Analysis of Legal System and Democracy System in State System: A Critical Review of Normative Law in Indonesia

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Abstract--- Law and democracy have a very close relationship with the constitutionality of the Republic of Indonesia. The state of Indonesia is a state of the law, as referred to in Article 1 paragraph (3) of the Constitution of the Republic of Indonesia, namely the 1945 Constitution of the Republic of Indonesia. Then in Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia states that sovereignty is in the hands of the people, which in this article means that the Indonesian state is a democratic country. Law and democracy in Indonesia work together in the framework of national and state development. Democracy has a significant role in the structure of the legal system in the Indonesian state, and vice versa in the Indonesian state, law also has an essential role in the development of democracy in the Indonesian state.

Keywords--- Legal System, Democratic System, State Administration.

I. Introduction

A country certainly has a constitutional system that is related to a legal system that exists in that country. A democratic constitutional system certainly puts forward the aspirations of the people in the context of organizing their country. In a country, people have a significant role in the administration of the country.

As is the case in Indonesia, based on the provisions of Article 1 paragraph (2) of the Indonesian Constitution, namely the 1945 Constitution of the Republic of Indonesia, the sovereignty is entirely in the hands of the people. As a democratic country, in the Indonesian state, of course, the highest sovereignty is in the hands of the people, not only centered on one state leader who in the Indonesian state is led by the President. In the Indonesian state there is a parliament, where the parliament is a manifestation of the existence of democracy in the Indonesian state based on deliberative representation.

The Indonesian state is not only a democratic country, democracy is a system in administering the state. However, on the other hand, the state of Indonesia is also a state of law, which is stated in the constitution of the state of Indonesia in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that "the state of Indonesia is the rule of law". Therefore, in the administration of the state in Indonesia, of course, all are based on existing laws in this country.

In Indonesia, law and democracy are fundamental in the administration of state administration. The law has a role in regulating related to a democratic order as the Indonesian state system. Likewise, democracy also has an essential role in the development of law in Indonesia.

Law and democracy in Indonesia work together in the framework of national and state development. Democracy has a significant role in the structure of the Indonesian state's legal system, and vice versa in the Indonesian state, law also has an essential role in the development of democracy in the Indonesian state.

II. Methodology

This article uses the Normative legal research method, which in this article indeed uses legal sources in the form of legislation such as the 1945 Constitution of the Republic of Indonesia, and other laws relating to this article. The approach used in this article is the statutory approach, which in this article indeed discusses based on existing statutory regulation. Besides that, this article also discusses the ideology of the Indonesian state, Pancasila, explicitly linking democracy in the Indonesian state based on Pancasila.

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III. Literature Review

For fifteen years, Indonesians have political power, freedom of voice, and an array of civil and political rights that would have been unimaginable fifteen years ago. It is undeniable how much positive change has occurred in such a short amount of time. Like other countries in Asia, Indonesia's experience serves as an example of both the successes in democratization and the difficulties and challenges in consolidating democracy [1].

There is a seemingly endless amount of political science literature on democracy. Scholars sometimes define democracy along only minimal lines: democracy exists if there are free and relatively fair elections to choose political leaders [2]. The democracy is governed by an encompassing interest can lead to much-too-optimistic predictions about many real-world democracies [3]. Democratic governance could be significantly improved through the open and equal deliberation between citizens, representatives, and policy-makers, afforded by the new information and communication technologies [4]. Democratic institutions provide a check on governmental power and thereby limit public officials' potential to amass personal wealth and carry out unpopular policies [5].

Political democracy is, therefore, protected from challenges to the vast inequalities in power[6]. Democracy, public participation, accountability, and social and economic rights are all historically tied to the outcome of struggles of social forces and interests and are not merely the product of intentional policy design [7]. Democracy should be seen as referring to the principles which underlie the political process for a given regime. Moreover, it is logically independent of the detailed institutional practices democracy is not a dichotomous concept: given regimes differ in the extent to which they embody the principles of democracy in the operation of I heir institutions [8].

