
BUILDING INDONESIAN DEMOCRACY THAT FOUND WITH CONSTITUTIONAL ETHICS

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A. INTRODUCTION

The life of the nation and state in a democratic country like the Republic of Indonesia requires understanding and explanation in its implicit application, because the development of a dignified democracy can be carried out. Derived from a lack of understanding of this dignified democracy, efforts are made to equip future generations with an understanding of ethics and morals in the nation and state, especially in understanding the constitution by using Constitutional Ethics (constitutional ethics). If the constitution is seen as a set of legal rules, there will be an understanding of the rules that must be obeyed without paying attention to how legal theories can be applied in legal practice. The rule of constitutional law is not sufficient to build and sustain a political culture dedicated to rule of law principles and to the principles of constitutional democracy. Therefore, a new principle is needed to improve political behavior in the legal system, among others, as said by James Buchanan (Jimly, 2018) as : "ethics of constitutional citizenship"- constitutional citizenship ethics. Constitutional wisdom in a constitution will not appear if culture and political structures do not exist in the life of citizens. The method of interpreting the constitution, which is the basis for scientific thought, is very much needed to build political support for efforts to foster and maintain the operation of the supervision of political power. Decisions regarding the constitutionality of a norm or act that are final and at the same time binding (final and binding) are only available in the Constitutional Court, as the final interpreter of the constitution, even though all citizens and government officials are supposed to be political rulers, also as interpreter of the constitution, for that we need an understanding of constitutional ethics. The importance or not of a state policy cannot be determined by whether it is included in the text of the constitution of a country. When this constitution is put into practice (constitutional practices), there will be a wealth of meaning contained in the text of the constitution, even in addition to constitutional practice, which is defined as constitutional law, the presence of law also appears in solving problems that arise in society., as the embodiment of a democratic law state, which places law in the supreme (top) position. A democratic law country has 5 (five) fundamental normative principles (Haryono, 2009), namely: a). Legaliteit principle; b). protection of basic rights; c). the principle of supervision by the judiciary; d). separation of powers; e). democracy; this means that the rule of law is placed in a democratic law state order. To strengthen a democratic rule of law, a Constitutional Reform is needed, namely by making changes to the 1945 Constitution through 4 (four) stages, with the aim of laying a strong foundation for a democratic law state. The constitution, which is the basic law, regulates state functions, both among state institutions, as well as relations between citizens within the state as the holder of power that comes from the people. Sovereignty of the People as the highest source for system of government in the country, so the change in the Constitution is subject to the principle of constitutionalism, that the sovereignty of the people was carried out according to legal provisions. Therefore, it is necessary to have a procedure for the implementation of people's sovereignty, and also a forum to contain these regulations; this is what gives the importance of a constitution in a democratic rule of law. To carry out a constitutional reform, it can take a legislation process and legislation reform, which is not only aimed at setting things alone, but also adjusting a n rule-set a n that have been there before, resulting in legal reform manifestation of the process better, more dignified, change made mandatory notice ethics constitution.

B. DISCUSSION

1. Indonesian Democracy

The decree of the People's Consultative Assembly (MPR/VI/2001 Tap MPR) on Ethics of National Life which is stipulated is to provide awareness to all citizens about the importance of ethics and morals in national life, it is hoped that it can overcome ethical damage and moral chaos that have an impact on life nation and state in the democratic State of Indonesia. Therefore, in order to build and develop Indonesian democracy, it should describe democracy in accordance with the values of Pancasila and the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), by placing the principle of deliberation and consensus as the main basis. In side it, dal am a democracy that contains the values of Pancasila this, developed some kind of balance, resulting in a change of

the constitution in the framework of institutional reforms, to realize consolidated democracy. Democracy it requires the presence of people who are empowered to express their aspirations and their needs to the government. The principle of democracy is to ensure the participation of the society should in the decision making process, so that such of laws and your invitation are applied and enforced truly reflects the sense of justice. Therefore, building democracy in Indonesia requires both public participation and ethics in the constitution, so it is hoped that with this constitutional ethic, law-making institutions pay more attention to the factors that affect the content or content of each article. In this post-reform era, the main objective is the formation of a new democratic Indonesia, with the principle: "democracy is government of the people, by the people, and for the people" democracy is the government of the people, by the people, and for the people; every action is determined by the will of the people, so that in the post-reform, there is a process of democratic transition, which should be accompanied by an understanding and application of ethics in the nation and the state according to the constitution and values - values of Pancasila, in order to per -violent expressions of values - values of Pancasila contained in the article - article the guidelines in the life of the nation. Indonesian democracy is rooted in the philosophy and values of culture, culture, kinship, deliberation-consensus, mutual cooperation, all of which these values live in Indonesian society (people), and are rooted in Pancasila. The principles of thinking about the democratic state of Indonesia serve as guidelines in efforts to build and develop Indonesian democracy, which are expected to describe democracy in accordance with the values of Pancasila and the 1945 Constitution by taking into account the principles of deliberation - consensus. The principle of deliberation and consensus contains ethical values in deliberation, without overriding the democratic principles of Pancasila.

