The 5th International Conference on Law, Technology, Spirituality and Society (ICOLESS). October 5th-6th, 2022
Sharia Faculty UIN Maulana Malik Ibrahim Malang, Indonesia

The Constitution of Indonesia: Historical And Developments Of Recent Constitutional Amendments

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Abstract:

This research discusses the development of the constitution in Indonesia, which has been stipulated since August 18, 1945. The approach used is normative juridical, while the data source is secondary data, and the analysis uses qualitative descriptive. The results indicate that the constitution in Indonesia has been amended several times, including the 1945 Constitution, the RIS Constitution, and the 1950 Constitution. It returned to the 1945 Constitution until it was amended for the 4th (fourth) time and is valid until it was amended. External and internal factors cause changes in the constitution of Indonesia. They are influenced by the existing legal and political conditions, which then impact changes in the constitutional system in Indonesia.

Keywords: Constitution, Indonesia, amandements

Introduction

The constitution is one of the important requirements to establish and build an independent country. Therefore the constitution is so important in a country. The constitution is a framework for political life that was built when world civilization began because almost all countries want a constitutional state life, while the characteristics of a constitutional government include expanding political participation, giving legislative power to the people, rejecting authoritarian government, and so on.[1] In historical records, the emergence of a constitutional state is a long process and is always interesting to study in building a constitutional government. Starting from Greece, the time of Aristotle, who managed to collect so many constitutions from various countries. At first, the constitution was understood as a collection of rules and customs solely in civilization, then gained additional meaning as a collection of provisions and regulations made by the emperors.

Apart from being a regulation made by the Emperor, the Constitution also includes statements or opinions from legal experts/politicians and the customs of local civilizations, including laws. At the time of the Roman civilization, the Constitution had such a great influence until the Middle Ages that the inspiration for representative democracy was sparked, which was strong enough to give birth. Understanding of representative democracy and nationalism, from here as the forerunner to the emergence of modern constitutionalism in a country. The purpose of this research is the purpose the problems presented to achieve the expected goals, and the objectives should be in line with the problems that have been determined.

[1] Adnan Buyung Nasution, *Aspirasi Pemerintahan Konstituasional di Indonesia: Studi Sosio-Legal atas Konstituante.* Jakarta: Pustaka Utama Grafti, 1995, 78

The aims of this study are: To find out the definition of the Constitution in general and about the development of the Constitution in Indonesia, which has changed several times in history, also to examine some literature related to the development of the Constitution in Indonesia as secondary legal material, then analyze it and put it in this paper with analytical descriptive form.

Research Methods

In this research, the center of the study is the development of the constitution in Indonesia which is a study of constitutional law, therefore the form of the research includes legal research, namely as research that finds law in concreto which includes various activities to find out what constitutes law that deserves to be enacted in concreto. to adjust something that is based on a certain method, systematic and thought, by analyzing it. The type of research used for this approach is normative legal research which includes research on legal principles, or also called doctrinal legal research using only secondary legal sources, namely statutory regulations, court decisions, legal theory and expert opinions, in addition to The primary material for normative legal research consists of the Constitution and various official documents containing legal provisions, including notarial deeds and contracts.[2]

In this research, what will be explored is about the development of the constitution in Indonesia, this research is a historical study of the constitution or the constitution that has been in force in Indonesia since independence, the method of research is to examine the 1945 Constitution and other constitutions that have been in force in Indonesia. as primary legal material and other legislation, also examines some literature related to the development of theconstitution in Indonesia as a secondary legal material then analyzes it and puts it in thispaper in an analytical descriptive form.

Results and Discussion

Understanding The Constitution

The constitution (Latin: constituents) or the constitution, for short in the state, is a norm of the political and legal system formed in the state's government— usually codified as a written document. This law does not regulate things in detail but only lays out the principles that form the basis for other regulations. In the case of state formations, the constitution contains the rules and principles of political and legal entities. This term refers specifically to establishing the national constitution as the basic political principles, the basic principles of law, including the formation of structures, procedures, powers, and obligations of state government in general. The constitution generally refers to the guarantee of rights to its citizens. The term constitution can be applied to all laws that define the functions of state government. In the organizational form, the constitution explains the form, structure, activities, character, and basic rules of the organization[3]

The constitution is generally a codification, a document containing the rules

[2] Peter. Mahmud Marzuki, Penelitian Hukum. Jakarta: Kencana Prenada Mulia, 2009.

