



They Are Re – Governmental Forms Democracy in Indonesia

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Abstract

In a country, the form of government is an important part because it is one of the conditions to be called a country. The form of Indonesian government refers to Article 1 paragraph (1) of the 1945 Constitution of the Republic of Indonesia (1945 Constitution) is a republic. But when reading Article 33 of the 1945 Constitution of the Republic of Indonesia, Indonesia embraces economic democracy. On that basis, the formulation of the problem that the author raised what form of democracy is desired in the 1945 Constitution of the Republic of Indonesia? The conclusion obtained is that it cannot be defined that the desired democracy is early democracy because of the mixing of many parties. The desired democracy is a democracy mixed with a form of tyrannical government.

Keywords: *Governmental Forms; Democracy; Indonesia*

Introduction

In a country, the form of government is an important part because it is one of the conditions to be called a country. Referring to Timaeus's thought that humans inhabit bodies that are always willing to be evil, therefore their forms of government also lead to evil¹ and nothing can save them. the right way is to always try to achieve virtue and avoid evil but the other human being is doing it - not ourselves. On that basis when talking about the form of government, guessing is one way to find out the form of government of a country.

Normatively the form of the Indonesian government refers to Article 1 paragraph (1) of the 1945 Constitution of the Republic of Indonesia (1945 Constitution) is a republic. But when reading Article 33 of the 1945 Constitution of the Republic of Indonesia, Indonesia embraces economic democracy. In this perspective, the lack of clarity in the form of government is a legal problem that must be explained in writing in the 1945 Constitution of the Republic of Indonesia. The legal implications may consist of on that basis, the formulation of the problem that the author raised what form of democracy is desired in the 1945 Constitution of the Republic of Indonesia?

¹ *Evil forms of government and evil discourses.*

Methodology

This type of research used in this study is normative legal research that examines law from an internal perspective with the object of research being the legal norm. Normative legal research functions to provide juridical argumentation when there is emptiness, obscurity, and conflicting norms, it has the role to maintain the critical aspects of legal science as a normative science that is *sui generis*.² As normative legal research, this type of research is classified as doctrinal legal research, by conducting research on legal norms developed by doctrines by studying legal categories, the relationship between legal norms, explanations about research objects and also future predictions about objects which is used as the research theme.³

Results and Discussion

1. Democracy is Based on the Beginning

In the current mindset, pure forms of government do not exist due to global developments so that forms of government become an inseparable part of other forms of government. Indonesia as a country that supports democracy in general, does not have an actual democratic consensus.⁴ Democracy as part of the desire to achieve goodness in government is not the same as the philosophical era of democracy. The philosophical era of demorcation is a bad thing because demorcation is part of poverty. Part of poverty is because initially what was considered the best was a form of aristocratic government.

Aristocracy in this case is a form of government led by philosophers while in the following eras the philosophers were divided into sophists.⁵ In this understanding, arbitrariness arises from the rich so that government is more easily formed. When abuse arises, the people within it rebel and many people emerge as leaders for their own groups. In this perspective, democracy is actually a bad thing when there is no leader who can lead wisely.⁶

From Figure 1 and Figure 2, democracy merges into monarchy and / or aristocracy. This amalgamation means that there is a rejection from the public for multiple leadership towards a single leadership.⁷

² I Made Pasek Diantha, *Metodologi Penelitian Hukum Normatif Dalam Justifikasi Teori Hukum*, 2nd edn (Jakarta: Prenada Media Group, 2016).

³ Tomy Michael, 'Memaknai Frasa " Dengan Rahmat Tuhan Yang Maha Esa " Dalam Undang-Undang Republik Indonesia Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan', 2011, 1–10. *Jurnal Hukum Staatsrechts Fakultas Hukum Universitas 17 Agustus 1945 Jakarta*, VOL 2, NO 1 (2016). ISSN 2461 – 0798.

⁴ Vanna Ianni, New forms of democratic local governance: The case of the Citizen's Committee for Decentralise Cooperation of the City of Rome, <http://factsreports.revues.org/3405>, 2013; Yu Keping Fudan J. Governance and Good Governance: A New Framework for Political Analysis, *Hum. Soc. Sci.* (2018) 11:1–8 <https://doi.org/10.1007/s40647-017-0197-4> *Nanjing Social Sciences*, 9 (2001); Thad Williamson, The Good Society and the Good Soul: Plato's Republic on Leadership, *The Leadership Quarterly* 19 (2008) 397 – 408.

⁵ Marina McCoy, *Plato on the Rhetoric of Philosophers and Sophists*, 2008 Cambridge University Press, UK, p. 17; Thad Williamson, The Good Society and the Good Soul: Plato's Republic on Leadership, *The Leadership Quarterly* 19 (2008) 397 – 408; Philippe C. Schmitter and Terry Lynn Karl, *What Democracy Is ... And Is Not*, *Journal of Democracy*, Summer 1991.

⁶ Martin Loughlin, The Contemporary Crisis of Constitutional Democracy, *Oxford Journal of Legal Studies*, Vol. 39, No. 2 (2019), p. 435–454.