2. Constitutional Ethics/Ethics Constitution

The dynamics of competition and cooperation between the forces that live and develop in society, should refer to or be guided by the highest normative agreement, namely: as stated in the Pancasila and the 1945 Constitution. In addition, in association between members of the community, between community groups, and between social organizations called Civil Society Organizations (CSO's), use guidelines that are based on the constitution, both as a legal norm (constitutional law), and a source of ethical norms (constitutional ethics) in society, because Pancasila must be seen not only as a political constitution, but also as a social constitution, namely a constitution that contains the basics of state policy in the social sector, and at the same time contains a normative reference system that must serve as a guide in social life, especially in the life of the nation and state. A constitution that is constructed as a social contract or supreme compliance that contains the highest system of legal norms, which is closely related to the development of thoughts on the principle of sovereignty, so that the term 'democracy' arises. Idealized democracy must be balanced with protection of everyone who does not obey orders from superiors who violate the law, because the highest is the system of legal rules, not leaders, this is what must be observed in the application of constitutional democracy with constitutional ethics. A democratic country that is considered ideal is a democracy that is limited by a constitution, which is called: constitutional democracy ; Meanwhile, the rule of law that is seen as ideal is the democratic rule of law . In fact, these two models of democracy are the same, especially with the amendments to the 1945 Constitution, with the establishment of a new State Institution, among other things, the Constitutional Court which is in charge of overseeing the Constitution, has a very important position in the constitutional democratic system, because it is the responsibility of the Constitutional Court. statesman must understand and master the constitution in the sense of understanding all aspects of the Constitution in depth, and is not limited to the understanding of constitutional law (constitutional law), but also ethics Constitution (constitutional ethics). The constitution does not only consist of words, but contains living values, basic ideas, spirit and soul of Pancasila which are contained in the Preamble to the 1945 Constitution.

According to Plato, 'nomoi' is not synonymous with the meaning of 'law' or 'statutory regulations', but also contains definitions of legal norms, ethical norms, and religious norms as currently understood, these three norms experience unlucky differences. structural and functional. (Jimly, 2018)

Even with the development of secularism, then into positivism, the notion of legal norms becomes narrower, only limited to positive law, and when the system of ethical and religious norms is discussed, legal experts easily explain that ethics and religion should not conflict with the law, because the law is above everything. (Jimly, 2018). If the legal position is higher than ethics, ethical decisions must not be contrary to law, then a ran ethics that can not of the law, and can not be judged by the judiciary, but something unethical is not necessarily unlawful , however, something that

violates the law is definitely against ethics too. Legal experts in Indonesia are of the opinion that legal standing is superior to ethics. Meanwhile, religious experts are of the opinion that religious norms have the highest position, so that the law must not conflict with religious norms. The position of ethical norms is under religious norms, while legal norms are under religious norms and ethical norms. Even though at this time, the perspective on the relationship between ethics and law has undergone a transformation. These three norms (legal norms, ethical norms and religious norms) have a complementary relationship that is synergistic between one another. The law cannot be upheld and enforced, if it is not based on ethics, because the scope of ethics is wider than law it must be understood that something not necessarily violate the ethics law, but something that is unlawful certainly unethical. So, it can no longer be said that legal norms are higher than ethical norms, and vice versa, and religious norms are a source of ethics, and also as the 'r oh' of laws which contain religious values. Therefore, law cannot be separated from its 'spirit', namely: the ethics of justice. Based on the context of the definition of a constitution, it must contain an understanding of constitutional law norms and at the same time ethical norms (constitutional ethics). Pancasila is a source of law as well as a source of ethics in the life of the nation and state. While the Constitution in addition to a source of constitutional law (constitutional law) as well as a source of ethical constitution (constitutional ethics). Therefore, in understanding the constitution, the 'spirit' and 'soul' of the constitution (Basic Law) cannot be ignored, therein lies the constitutional justice that must be realized in the life of the community, nation and state.