[3] Dasril Radjab, *Hukum Tata Negara Indonesia*. Jakarta: Rineka Cipta, 2005, 67.

for running a state government organization. However, in this sense, the constitution must be interpreted because only some things are in the form of a written (formal) document. According to legal and political scientists, the constitution must be translated, including political agreement, state, power, decision-making, policy and distribution, and allocation. The constitution for the state government organization in question has various forms and structural complexity, there is also a political or legal constitution, but it also contains the meaning of an economic constitution. Today, the term constitution is often synonymous with prudence in the British state administration.The Importance Of The Constitution For The Country[4].

In history, we see that the identification between the notion of the Constitution and The Constitution was initiated by Oliver Cromwell (Lord Protector) of the British Empire (1599-1658), who named the Constitution as the Instrument of Government or "ius trust of government" which means that the Constitution was made as a guide to the ruling and it is from this that identification and the Constitution and the Basic Law emerge. In 1787 Cromwell's understanding of the Constitution was then taken over by the United States, which Lafayette then took by the French State in 1789.[5] Functions is to limit the power of government to prevent arbitrary actions by the government. Thus the rights of citizens can be protected and distributed. The constitution is a rule that contains norms related to the state's life in keeping the existing power in a country from being abused and human rights not being violated. The constitution can change according to the dynamics of people's lives, in the sense that the constitution can develop according to the needs of the community and not be stagnant.

In Indonesian, the constitution is defined as the basic law or constitution. The term describes the entire constitutional system of a country. For scholars of political science, the term constitution is something broader, namely the entirety of written and unwritten regulations that govern in a binding manner how a government is administered in a society. The constitution is a basic law written in a political, sociological, and even juridical text and becomes a guide in the administration of a country. In countries that use English as the national language, the term constitution is used, which in Indonesian is called constitution.[6] The constitution has a very important position in the life of the nation and state. The constitution also serves as a guide and limiter so that state administrators do not abuse their power; at the same time, it is used to regulate how state power should be exercised. The constitution and the state are like two sides of a coin that cannot be separated from each other. Because the existence of a constitution in the life of the nation and state is a very urgent matter, even if it is stated that without it, a state may not be formed. If we

[4] Titik Tri Wulan Tutik, Konstruksi Hukum Tata Negara Indonesia Pasca-Amandemen UUD 1945, Jakarta; Kencana, 2016), 35

[5] MKN, "KONSTITUSI SEBAGAI TOLAK UKUR EKSISTENSI NEGARA HUKUM MODERN DI INDONESIA" 105, no. 3 (1945): 129–33, https://webcache.googleusercontent.com/search?q=cache:BDsuQOHoCi4J:https://media.neliti.com/media/publications/9138-ID-perlindungan-hukum-terhadap-anak-dari-konten-berbahaya-dalam-media-cetak-dan-ele.pdf+&cd=3&hl=id&ct=clnk&gl=id.

[6] Yusri Munaf and Luis Enrique García Reyes, *Hukum Administrasi Negara Sektoral*, *Journal of Chemical Information and Modeling*, vol. 53, 2013.

look at the historical trajectory up to the beginning of the 21st century, there is hardly a country that still needs a constitution. So this shows how urgent the constitution is as a state apparatus. Thus, the constitution must be obeyed and implemented by the holders of power and the community. The constitution has an important meaning for the state because of its position in regulating power; limiting power, becoming a barometer in the life of the nation and state; and providing direction and guidance for the nation's next generation in running a country. A country's constitution intends to regulate its citizens in carrying out their rights and obligations so that the goals of the state can be organized with the help and cooperation between citizens and the government. The constitution explains that a country will depend on the existence of a constitution that regulates that country because, in terms of its benefits, the constitution is a fundamental legal principle which, of course, also regulates how to maintain good relations between the state, in this case, the government and citizens who are included in the law. Legal framework, both written and unwritten constitutions. Thus, a good government and citizens should obey and carry out the constitution or the rule of law properly. Because it is nothing but obeying the existing legal rules, the goals of justice, certainty, benefit, order, and the realization of ideal values such as independence or freedom and shared prosperity or prosperity will be accomplished. [7]

The term constitution has been known since the time of the Ancient Greeks, and only the constitution is still interpreted materially because the constitution has yet to be put into a written text[8]. Can be proven in the understanding of Aristotle, who distinguishes the terms polite and nomoi. Politea is defined as a constitution, while nomoi is an ordinary law. Between the two terms, there is a difference, namely that polite holds a higher power than nomoi because polite has the power to form, while in nomoi, that power does not exist. After all, it is only material that must be formed so that it does not fall apart. According to Greek history, the term constitution is closely related to the Resblica constituent. From this designation was born the motto, which reads "Principle Legibus Solutus est, Salus Publica Supreme Lex," which means that the King has the right to determine the organization/structure of the State because he is the only legislator.