Democracy has been going on for a long time, on its way to experiencing ups and downs. The historical journey of democratic practice divides into three stages of transformation. The first democratic transformation is democracy whose scope is in the form of direct democracy. This stage of transformation took place in political practice in ancient Greece. The second democratic transformation was realized with the introduction of republicanism, representation and the logic of equality [9]. The third democratic transformation, experienced by modern political life today. This stage is characterized by the uncertainty of whether to return to small societies such as ancient Greece and Athens or to other forms. Returning exactly to ancient Greece or Athens is impossible. This stage leads Dahl to emphasize that what will be achieved in the future is a democracy that focuses on finding sources of inequality rather than trying to implement equality in society. For this reason, the path taken by advanced democracy is the dissemination of economic resources, positions and opportunities, through the dissemination of knowledge, information and skills.

The history of democratic practice includes three waves, the first wave of democratization covered the period of 1828 - 1926, rooted in the American revolution and the French revolution marked by the emergence of national democratic institutions which were actually a 19th century phenomenon which included democratization in the United States, Canada, Australia, New Zealand, England, France, Switzerland, and several small countries in Europe. The second wave of democratization, covering the years 1943-1962, began in the second world war including democratization in West Germany, Italy, Japan, Austria, Turkey, Uruguay, Brazil, Argentina, Peru, Colombia, Venesuella, and Costa Rica. In the 1960s, some of the above countries returned to military governments such as Brazil and Argentina [10]. The third wave of democratization began in 1974, marked by the end of the dictatorial government of Portugal followed by Greece and Spain and continued with a massive wave of democratization of all parts of the world spectacularly until 1990.

Francis Fukuyama, stated that the history of the development of humanity's political ideology ended with the victory of capitalism and liberal democracy. The legitimacy of liberal democracy as a system of government emerged throughout the world after conquering rival ideologies such as monarchy, heredity, fascism, and communism [11].

Democracy is the management of a country with dialogue and voting [12]. Differences of opinion, disputes within the community, disputes between the people and the state, and the change of state officials were settled peacefully. All problems are resolved peacefully through various means, such as public debates, discussions, deliberations, and voting. The final word remains in the hands of the people. State officials must constantly remember that their existence is at the consent and expense of the people. State officials must always listen, pay attention, and serve all people in a fair and democratic manner.

Democracy is the state order that best suits human dignity. Democracy respects and guarantees the fulfillment of human rights. Democracy recognizes that humans are born free with the same dignity and rights. Unlike the other state orders, the aristocracy assumes the right to rule are the nobles, and the others must be obedient and obedient.

Absolute monarchy believes the truth that the king and his descendants are given the task of governing, and the wider community must obey it. An autocracy is a one-person government that acts cruelly to those who criticize it. These cruel acts are only in the interest of the people. Oligarcy is a government by a few political elites, who often hold cooperation with other elites, such as business elites and religious elites [13]. From the explanation above, it can be stated that the only structure of the state government that recognizes that all humans are born free and have the same dignity and rights is democracy.

Democracy is the art of how to use power wisely, so that it can become an instrument and a tool to achieve a just society, humanity, sharing in plurality and synergy in manifesting all potentials [14].

Democracy teaches that differences are not a source of disaster, not the beginning of division, not a cause of hostility, but rather as a force where humans are taught to know themselves and respect each other.

Models and types of democracy are numerous, including: (1) liberal democracy; (2) guided democracy; (3) social democracy; (5) participation democracy; (6) consociational democracy, and (7) deliberative democracy. Liberal democracies are democracies that provide freedom for individuals to carry out social, religious, and state activities without being guided and interfered with by state affairs, as long as their expression of life does not conflict with the view of community life and ideological points of the country concerned [15]. Guided democracy is democracy in which every decision is centered on the leader of the country, not through agreement [16]. Social democracy is a democracy that upholds the degree of humanity without distinguishing class, therefore socialism in democracy aspires to the equality of each human being from person to person [17]. Participatory democracy is a democracy that emphasizes the reciprocal relationship between rulers and those controlled. Consociational democracy is a democracy that emphasizes special protection for cultural groups and emphasizes close cooperation between elites who represent the main cultural part of society [18]. Deliberative democracy is a democracy in which legal legitimacy is achieved because law is born from discourses in civil society, so that the stipulation of regulations in democracy will be easily implemented and implemented by the community [19].