C. Democracy Indonesia The Dignity

The idea of Indonesian democracy includes political democracy as well as economic democracy. According to M. Hatta, economic democracy is: "all income regarding the livelihood of many people must also apply to the responsibility of the people" (Soetanto Soepiadhy, 2019). This democratic model is deemed appropriate for the state and people of Indonesia, because it contains the basics of genuine democracy in rural areas, which is called: village-democracy. Hatta said that there are 3 (three) main characteristics of native democracy in the villages which can be used as the basis for an independent Indonesia, namely:

First, the goals of the meeting;

Meeting is a place for the people or people's representatives to discuss and agree on all matters related to the community life and common needs. Here appears the basis of democracy, namely the existence of people's government;

Second, the ideals of the mass protests;

The right of the people to object in a general way any state regulations that are deemed unfair. This right means a lot in the face of a despotic or autocratic government. Democracy cannot work if there is no right of the people to protest. This right to protest includes the right of the people to assemble and express opinions;

Third, the ideals of helping;

The life of the Indonesian people is always filled with a sense of collectivity. For all the affairs, the Indonesian people always resolve them together and copy g helping. This is the basis of genuine alliance in Indonesia, namely collectivity. A collectivity that is not centralistic in nature, but rather a collectivity that is decentralized, where each part has the right to determine its own destiny. This evidence is seen in the nature of customary rights to land. Collective land rights in rights are not owned by the whole country, but by individual villages. Based on the original Indonesian democracy, the formulation of the concept of Indonesian democracy is people's sovereignty based on a decentralized collectivity. (Soetanto Soepiadhy, 2019).

People's sovereignty in the political field is exercised through representative bodies, while in the economic field, people's sovereignty is exercised through cooperatives which are collective economic bodies to meet the needs of the people. Therefore, democracy which is rooted in collectivity, is not totalitarian and centralistic, because this collectivity democracy is plural in nature. Therefore, democracy which is considered in accordance with the character of Indonesian culture, is a democracy that is adapted to the democratic traditions of these villages, so that Indonesian democracy is different from Western democracy. The characteristic of genuine democracy is freedom in a plural collective atmosphere, however the decision-making process uses deliberation to reach consensus or agreement. The idea of democracy is influenced by ideas about customary law, which fall within the scope of constitutional law. So that the Indonesian democracy model is a participatory democracy model (participatory democracy). Because there is 'people's participation' in the formation of the Constitution, it is necessary to have an understanding of the people's representatives in state institutions that have obtained the delegation of power from the people (which must be held accountable), so that in issuing a rule of law or legislation, it is obligatory pay

attention to ethical norms which are the basis of legal norms. Law enforcement in a democratic law country is the ideal of a democratic law state, and to enforce this legal norm, legal norms must pay attention to ethical norms. Meanwhile, people's participation is in the fourth Pancasila Precepts, the meaning is: firstly - the meaning of society which is led by wisdom, second, the meaning of wisdom or policy and the third, the meaning of deliberation / representation. Therefore, in the formation of a rule of law must pay attention to the three norms, especially ethical norms that come from village culture, and become the basis for achieving a democratic law state. Ethics in the life of the nation and state are formulated with the aim of becoming a basic reference for improving the quality of human beings who are faithful, pious and have noble character and have an Indonesian personality in national life. The formation of Indonesian people with noble character shows the dignity of the Indonesian nation with its village democracy which is the basis for the formation of legal rules.

CONCLUSION

Village democracy is a manifestation of the strengthening of a higher degree of community participation, it can even reach a level of control, and is parallel to the deliberative democracy carried out by the people's representatives in the Regional People's Representative Council (Council), and decisions taken not by the direct community. although taken by means of deliberation to reach consensus according to the Four Principles of Pancasila. Village democracy with the scope of this village is a local democracy that involves the community, so that the ongoing democratic process, with a shift in the role of the bureaucracy to local customary institutions, so that legal norms are based on norms of ethics and religious norms, in order to achieve the final goal, namely enforcing the law. This village democracy is the model for a dignified democracy which the Indonesian state needs. Therefore, an understanding of constitutional ethics is needed, to provide reinforcement of the rules established in the interests of the people, even though decisions are taken through the people's representatives who exercise people's sovereignty according to statutory provisions, namely: the constitution. If this understanding of constitutional ethics is implemented by representatives of the people, the established rules will not only fulfill the people's needs, but also fulfill the sense of justice that exists in society. In addition, it is also to cultivate and develop ethical values, thereby increasing the ability to become citizens who are not only respectable, but have a high sense of social solidarity. This rural democracy model can make democracy in the country of Indonesia a dignified democracy.

RECOMMENDATION

Observing the village democracy model which is the reference or guideline in realizing a dignified democracy, the following steps are required:

1. Ability training for representatives of the people through character building (M.Solekhan , 2014) to foster and develop ethical values, which is carried out before starting their assignment;
2. Training on the ability of the people's representatives in observing the substance of each established regulation, as a form of accountability of the people's representatives to the people who have elected them and entrusting power to them;
3. Strengthening the functions of the people's representatives through services to the community by taking an active and comprehensive attention to changing needs in society.

Based on this thinking, it is necessary to change the behavior of every member of society, towards increasing the ability based on ethical norms, especially constitutional ethics in the life of society, nation and state, so that the existing democracy is a dignified democracy.

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