History of The Constitution

The Constitution is different from the Basic Law (Grundgezets) due to an error in people's views regarding the Constitution in modern countries so that the meaning of the Constitution is then equated with the Constitution. This mistake was caused by the codification ideology, which requires that all legal regulations be written down to achieve legal unity, simplicity, and certainty. So great is the influence of codification that every legal regulation, because it is important, must be

[7] Adnan Buyung Nasution, *Aspirasi Pemerintahan Konstituasional di Indonesia: Studi Sosio-Legal* atas *Konstituante.* Jakarta: Pustaka Utama Grafti, 1995, 97.

[8] Badan Pengkajian MPR RI 2022, *Academic Constitutional Drafting*, *Mpr.Go.Id*, 2021, https://www.mpr.go.id/img/jurnal/file/020222_2020 _ Condraft STIH Jentera Tim B - Evaluasi thdp UUD NRI Tahun 1945.pdf%0Ahttps://www.mpr.go.id/img/jurnal/file/040222_2021 _ Condraft Final UPN Veteran Jakarta - Rancangan Perubahan UUD NRI Tahun 1945 terkai.

written, and the Constitution that is written in the Basic Law[9]

Generally, there are two kinds of constitutions: 1) a Written constitution and 2) an Unwritten constitution. Almost all countries in the world have written constitutions or constitutions (UUD), which generally regulate the formation, division of authority, and the workings of various state institutions as well as the protection of human rights[10]. Countries that are categorized as countries that do not have a written constitution are the United Kingdom and Canada. In these two countries, the basic rules for all state institutions and all human rights are found in customs. They are also scattered in various documents, both relatively new and very old documents such as the Magna Carta dating from 1215, which contains guarantees the human rights of the British people. Because the provisions regarding the state are scattered in various documents or only live in the customs of the people, England is included in the category of countries that have an unwritten constitution.[11]

Almost all written constitutions regulate the distribution of power based on the types of power, and then state institutions are formed based on this type of power. Thus, the type of power needs to be determined first, and then a state institution responsible for carrying out that particular type of power is formed. Several scholars have expressed their views on this type of task or authority, one of the most prominent being Montesquieu's view that state power is divided into three types of power that must be strictly separated. The three types of power are: The power to make laws and regulations (legislative) this is The power to implement laws and regulations (executive), and The Judicial power (judicial).

Another view on the type of power that needs to be divided or separated in the constitution is put forward by van Vollenhoven in his book Staatsrecht over Zee. He divides power into four kinds: 1). Government, 2). Legislation,3). Police, 4). Court. Van Vollenhoven considered that executive power was too broad and therefore needed to be divided into two more types of power: government power and police power. According to him, the police have the power to oversee the enforcement of the law and, if necessary, force it to enforce it. Wirjono Prodjodikoro, in his book The Principles of Constitutional Law in Indonesia, supports Van Vollenhoven's idea, even he proposes to add two more types of state power, namely the power of the Prosecutor's Office and the Power of the State Auditor to examine state finances and become the fifth and sixth types of power[12].

Based on the constitutional law theory described above, the types of state power regulated in a constitution are generally divided into six. Each power is managed by an independent body or institution[13], namely: The power to make laws

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[9] Ma'ruf Cahyono dkk, *Evaluasi Pelaksanaan UUD RI Tahun 1945 Dalam Sistem Ketatanegaraan Indonesia*, *Badan Pengkaian MPR RI*, vol. 13, 1959.

[10] Virna Septia Anggyamurni and Yusya Rugaya Salsabilah - Ewaldo Duta Salsa, "Konstitusi Dalam Praktik Ketatanegaraan Di Indonesia," *Al-Qanun: Jurnal Pemikiran Dan Pembaharuan Hukum Islam* 23, no. 2 (2020): 18, http://jurnalfsh.uinsby.ac.id/index.php/qanun/article/view/931.