Robert Dahl in Adi Sulistiyono through his famous study put forward 5 criteria of democracy as a political idea, namely (1). Equal suffrage in determining binding collective decisions, (2). Effective participation, namely equal opportunities for all citizens in the collective decision making process, (3). Disclosure of the truth, namely the existence of equal opportunities for everyone to provide an assessment of the course of political and governance processes logically, (4). The final control over the agenda, namely the existence of executive power for the community to determine which agenda should and should not be required through a government process, including delegating that power to other people or institutions that represent the community, (5). Coverage, which is the coverage of the community covering all adults in relation to the law. In this definition, it appears that Dahl attaches great importance to community involvement in the process of policy formulation, oversight of power, and guaranteed equality of state treatment of all citizens as basic elements of democracy [20].

Sidney Hook provides a definition of democracy as a form of government in which important government decisions or the direction of the policy behind decisions are directly based on majority decisions freely given from the adult people [21]. This means that at the last stage the people provide provisions in the main issues regarding their lives, including in assessing the state policies that also determine their lives [22]. Therefore, democracy as a political idea contains 5 (five) criteria, namely: (1) equality of suffrage in determining binding collective decisions; (2) effective participation, namely equal opportunity for all citizens in the collective decision-making process, (3) disclosure of the truth, namely the existence of equal opportunities for everyone to provide an assessment of the course of political and governance processes logically, (4) final control of the agenda, namely the existence of an exclusive decision for the community to determine which agenda should and should not be decided through the governance process, including delegating that power to other people or institutions that represent the community, and (5) inclusion, i.e. the coverage of the community including all people mature in relation to law.

There are many types of democracy, and their diverse practices produce a similarly varied set of effects. The specific form of democracy is contingent upon a country's socio-economic conditions and entrenched state structures and policy practices [23]. In the State of Indonesia, the democratic system used is the Pancasila democratic system.

Muh. Hatta in his writings on the Daulat Rakyat, titled Genuine Democracy of Indonesia, and People's Sovereignty said that in the ideals of the meeting and the aspirations of the people protests could be built political democracy, while in the ideals of helping could be the basis of economic democracy. Regarding this matter Hatta said among others that:

"On top of the first and second joints, political pillars can be established rather than actual democracy: a country government carried out by the people, by means of their representatives or representative bodies, while those who exercise governmental power are subject to the will of the people. To compile that will, the people have rights (the right to voice, to associate and to gather) which must not be eliminated."

Hatta further said: "Over the third joint a milestone in economic democracy can be established. It is no longer a single person or a small group that must control the livelihoods of many people as it is now, but the needs and wishes of the people that many have to guide the company and income. Therefore, the level of large income regarding the livelihood of the people must be based on shared property and be under the care of the people by the mediation of their representative bodies."

Based on these two views, if examined closely Hatta actually did not reject a parliamentary democratic system like Soekarno. However, Hatta wanted a democracy in which the people truly had sovereignty. What Hatta rejected from Western democracy was the principle of excessive individualism, so that there was no protection for shared ownership.

Agus Salim in the BPUPKI session on July 11, 1945 described the deliberation in society by stating "reaching unanimity of opinion". Furthermore, Agus Salim stated:

"Coincidentally the way of agreement that we are looking for is very different from that used in Western democracies. So if it turns out that in the deliberations that there is one of the majority who violently convinces the will to convey an intent in full willingness to contribute energy and efforts to achieve that purpose, if the intention is not clearly explained it will bring great danger or disaster, then the other part of the consultation does not deny, but rounds up an agreement so that it is good to try to sincerely carry out the joint decision, so that it may be proven right or wrong.

In connection with deliberation to achieve the word consensus, Muh. Yamin is of the view that the two matters are a combination of the two, namely the understanding of consultations sourced from Islamic teachings while consensus is sourced from the original Indonesian order.

In summary, Pancasila democracy has the following meanings: Pancasila Democracy is a democracy based on kinship and mutual cooperation aimed at the welfare of the people, which contains elements of religious awareness, based on truth, love and noble character, having an Indonesian personality and being sustainable (with personality) Muh Hatta, 1998: 87). Another figure Adnan Buyung Nasution said that in Pancasila democracy, the system of organizing the state was carried out by the people themselves or with the people's consent (that in Pancasila democracy individual freedom is not absolute, but must be harmonized with social responsibility. Principles of Pancasila Democracy

1) Democracy of Godhead

The explanation is, the ins and outs of the system and behavior in carrying out the state of RI must obey the principles, be consistent, or in accordance with the values and basic principles of the Almighty God.

