of Legal Paradigms with Indonesian Personality, Kartasura, Solo, Pustaka Iltizam, 2016.

[17] ROHMANU A. Pluralism, Democracy and Social Justice in the Concept of Humanistic Fiqh Abou El Fadl. *Journal of ISLAMICA*, 2009, 4(1): 7-34. <https://doi.org/10.15642/islamica.2009.4.1.17-34>

[18] WAHYONO P. Membudayakan Undang-Undang Dasar 1945, Jakarta: Ind-HILL.co, 1991.

[19] PANGERANG A. People's Consultative Principles based on Article 18 of the 1945 Constitution and Its Implementation in Regional Government Systems, Dissertation, Padjadjaran University Postgraduate Program, Bandung, 1999.

[20] AZHARI A.F. Tafsir of the Constitution; The Struggle to Realize Democracy in Indonesia, Genta Publishing, Issue II, Yogyakarta, 2017.

[21] HATTA M. Our Democracy, PT. Pustaka Antara, Jakarta, 1960.

参考文献:

[1] SOERJONO SOEKANTO。法律社会学对法律的使用，万隆：柠檬阿迪亚，1989。

[2] ABSORI. 先验法认识论及其在法学博士学位课程发展中的实施，在全国研讨会上以“法学认识论的发展”为主题的论文，2015年4月11日，泗水穆罕默迪耶大学。

[3] M GAFFAR J.M. 1945年宪法修正案后印度尼西亚国家行政实践中的宪政民主，雅加达，宪法出版社，2013。

[4] COWAN J.M. (编辑)阿拉伯英语词典，口语服务；2001年第4版。

[5] BUDIARDJO M. 关于权力和权威的各种思想，锡那尔·哈拉潘，雅加达，1986。

[6] ARISTOTLE. 亚里斯多德。政治。STALLEY R. 和 BARKERS E. 牛津大学出版社；2017。

[7] THAIB D 等。理论与宪法。雅加达（雅加达），PT 拉贾·格拉芬多·佩尔萨达，第12版，2015。

[8] THAIB D. MPR 中的人民代表：就政治和立法基础设施而言。法律硕士杂志，1（1），1999，9月。

[9] RAHARDJO S. 总统选举渐进法。在2004年9月20日发表的康帕斯每日文章中。

[10] YAMIN M. 1945年宪法的准备文本，雅加达，西贡当，西欧。第二，1971。

[11] YAMIN M. 印度尼西亚共和国宣言和宪法手稿，印度尼西亚加里雅加达，1982。

[12] NOTOHAMIDJOJO. 法治的意义，雅加达，基督教出版社，1970。

[13] GAUTAMA S. 法治的定义，万隆：校友，1983。

[14] SUNNY I. 寻求正义。雅加达，加利西亚，印度尼西亚，1982。

[15] ASSHIDDIQIE J. 宪法中的民众主权思想及其在印度尼西亚的实施，雅加达 P.T 伊蒂尔·巴鲁·范·霍夫。1994。

[16] ABSORI. 潘卡西拉法律理念，具有印尼个性的多种法律范式，卡塔苏拉，独奏，普斯塔卡·伊尔蒂扎姆，2016。

[17] ROHMANU A. 人文主义阿布·埃尔·法德尔的法学概念中的多元化，民主和社会正义。伊斯兰杂志，2009，4（1）：7-34。
<https://doi.org/10.15642/islamica.2009.4.1.17-34>

[18] WAHYONO P. 1945年宪法的文明化，雅加达：Ind-HILL.co, 1991。

[19] PANGERANG A. 基于1945年宪法第18条的人民协商原则及其在区域政府体系中的实施，学位论文，帕杰贾兰大学研究生课程，万隆，1999。

[20] AZHARI A.F. 宪法的塔菲尔·艾杜尔·费特里希达·阿扎里印度尼西亚实现民主的奋斗，金塔出版社，第二期，日惹，2017。

[21] HATTA M. 我们的民主力量，PT. 雅加达中级图书馆，1960。