[11] Putera Asmoto, *Hukum Tata Negara Teori Dan Praktek.* Yogyakarta: Thafa Media, 2014, 112.

[12] Dasril Radjab, *Hukum Tata Negara Indonesia*. Jakarta: Rineka Cipta, 2005, 69.

[13] Jimly Asshiddiqie, "Perkembangan & Konsolidasi Lembaga Negara Pasca Amandemen , Sinar Grafika, Jakarta, Hlm. 27 1 9," no. v (2010): 9–65.

(legislative) has five a part of them that is: 1). The power to implement the law (executive), 2). Judicial power (judicial), 3). Police power, 4). Prosecutors' powers, 5). The power to examine state finances. A country's constitution is the highest basic law that contains matters concerning the administration of the state. Therefore a constitution must have a more stable nature than other legal products. Moreover, suppose the soul and spirit of the implementation of state administration are also regulated in the constitution. In that case, changes to a constitution can bring about major changes to the system of state administration. It could be that a democratic country turns into an authoritarian because of a change in its constitution.[14]

Sometimes the people's desire to change the constitution cannot be avoided. This happens when the state administration mechanism regulated in the applicable constitution is felt to no longer be following the people's aspirations. Therefore, the constitution usually also contains provisions regarding changes to the constitution itself, which procedures are then made in such a way that the changes that occur are truly the aspirations of the people and not based on arbitrary and temporary wishes or the wishes of a mere group of people. Two systems are commonly used in the practice of state administration to change the constitution. The first system is that if a constitution is amended, the constitution that will apply as a whole (replacement of the constitution) will prevail. Almost all countries in the world have adopted this system. The second system is that if a constitution is changed, the original constitution remains in effect. The amendment to the constitution is an amendment to the original constitution. In other words, the amendment is or becomes part of the constitution. The United States has adopted this system.

The Development of The Constitution In Indonesia

The founders of the Unitary State of the Republic of Indonesia have agreed to draft a Constitution as a written constitution with all its meanings and functions. The day after the proclamation of the independence of the Republic of Indonesia on August 17, 1945, the Indonesian Constitution as a "grondwet revolution" was ratified on August 18, 1945 by the preparatory committee for Indonesian independence in a text called the Constitution of the Republic of Indonesia. Thus, even though the 1945 Constitution is very short and contains only 37 articles, the three contents of the Constitution that must exist according to the general provisions of constitutional theory have been fulfilled in the 1945 Constitution. The possibility of making changes or adjustments has indeed been seen by the drafters of the 1945 Constitution themselves, by formulating and through Article 37 of the 1945 Constitution concerning amendments to the Constitution. Moreover, if the MPR intends to amend the Constitution through Article 37 of the 1945 Constitution, it must first be asked to all Indonesian people through a referendum. (Tap no.1/ MPR/1983 articles 105- 109 in conjunction with Tap no.IV/MPR/ 1983 on the referendum)[15]

Amendments to the 1945 Constitution were then carried out in stages and became one of the agenda of the MPR Annual Session from 1999 to the fourth

[14] Asmoto, Putera. *Hukum Tata Negara Teori Dan Praktek.* Yogyakarta: Thafa Media, 2014, 132.
[15] Jimly Asshiddiqie. *Konstitusi dan Konstitusionalisme Indonesia*, Cetakan Ketiga. Jakarta: Sinar Grafika, 2014,243.

amendment at the 2002 MPR annual session, along with an agreement to establish a constitutional commission tasked with conducting a comprehensive review of amendments to the 1945 Constitution based on MPR Decree No. I/MPR/2002 concerning the establishment of a Constitutional commission[16]. In the history of the development of the Indonesian state administration, there are four kinds of laws that have been in force, namely:

First, Period August 18, 1945 – December 27, 1949 (Stipulation of the 1945 Constitution), When the Republic of Indonesia was proclaimed on August 17, 1945, this new Republic did not yet have a constitution. A day later, on August 18, 1945, the PPKI passed the Draft Law as the Constitution of the Republic of Indonesia after undergoing several processes. *Second*, Period 27 December 1949 – 17 August 1950 (Stipulation of the Constitution of the Republic of the United States of Indonesia) The journey of the new state of the Republic of Indonesia did not escape the nuisance of the Dutch who wanted to return to power in Indonesia. As a result, the Dutch tried to establish countries such as the state of East Sumatra, the state of East Indonesia, and the state of East Java. In line with these Dutch efforts, the first Dutch aggression occurred in 1947 and the second in 1948. Moreover, this resulted in the holding of the KMB, which gave birth to the United States of Indonesia. So the Constitution, which should apply to the entire country of Indonesia, only applies to the Republic of the United States of Indonesia.