2) Democracy with Intelligence

The explanation is, regulating and organizing democracy according to the 1945 Constitution of the Republic of Indonesia is not by instinctual strength, muscular strength, or mere mass power. The implementation of democracy is even more demanding of spiritual intelligence, aqliyah intelligence, rational intelligence, and emotional intelligence.

3) Democracy that is Sovereign of the People

The explanation is, the highest power is in the hands of the people. In principle, it is the people who own / hold that sovereignty. Within certain limits the people's sovereignty is entrusted to the people's representatives.

IV. Analysis and Discussions

The state of Indonesia is a constitutional state based on a democratic system. In this state of Indonesia, in the context of making legal products carried out by representatives of the people through parliament. Where the people's representatives are certainly directly elected by the people through a democratic election process. After a decade of political and administratice reform and several rounds of competitive elections, Indonesia, by most accounts, displays a democratic political system [23]. Democracy in Indonesia is passionate but generally peaceful [24]. Democracies are regimes in which governmental offices are filled as a consequence of contested elections [25].

Indonesia is a state of law mentioned in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which is the country's constitution and also in the provisions of Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia states that sovereignty exists in the hands of the people, who mean that the Indonesian state is a democratic country, where the people have sovereignty in the affairs of state.

Law and democracy in Indonesia are two essential elements in matters relating to state development. In the Indonesian state the legal product is the law made by parliament, where the parliament is the people's representatives assigned to represent the people's voice. The legal product in the form of law is the highest legal provision number 3 in the State of Indonesia; the highest law is the 1945 Constitution as the state constitution. Then occupying the second position of the hierarchical system of laws and regulations was the Decree of the People's Consultative Assembly, which was also made by the parliament.

A concept of democracy in a rule of law indeed allows people to be able to participate in establishing law in a country, making a rule of law not only made by one party but making legislative products made and approved by the representatives of the people who occupy legislative seats, democratically elected by the people. Besides, in a democratic country, the highest policy is also in the hands of the people. The people have the right to channel their aspirations through their representatives who occupy legislative seats[25].

The making of legal products in Indonesia, such as laws, provincial regulations, regencies, or cities, is made naturally through democracy. The people make the rule of law through their representatives who occupy seats in the legislative office. Therefore this is an embodiment that the law in Indonesia is undoubtedly based on the principle of democracy. The people have sovereignty in the context of legal development in the country of Indonesia.

The linkage of the principle of democracy in the development of law in the State of Indonesia is undoubtedly essential in its existence because, by the provisions of Article 20 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, the House of Representatives holds power to form law and is also based on the 4th Sila Pancasila which reads, people who are led by wisdom in the deliberative policy of representation, it explains that the making of laws made by the people carried out by representatives of the people using deliberative representation. So the people certainly have a role in making laws in the development of law in the State of Indonesia[26].

In the country of Indonesia related to the making of law, such as the products of the Law, Regional Regulations, the Decree of the People's Consultative Assembly is made by the legislative body. Where the making of a legal product is carried out democratically. The making of a popular legal product is undoubtedly the implementation of the 4th Sila Pancasila, which reads "Democracy led by wisdom in representative consultative wisdom," Pancasila is an ideology of the Indonesian state and guidelines for nation and state.

Therefore, it can be said that the people have a role in the framework of legal development in the State of Indonesia, where the role of the people in making legal products is carried out using deliberative representation. Indonesia is a state based on democracy, and a state based on democracy. A democratic rule of law indeed prioritizes the human rights of its citizens. The Indonesian state is a democratic country and a state of law, therefore the state must certainly protect every citizen in carrying out every form of freedom of expression, conveying an idea. This is protected by statutory regulations in Indonesia both within the body of the 1945 Constitution of the Republic of Indonesia Article 28, as well as regulated in Law Number 12 of 2005 concerning Ratification of International Covenant On Civil And Political Rights concerning guaranteed rights civil and political rights, where points of rights must be protected by the state regarding the right to an opinion, the right to associate, the right to choose and be elected, the right before the law and government, the right to justice [27].