⁷ Gianluigi Palombella, The rule of law beyond the state: Failures, promises, and theory, *CON*, Volume 7, Number 3, pp. 442 – 467 [doi:10.1093/icon/mop012](https://doi.org/10.1093/icon/mop012) Advance Access publication May 22, 2009.

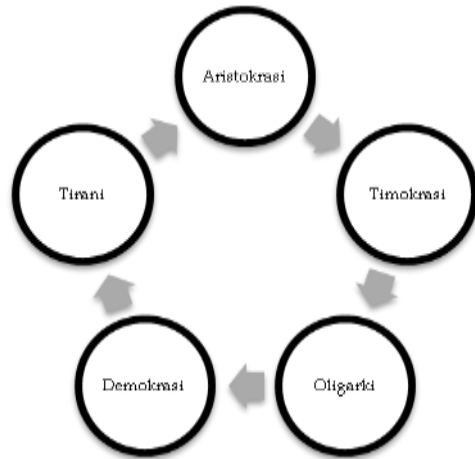


Figure 1. Cycle form of government according to Socrates.⁸

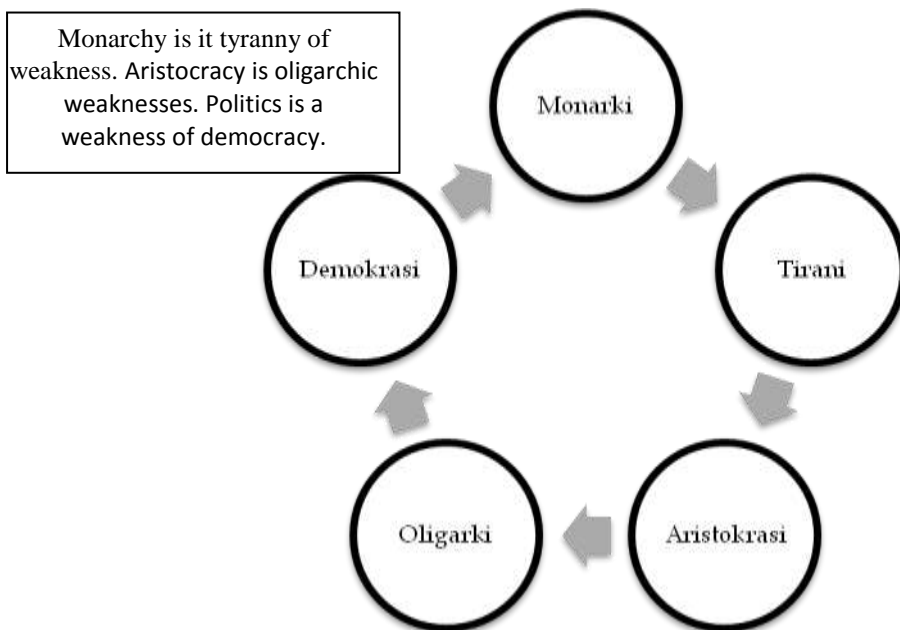


Figure 2. Cycle form of government according to Aristoteles.⁹

⁸ Plato, *Republik*, 2002, Jogjakarta, Benteng Budaya dan Plato, *The Great Dialogues of Plato*, 1984, Canada, Penguin Books Canada Limited

⁹ Aristoteles, *Politik (La Politica)*, 2008, Jakarta, Visimedia; Aristoteles, *Politik*, 2004, Jogja-karta, Benteng Budaya dan Aristotle, *The World's Great Classics*, New York, Grolier; Tomy M Saragih, Korelasi Tuhan Dan Demokrasi Di Indoensia Setelah Pemerintahan Orde Baru, *Lex Jurnalica Volume 10 Nomor 2, Agustus 2013 100*.

2. *The Right Democracy for Indonesia*

In a constitutional state it means that the law has full authority exercised by the state, namely the government. Referring to the 1945 constitution of the Republic of Indonesia, the state of law adopted by Indonesia is the link of *civil law*.¹⁰

Finally, this rule of law remained based on complex Roman thought, the initial approval of an emperor who determined the course of a government in a country. Civil law actually functions to regulate legal relations that are personal relations such as in a family between husband and wife, between father and son and vice versa. But when the family forms another group of families, the various unity of wills will become a unity to achieve certain goals.¹¹ Then referring to Article 13 of the 1945 constitution of the Republic of Indonesia that “the President appoints ambassadors and consuls; in terms of appointing ambassadors, the President pays attention to the considerations of the House of Representatives”; Article 15 of the 1945 constitution of the Republic of Indonesia that “the President grants titles, honors, and other honors which are regulated by law”; and Article 18B of the 1945 constitution of the Republic of Indonesia the State recognizes and respects the customary law community units along with their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated in law”.