Third, Period August 17, 1950 – July 5, 1959 (Provision of Provisional Constitution 1950) The federal period of the 1949 Constitution of the United States of Indonesia was a temporary change because the Indonesian people, since August 17, 1945, wanted a unitary nature, so the United States of Indonesia did not last long because of the merger with the Republic of Indonesia. The authority of the government of the Republic of the United States of Indonesia was reduced. Finally, an agreement was reached to re-establish the Unitary State of the Republic of Indonesia. For a unitary state to be established, it was clear that a new constitution was needed. For this purpose, a joint committee was formed to prepare a draft constitution which was later ratified on August 12, 1950, by the working body of the central national committee and by the House of Representatives. and the Senate of the Republic of the United States of Indonesia on August 14, 1950, and the new constitution came into force on August 17, 1950. *Fourth*, Period July 5, 1959 – present (Stipulation of the re-enactment of the 1945 Constitution) With a presidential decree on July 5, 1959, the 1945 Constitution came into effect again. Moreover, the changes to the Old Order Provisional People's Consultative Assembly from 1959 to 1965 became the New Order Provisional People's Consultative Assembly. The change was made because the Old Order Provisional People's Consultative Assembly was deemed not to reflect the pure and consistent implementation of the 1945 Constitution.[17]

Amendments to the 1945 Constitution. One of the successes achieved by the Indonesian people during the reformation period was constitutional reform. Constitutional reform is seen as a necessity and an agenda that must be carried out because the 1945 Constitution, before the amendment, was deemed insufficient to regulate and direct the administration of the state according to the people's

[16] M.B.A H. Bambang Soesatyo, S.E., "Media Aspirasi Konstitusi," *Learning* 2, no. 2 (2019): 305.
[17] Jimly Asshiddiqie, "Perkembangan & Konsolidasi Lembaga Negara Pasca Reformasi," *Sekretaris Jenderal & Kepaniteraan Mahkamah Konstitusi RI*, 2006, 226.

expectations, the formation of good governance, and to support the enforcement of democracy and human rights. Amendments to the 1945 Constitution were carried out in stages and became one of the agendas of the MPR Session from 1999 to 2002. The first amendment was made in the 1999 MPR General Session. The direction of the first amendment to the 1945 Constitution was to limit the powers of the President and strengthen the position of the People's Representative Council (DPR) as a legislative body.[18]

The second amendment was made at the 2000 MPR Annual Session. The second amendment resulted in the formulation of changes to articles covering issues of state territory and the division of the regional government, completing the first amendment in terms of strengthening the position of the DPR and detailed provisions on human rights. The third amendment was determined at the 2001 MPR Annual Session. The amendment at this stage changes and adds to the article's provisions on the state's basic principles, state institutions, relations between state institutions, and provisions on General Elections.

While the fourth amendment was made at the 2002 MPR Annual Session, the fourth amendment included provisions on state institutions and relations between state institutions, the abolition of the Supreme Advisory Council (DPA), education and culture, economy and social welfare, and transitional and additional rules. The four stages of amendments to the 1945 Constitution cover almost the entire material of the 1945 Constitution. The original text of the 1945 Constitution contained 71 provisions, while the changes made resulted in 199 provisions. Of the 199 provisions contained in the 1945 Constitution, only 25 (12%) have stayed the same. The remaining 174 (88%) items of the provisions are new or have changed.

From the qualitative side, the amendment to the 1945 Constitution is very basic because it changes the principle of people's sovereignty, which was originally fully implemented by the MPR to be implemented according to the Constitution. Causes all state institutions in the 1945 Constitution to be equal and carry out the sovereignty of the people within the scope of their respective authorities. Another change is from the very large power of the President (concentration of power and responsibility upon the President) to the principle of checking and balancing each other (checks and balances). These principles emphasize the country's ideals to be built, namely a democratic rule of law. After successfully making constitutional changes, the next step must be implemented by the amended 1945 Constitution. The 1945 Constitution must be implemented starting from the consolidation of legal norms to the practice of national and state life. As a basic law, the 1945 Constitution must be a basic reference so that it lives and develops in the state's administration and citizens' life (the living Constitution)[19]. Constitution as a Tool for Democratic State Life As explained earlier, the constitution has the message as a basic rule that regulates life in the state and nation; it is appropriate that the constitution is made based on a mutual agreement between the state and the citizens. The constitution is part of creating a democratic life for all citizens. If the country chooses democracy,

[18] Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, Cetakan Ketiga. Jakarta: Sinar Grafika, 2014,265.

