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THE CONCEPT AND CONTEXTUALIZATION OF THE DIRECTION OF THE STATE AS AN INSTRUMENT OF DEVELOPMENT

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ABSTRACT

The concept and contextualization of the state policy before and after the amendment to the 1945 Constitution as a pattern of national development planning as an effort to realize the goals of the state as stated in the Pancasila preamble and the Preamble to the 1945 Constitution attached to the position of the People's Consultative Assembly (MPR) is the main issue in this research. The research method used is doctrinal legal research with a descriptive analysis approach. The results showed that the concept of state policy prior to the amendment of the 1945 Constitution was attached to the position of the MPR as the highest state institution by placing the President who was elected by and also at the same time the mandate of the MPR so that he is responsible to the MPR. The contextualization of the state policy before and after the amendment to the 1945 Constitution has given rise to the discourse of the fifth amendment by giving the MPR the authority to determine the state's direction as a pattern of development planning, not only on the campaign promises of the elected President as the basis for development planning.

Keyword: *Concept, Contextualization, State Policy, Development Planning*

INTRODUCTION

The direction of the state in the past was conceptualized as a document of the strategic plan for development in the Indonesian constitutional system in realizing state goals as stated in the precepts of Pancasila and the preamble to the 1945 Constitution.(Sadono & Rahmiaji, 2020) After the reform with the amendment of the 1945 Constitution, the pattern of strategic development planning was abandoned in line with the change in the status of the People's Consultative Assembly as the highest state institution in the Indonesian constitutional system through changes to the 1945 Constitution (1999-2002 period).(Patrialis Akbar, 2022)

The fundamental thing resulting from the Amademen of the 1945 Constitution is the loss of country policy outline as a national development planning system in Indonesia.(Holle, 2016) The change is in line with the change in the system of government to the American model presidential system, the President as head of state and head of government (executive) is not elected by Parliament, but is elected directly

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by the people or through the *Electoral College* so that it has implications for the president's accountability as head of government no longer to the legislative body or the Amendment.(Azhari, 2019)

In the context of changes in the constitutional system after the amendment of the 1945 Constitution, the enactment of the American presidential-ism has eliminated the authority of the People's Consultative Assembly to elect the President as the head of government which has further implications for the removal of the People's Consultative Assembly authority to compile the country policy outline as a national planning instrument.(Warjiati, 2018) As a result, the President is no longer bound to the development planning instruments jointly prepared by all components of the nation but rather implements the vision, mission and programs compiled and campaigned by the President-elect during the elections. So it is the Campaign Promise of the President-elect that becomes the instrument of national development that the President will carry out during his reign, when in fact the campaign promise of the President-elect was compiled in a short and fast time by his successful team so it is very likely to be partial because it is not studied in depth and comprehensively in a sufficient duration of time.(Sadono & Rahmiaji, 2020)

Mochtar Pabotinggi said the fifth amendment to the 1945 Constitution which was launched in 2006 with the intention of strengthening the position of the Regional Representative Council was still rational while the discourse of restoring the People's Consultative Assembly as the highest state institution that established the country policy outline was an "irrational" political desire, however, according to him, the 1945 Constitution still needed a number of important amendments. According to Zainal Arifin Mochtar, the discourse on amendments to the 1945 Constitution is a necessity, but it needs clear demarcation to assess important matters for the benefit of the nation and which things are only political sales. However, it further said that there are many things that need clarity through amendments to the 1945 Constitution, namely the presidential and parliamentary systems and the position of the People's Consultative Assembly, People's Representative Council and Regional Representative Council is not

solely about country policy outline and the position of the People's Representative Council.(Sadono & Rahmiaji, 2020)

Meanwhile, the results of research by Bambang Sadono et al related to the "failure" of the Indonesian Democratic Party of Struggle to realize the limited amendments to the 1945 Constitution by the House of Representatives/People's Representative Council for the period 2009-2014 said the Indonesian Democratic Party of Struggle as the current ruling party is not good at managing political situations. In fighting for the amendment agenda is limited and depends on the response of the general chairmen of parties who have representatives in the House of Representatives/People's Representative Council. According to Aidul Fitriadi Azhari, one of the powers of the People's Legislative Assembly that was lost after the amendment to the 1945 Constitution, as "constitutional suicide" by the People's Legislative Assembly, was the authority to stipulate the Outline of State Policy which is a juridical instrument for the realization of the 1945 Constitution as a *Revolutiegrondwet*.(Azhari & Salim, 2010)

Several discourses that developed and interesting were observed spreading on social media as follows: 1) Rico Novianto, with the title: "Discourse on the Main Principles of State Policy and Improvement of Indonesia's Post-Reformation State Structure" 2) Rofiq Hidayat, "Questioning the Urgency of the Main Principles of State Policy Through Constitutional Amendments", "The People's Consultative Assembly is Still Studying In-depth Constitutional Amendments", "Constitutional Amendments Need In-depth Public Study and Testing", "The People's Consultative Assembly Returns to Discourse on 'State Policy' Included in the 1945 Constitution Amendment", "People's Consultative Assembly: There are Six Aspirations of the Constitutional Amendment Agenda", "There are Concerns about Constitutional Amendments" Ady Thea Da, "Academics: There is no Urgency for Constitutional Amendments to Only Include Material Outline of State Policy" Agus Sahbani, "4 Reasons the Center for Law and Policy Studies Rejects Constitutional Amendments" Team Online Legal Publication, "Bamsuet: The Main Principles of State Policy Required to Unite the National Vision" Radian Salman," Discourse on the Main Principles of State Policy in

the Amendment of the 1945 Constitution: The Long Road to Provisions for the Direction of Indonesia's Development? Ravik Karsidi, "Discussions about the need for state policies such as the Outline of State Policy" (Karsidi, 2016; Subkhan, 2014)

Related to the discourse of the 1945 Constitution with one of the things that needs to be amended, namely the national development planning system which needs to be given authority to the People's Consultative Assembly so that not only development planning is leaned on the realization of the promise of the President-elect's campaign. On this basis, this study is intended to analyze the concept of state direction and its contextualization through the fifth amendment to the 1945 Constitution.