There is a thought that Indonesia currently adheres to a reform democracy in which the will of the people is fully accepted but represented in an institution. Such thinking is not entirely wrong because the elements of society are inherently inherent in democracy. A country that chooses a democratic system then organizes it based on considerations:

1. Democracy prevents the growth of government by cruel and cunning autocracy;
2. Democracy guarantees a number of human rights for citizens which are not granted by undemocratic systems;
3. Democracy guarantees greater personal freedom;
4. Democracy helps people to protect their basic interests;
5. Democracy provides the maximum opportunity for citizens to determine their own destiny to live under the law of choice;
6. Democracy provides the maximum opportunity to carry out moral responsibilities including the accountability of the authorities to the people;
7. Democracy fosters more total human development;
8. Democracy fosters relatively high levels of political equality;
9. Modern democracy does not bring the wars of its adherents;
10. Democracy tends to bring more prosperity to the countries of its adherents than governments that do not adhere to democracy.¹²

Conclusion

Answering the formulation of the problem of what form of democracy is desired in the 1945 Constitution of the Republic of Indonesia? So, the conclusion that can be given is that it cannot be

¹⁰ Caslav Pejovic, *Civil Law and Common Law: Two Different Paths Leading to the Same Goal*, 2001 Victoria University of Wellington Law Review 32.

¹¹ Zahermann Armandz Muabezi, *Negara Berdasarkan Hukum (Rechtsstaats) Bukan Kekuasaan (Machtsstaat)*, Jurnal Hukum dan Peradilan, Volume 6 Nomor 3, November 2017: 421-446; The Hon, Michael Kirby AC CMG, *Ustralian Bar Review, The Rule of Law Beyond The Law of Rules*, Malaysia, 2010.

¹² Tomy M Saragih, *Korelasi Tuhan dan Demokrasi di Indonesia Setelah Pemerintahan Orde Baru*, Lex Jurnalica Volume 10 Nomor 2, Agustus 2013, FH Universitas Esa Unggul.

defined that the desire democracy is early democracy because of the mixing of many parties. The desired democracy is a democracy mixed with a form of tyrannical government.

References

- I Made Pasek Diantha, *Metodologi Penelitian Hukum Normatif Dalam Justifikasi Teori Hukum*, 2nd edn (Jakarta: Prenada Media Group, 2016).
- Tomy Michael, 'Memaknai Frasa " Dengan Rahmat Tuhan Yang Maha Esa " Dalam Undang-Undang Republik Indonesia Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan', 2011, 1–10. *Jurnal Hukum Staatrechts Fakultas Hukum Universitas 17 Agustus 1945 Jakarta*, VOL 2, NO 1 (2016). ISSN 2461 – 0798.
- Vanna Ianni, New forms of democratic local governance: The case of the Citizen's Committee for Decentralise Cooperation of the City of Rome, <http://factsreports.revues.org/3405>, 2013.
- Yu Keping Fudan J. Governance and Good Governance: A New Framework for Political Analysis, *Hum. Soc. Sci.* (2018) 11:1–8 <https://doi.org/10.1007/s40647-017-0197-4> *Nanjing Social Sciences*, 9 (2001).
- Thad Williamson, The Good Society and the Good Soul: Plato's Republic On Leadership, *The Leadership Quarterly* 19 (2008) 397 – 408.
- Marina McCoy, *Plato on the Rhetoric of Philosophers and Sophists*, 2008 Cambridge University Press, UK.
- Philippe C. Schmitter and Terry Lynn Karl, What Democracy Is ... And Is Not, *Journal of Democracy*, Summer 1991.
- Martin Loughlin, The Contemporary Crisis of Constitutional Democracy, *Oxford Journal of Legal Studies*, Vol. 39, No. 2 (2019), p. 435–454
- Plato, *Republik*, 2002, Jogjakarta, Bentang Budaya.
- Plato, *The Great Dialogues of Plato*, 1984, Canada, Penguin Books Canada Limited.
- Aristoteles, *Politik (La Politica)*, 2008, Jakarta, Visimedia; Aristoteles, *Politik*, 2004, Jogja-karta, Bentang Budaya dan Aristotle, *The World's Great Classics*, New York, Grolier.
- Tomy M Saragih, Korelasi Tuhan Dan Demokrasi Di Indoensia Setelah Pemerintahan Orde Baru, *Lex Jurnalica Volume 10 Nomor 2, Agustus 2013* 100.
- Gianluigi Palombella, The rule of law beyond the state: Failures, promises, and theory, *CON*, Volume 7, Number 3, p. 442 – 467 doi:10.1093/icon/mop012 Advance Access publication May 22, 2009.
- Caslav Pejovic, Civil Law and Common Law: Two Different Paths Leading To The Same Goal, 2001 *Victoria University of Wellington Law Review* 32.
- Zahermann Armandz Muabezi, Negara Berdasarkan Hukum (*Rechtsstaats*) Bukan Kekuasaan (*Machtsstaat*), *Jurnal Hukum dan Peradilan*, Volume 6 Nomor 3, November 2017 : 421-446;

The Hon, Michael Kirby AC CMG, Ustralian Bar Review, The Rule of Law Beyond, The Law of Rules, Malaysia, 2010.

Tomy M Saragih, Korelasi Tuhan dan Demokrasi di Indonesia Setelah Pemerintahan Orde Baru, Lex Jurnalica Volume 10 Nomor 2, Agustus 2013, FH Universitas Esa Unggul.

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