[19] Idrus Ruslan, Negara Madani: Aktualisasi Nilai-nilai Pancasila dalam Kehidupan Berbangsa dan Bernegara. Yogyakarta: SUKA-Press, 2015.

then a democratic constitution is a rule that can guarantee the realization of democracy in that country. Every constitution classified as a democratic constitution must have the basic principles of democracy itself[20].

Value And Nature Of The Constitution

Normative value is a constitution that is officially accepted by a nation. For them, the Constitution applies not only in the legal sense (legal) but also in society in the sense of being effective and implemented purely and consistently. A constitution has normative value if the acceptance of all the people of a country towards its Constitution is truly pure and consistent; the Constitution is adhered to and thus upheld without the slightest deviation[21]. *A nominal value* is a constitution that, according to the law, is still valid but is not perfect. This imperfection is caused by certain articles that only apply / some of the articles contained in the Constitution apply to the entire territory of the country. The nominal value of a constitution is obtained if there is a fact to what extent its validity limits are, within its limits, what is meant by the nominal value of a constitution. *Semantic value* is a constitution that applies only to the ruler's interests. In mobilizing power, the ruler uses the Constitution to exercise political power. The value of a semantic constitution is a constitution that is implemented and treated in full but only gives the form (formalization) of an existing place to exercise political power. In short, in the Constitution, there are three values, namely: normative which means the Constitution is implemented in its entirety; nominal, which means that the Constitution has not been fully implemented; and semantics which means the Constitution is not implemented at all.

The constitution has four characteristics: flexible, rigid, written, and unwritten.[22] *First*, A flexible constitution can be easily changed. Some political scientists advocate that flexible constitutions are laws in which constitutional law can be changed similarly to ordinary law. Constitutional amendments are passed in the same way that ordinary law is passed. Laws aimed at effecting changes in constitutional law or ordinary statutes are passed through the same legislative procedure, i.e., by a simple majority of votes in the legislature. Similarly, the Constitution is flexible when the procedure for amendment is simple, and changes can be made easily. **Benefits of a Flexible Constitution:** First, the main benefit of a flexible constitution is its ability to change easily according to changes in the social and political environment of society and the state. Second, it is very helpful in meeting an emergency because it can be easily changed. Third, because of its dynamic nature, there is little opportunity for rebellion. The constitution can keep up with the times. The people did not feel the need for revolutionary change. Finally, as its flexible constitution continues to evolve, it is always popular and kept up-to-date. **Disadvantages of a Flexible Constitution:** First, flexible constitutions are often a source of instability. Flexibility allows the ruling government to deliver the clothes and content it wants. Second, it is not suitable for the federation. In a federation, a flexible constitution may lead to unwanted changes in the constitution

[20] Soimin & Mashuriyanto, "Mahkamah Konstitusi Dalam Sistem Ketatanegaraan Indonesia," *Yogyakarta : UII Press* 12 (2013): 19–22.
[21] Soimin & Mashuriyanto.
[22] Yusa Dewa, *Hukum Tata Negara Pasca Perubahan UUD NRI 1945*. Malang: Setara Press, 2016, 43.

by the federal government or by the government of the federated units.

Second, The Rigid Constitution must be changed. The amendment method is difficult. The legislature must pass the amendment bill by a specific majority. To pass or amend ordinary laws, the legislature usually passes laws by a majority of its members. The rigid constitution is considered the most basic law of the land. This is considered the basic will of sovereign people. That is why it can only be changed by a special procedure that requires the approval of the amendment proposed by a large majority of votes. It is often followed by ratification by the people in a referendum[23]. **Benefits of a Rigid Constitution:** First, a rigid constitution is a source of stability in the administration. Second, it maintains continuity in administration. Third, it cannot become a tool in the hands of parties that exercise state power at a certain time. Fourthly it prevents the autocratic exercise of power by the government. Finally, a rigid constitution is ideal for a federation. **Disadvantages of a Rigid Constitution:** First, the main disappointment of the rigid constitution is that it fails to keep pace with the rapidly changing social environment. Second, because of its inability to change easily, it sometimes hinders the process of social development. Third, it can be a source of hindrance during an emergency. Fourth, its inability to change easily could lead to rebellion against the government. Fifth, a rigid constitution can be a source of conservatives. It can get old soon because it cannot keep up with the times.