The Indonesian state in implementing democracy must also be based on law. That certainly makes the primary basis is article 1 paragraph (2) of the Indonesian state constitution, namely the 1945 Constitution of the Republic of Indonesia, which states that "sovereignty is in the hands of the people." This is the highest legal rule in the Indonesian state, which states that the Indonesian state is a law state based on the principle of democracy, where the people have sovereignty.

Article 1 paragraph (2) of the Indonesian constitution, namely the 1945 Constitution of the Republic of Indonesia, basically the article explains that sovereignty is in the hands of the people, not in the hands of power, it is a primary principle in a democratic country. Where the Indonesian state certainly gives sovereignty to its people, where the sovereignty is carried out based on the deliberation of representation, as mentioned in the 4th Principles of Pancasila.

In the framework of implementing the democratic system in the Indonesian state administration, naturally, in a democratic country, there is a need for general elections, where these elections are a form of people's role in the

development of democracy in the Indonesian state, because in this general election the people are indeed given a right to give vote related to someone who will lead the country, lead an area, and also serve as the legislature in the constitutional system of the Republic of Indonesia.

The State of Indonesia as a democratic state based on law, in order to implement the principle of democracy in the life of the nation and state, of course, the existence of a democratic system is also based on a rule of law relating to the democratic system in the state administration.

As is the case in the context of holding elections as a manifestation of democracy in the Indonesian state. The existence of general elections in Indonesia is undoubtedly also based on a rule of law.

The existence of general elections in a democratic country such as this Indonesian state, of course, also must be based on the existence of good law, in Indonesia, the regulation of elections is regulated in Law Number 7 of 2017 concerning General Elections as a legal basis for conducting elections.

Based on the provisions of Article 1 paragraph (1) of Law Number 7 of 2017 General Election is a means of popular sovereignty in order to elect the President and Vice President, members of the House of Representatives, members of the Regional Representative Council, and to elect members of the Regional People's Representative Council, which implemented in a direct, public, free, confidential, honest and fair manner in the Indonesian state based on the Pancasila and the 1945 Constitution of the Republic of Indonesia.

This election is a democratic process in various countries, such as Indonesia. Therefore, in order to create a sound democratic system in the state administration in the Republic of Indonesia, then of course also in the framework of the implementation of the principle of democracy in the State of Indonesia must be based on a rule of law, so from here the law has a role in regulating the implementation of democracy so that it runs with good.

Law and democracy in Indonesia is an essential element that is closely related to the country's development. On the one hand, the state of Indonesia is a state of law, but the state of Indonesia is also a state of democracy, therefore in this State of Indonesia, it follows a democratic state based on law and also a state of law based on democracy.

This Indonesian state adheres to the Pancasila democratic system. Pancasila is an ideology of the state and also a view of life in the state. Pancasila is the primary basis in democracy and law in Indonesia. Where stated in the 4th precepts, that democracy in Indonesia is based on the principle of deliberative representation, this representative deliberation is a legislative body that is also tasked with making legal products in the form of laws that will be enforced in the State of Indonesia. This is a manifestation of the link between law and democracy in the Indonesian state.

V. Conclusions

Law and democracy have a very close relationship with the constitutionality of the Republic of Indonesia. The state of Indonesia is a state of law, as referred to in Article 1 paragraph (3) of the Constitution of the Republic of Indonesia, namely the 1945 Constitution of the Republic of Indonesia. Then in Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia states that sovereignty is in the hands of the people, which in this article means that the Indonesian state is a democratic country. Democracy has an essential role in the development of law in the country of Indonesia because basically the making of legal products in the Indonesian state such as the Law, the Decree of the People's Consultative Assembly, Regional Regulations, the legal product is based on the principle of democracy, where the legal product is made through a consultative body representative. Therefore, in the context of legal development in the Indonesian state, the people also participate in legal development through representative consultations. While the role of law in a democratic system, basically in a democratic state there is undoubtedly an overall election system in the context of electing heads of state, regional heads, and the legislature, the existence of this general election law has an essential role in regulating the holding of elections as a manifestation of democratic values in the state administration of Indonesia, so that the general elections can be held well. Besides that, democracy in the Indonesian state certainly has the primary legal basis mentioned in the Indonesian state constitution in Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that sovereignty is in the hands of the people. The people have an essential role in the state administration of Indonesia. The role of the people in every policy in the state is carried out through a deliberative representation, where the people's representatives are elected through a democratic system, namely in the holding of general elections.

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