Third, a Written constitution means a constitution written in a book or a series of documents combined in the form of a book. It is a consciously framed and enforced constitution. It is formulated and adopted by the constituent assembly, council, or legislature. It provides a definite design of government agencies, organizations, powers, functions, and their relationships. The government is fully bound by its provisions and works strictly by its provisions. A written constitution can be amended only following an established amendment process that is written ottomaticly *Fourth*, An unwritten constitution was not drafted or ratified by the Constituent Assembly and must be written in book form. It is found in several historical charters, laws, and conventions. It is the product of a slow and gradual evolution. The government is governed and functions according to some well-resolved, but not fully written, rules and conventions. People know their Constitution. Unwritten constitutions cannot be produced in book form. However, an unwritten constitution is only partially unwritten. Some parts are available in written form but are not modified in the form of legal documents, codes, or books.[24]

Difference between Written and Unwritten Constitutions: 1). Written constitutions are written in books or documents, while unwritten constitutions are not written in that form. 2). A written constitution is drawn up and ratified by the people's constituent assembly. Unwritten constitutions are the result of a gradual process of constitutional evolution. Any assembly never wrote it. 3). Written constitutions are usually less flexible than unwritten ones. Unwritten constitutions rely heavily on unwritten rules or conventions that do not require formal

[23] Fajar Nurhardianto, "SISTEM HUKUM DAN POSISI HUKUM INDONESIA," *Jurnal TAPIs Vol.11 No.1 Januari-Juni* 21, no. 1 (2015): 1–9, http://journal.um-surabaya.ac.id/index.php/JKM/article/view/2203.
[24] Yusa Dewa, *Hukum Tata Negara Pasca Perubahan UUD NRI 1945*. Malang: Setara Press, 2016, 45.

amendments. 4). The written constitution is certain. Its provisions can be cited in favor of or against any power exercised by the government.[25] However, the distinction between written and unwritten constitutions is not organic. The written constitution has written parts in the majority. It also has some parts that need to be written in the form of a convention. In an unwritten constitution, most parts are unwritten and not written in book form. However, parts of it were also found written on several charters and other documents.

Constitutional Purpose.

After knowing the meaning, then there are several objectives of the constitution that need to be known. As previously mentioned, the purpose of the constitution relates to the limitation of state officials in the implementation of the current government. Done to prevent acts of abusing the authority that harms the people. Provide political power restrictions and supervision. Limits the authorities, so they do not harm the community. Releasing the control of power from its control. In addition, it also protects human rights, so every ruler and society must respect human rights, have the right to get protection, and exercise every right. Provide stipulations for rulers in carrying out their powers. In addition, the constitution also aims to provide guidelines for state administrators so that the state can stand solid. Limiting the power of the government to prevent arbitrary acts so that the rights of citizens can be protected and implemented properly. The constitution serves as a charter for the birth of a country. The constitution serves as the supreme source of law. The constitution serves as a means of limiting power. The constitution serves as a national identity and symbol. Constitution serves as a protector of human rights and freedoms of citizens of a country. From the several functions of the constitution, it can be understood that the constitution has an important role in government administration in a country. The constitution becomes a guideline that can limit the rights of the rulers so that they do not act arbitrarily and focus on prioritizing the interests of the people for good.

Constitutional Process and Amendment

The constitution is not only a collection of basic static norms which is a source of state administration but also provides space to follow the developments of society that occur in a country. In line with the dynamics of the development of society in a country, the constitution can also change. However, each constitution has certain ways or procedures to make these changes. According to Thaib (2003: 50), there are two systems of changing the constitutional system, namely: The first system is that if a basic law or constitution is changed, then what applies is the basic law or a new constitution as a whole. This has been experienced in Indonesia, namely the change (substitution) of the constitution from the 1945 Constitution to the RIS Constitution (27 December 1949 - 17 August 1950), and the change (change) from the RIS Constitution to the 1950 Constitution (17 August 1950 - 5 July 1959), and from the 1950 Constitution back into the 1945 Constitution (5 July 1959 - 1999)[26]

[25] Wilius Kogoya, *Teori Dan Ilmu Konstitusi*, *Paper Knowledge . Toward a Media History of Documents*, vol. 3, 2015.
[26] Chairil Anwar, *Konstitusi dan Kelembagaan Negara.*Jakarta: Novindo Pustaka Mandiri, 1999, 79.

The second system is that if a constitution is amended, the original constitution remains in effect. The amendment to the constitution is an amendment to the original constitution. Changes to the constitution using the first system mean the replacement of an old constitution or basic law with a new constitution or constitution. Changes in the constitution that use the dual system, which means that the constitution or the Basic Law is amended, have also been experienced in Indonesia, namely the amendments to the 1945 Constitution, namely the first amendment to the 1945 Constitution in 1999, the second in 2000, the third in 2001, which fourth in 2002. Regarding the procedure for changing the constitution, according to C.F., there are four ways to change the constitution, namely; (1) changes to the constitution made by the holder of legislative power according to certain restrictions, (2) changes to the constitution made by the people through a referendum, (3) changes to the constitution made by several states that are in the form of a union, (4) amendments to the constitution made in a convention or carried out by a special state institution formed only for change[27].

The political constellation greatly influenced the constitutional changes at that time. Because as explained earlier, there are at least three groups, each of which is interested in changing the constitution. So the process of changing the constitution must be distinct from what is called politics. Constitutional changes sometimes are different from the legal procedures that have been determined. However, the amendments to the constitution are also determined by the wishes of the competent authorities in that regard. Prof. Soewoto Mulyosudarmo believes that constitutional changes are influenced by how much the agency is given the authority to make changes, understands the demands for change, and how far the members of the agency are willing to make changes. Changes to the constitution depend on more than the norms of change. However, they are more determined by the elite political group that holds the majority vote in institutions with authority to make constitutional changes. Institutions with the authority to make changes must be able to read the direction of change desired by the community, which is regulated by the state. In every constitutional change, there is a paradigm shift that change-makers must obey. The paradigm of change has become the legal politics of changing the constitution. The difficulty of the changes desired by the political community is sometimes different from the substance of the changes desired by members of institutions that have the authority to make constitutional changes.

From the explanation above, we can understand that three things sometimes happen when changing the constitution. First, sometimes changes to the constitution follow procedural arrangements that have been determined by law. Second, changes to the constitution are sometimes determined by the existing political power, so the changes that occur are not following the legal procedures that have been determined. Third, sometimes the constitutional changes that occur are determined by the political power that has the authority to change them following the legal procedures that have been determined but are not under the community's wishes.

[27] Asshiddiqie, "Perkembangan & Konsolidasi Lembaga Negara Pasca Reformasi."

Conclusion

The changes in the Constitution in Indonesia that have occurred so far have turned out to be between the existing procedural arrangements and the practice of amendments, resulting in a conclusion that some of the constitutional changes in Indonesia are not under the prescribed procedural arrangements, namely the changes from the 1945 Constitution to the RIS Constitution, and from the 1950s Constitution to the 1945 Constitution of the Republic of Indonesia. 1945 Constitution Decree. Meanwhile, the other part shows that changes to the Constitution in Indonesia follow predetermined procedural arrangements, namely from the RIS Constitution to the 1950 Constitution and from the 1945 Constitution Decree to the 1945 Constitution Amendments 1999-2002. Second, to change the Constitution, it is necessary to formulate good changes for Indonesia. According to the author, Indonesia should use the amendment method to change the Constitution. Then in terms of amendments must pay attention to several things: a). The institution that is given the authority to amend in the Indonesian context would be appropriate if it were given to the People's Consultative Assembly (MPR), apart from historically this institution was designed to form and amend the Constitution, besides that this institution is indeed a legislative body consisting of the DPR and DPD, because in essence, in the formation of law, the legislative body is the dominant one; b). To change the Constitution, it must have a clear goal and must not be out of the mirror of the legal objectives: certainty, justice, and benefit; c). Please pay attention to the community's interests by: first, when the change process is allowed to express their aspirations; second, when making decisions on the results of changes, they are given the authority to determine whether they agree or not with the results of changes through a referendum.

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