METHODOLOGY

The research method used in this research is doctrinal legal research, namely legal research that uses legal doctrines or laws and regulations with an analytical description approach. The data used is secondary data by collecting various legal materials relevant to research problems to be analyzed to get answers to research problems.(Muhamimin, 2020)

The Concept of State Direction

The *founding fathers* of the Indonesian nation have pledged themselves honestly and openly through the preamble to the 1945 Constitution as a noble intention after Indonesian independence by laying the foundations of the foundation of state ideals in realizing common ideals as a state, this is as reflected in the description below.

By the blessing of the grace of Allah Almighty and encouraged by a noble desire, for a free national life, the Indonesian people declared hereby their independence. Then from that to form an Indonesian State Government that protects the entire Indonesian nation and all Indonesian bloodshed and to advance the general welfare, educate the nation's life, and participate in carrying out world order based on independence, lasting peace and social justice, then the Independence of the Indonesian Nationality is compiled in one Indonesian Constitution, which is formed in one state structure of the Republic

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of Indonesia which people's obedience based on: Almighty Godhead, just and civilized humanity, Indonesian unity, People's Affairs led by wisdom in consultative/representative, and by realizing a social justice for all Indonesian people.

The above shows the spiritual awareness of the Indonesian nation for the independence it has achieved, namely by the blessing of the grace of Allah Almighty and the noble desire to achieve independence, which we can interpret as a combination of noble endeavors to be free from colonialism and believe in the involvement of an almighty God who provides assistance and assistance for the independence that has been achieved. Furthermore, with the formation of a government that protects the entire Indonesian nation and all Indonesian bloodshed and to promote the general welfare, educating the nation's life is the direction and goal of Indonesia's national development. As for internationally, Indonesia gives direction related to its involvement in realizing world order based on the principles of independence, lasting peace and social justice.

It is further affirmed that indonesia's formal juridical as a provision in Chapter II concerning the People's Consultative Assembly in Article 1 paragraph 2 of the 1945 Constitution confirms the form of Indonesian sovereignty, namely sovereignty is in the hands of the people, and is carried out entirely by the People's Consultative Assembly. In line with the provisions of article 2 paragraph 1 of the 1945 Constitution, it is asserted that "the People's Consultative Assembly consists of members of the House of Representatives, plus envoys from regions and groups, according to the rules established by law. Likewise, regarding one of the authorities of the People's Consultative Assembly, it is affirmed in Article 3 of the 1945 Constitution, namely the People's Consultative Assembly determines the Basic Undang_Undang and outlines of the state direction.

Based on the experience of the 1945 Constitution Before the amendment, Jimly Asshidiqie argued that the direction of the state includes the meaning of: a) the direction of the state contained in the 1945 Constitution; b) the direction of the state as stated in the provisions of the People's Consultative Assembly; c) the direction of the state in the sense of the work program contained in the People's Consultative Assembly Decree on country policy outline; and d) the direction of the state as stated in the State Budget

Law. So the understanding of the direction of the state can be found as stated in the 1945 Constitution, some provisions of the People's Consultative Assembly / S and the State Budget Law so that the concept and contextualization of the direction of the state are found. (Assihidique, 2010)

The position of the Outline of State Policy is related to the character of the 1945 Constitution as a postcolonial constitution by referring to the opinion of Eric Barendt who said that the constitution has a general purpose and a historical purpose. The general goal is "are designed to impose limits on the exercise of authority by the monarch or other holders of power, and to formulate basic rights and freedoms and other fundamental values for the community.: While historical objectives consist of three kinds, namely:: (1) The emancipation of a country from a colonial regime (postcolonial constitution); (2) To establish the fundamental principles of a new system of government subsequent to a revolution; (3) To make a fresh start following their defeat and experience of totalitarian government

Based on the category from Barendt, according to Aidul Fitriadi Azhari that the 1945 Republic of Indonesia Constitution is included in the postcolonial constitution. The postcolonial character of the 1945 Republic of Indonesia Constitution can be seen from the preparation of the state structure of the Republic of Indonesia which modifies the state structure of the Dutch East Indies by changing the position of the Queen/King's Throne (¹*kroon*) which is a single personality to a collective People's Consultative Assembly. This change is fundamental because it changes the principle of people's sovereignty held by a supreme people's representative institution in the form of the People's Consultative Assembly. Another fundamental change was the change in the position of Governor-General (*Gouverneur General*) as the head of the highest government of the Dutch East Indies who was elected by and responsible to the Queen/King as the holder of the highest sovereignty in the Netherlands. The founders of the country changed the position of Governor-General to the elected President and were responsible to the People's Consultative Assembly as the holder of the highest

¹ *Ibid*

sovereignty in the Indonesian state. In addition to the People's Consultative Assembly and the President, other State Institutions of the Dutch East Indies were adopted and renamed to Indonesian State Institutions such as the House of Representatives (*Volkdsraad*), Supreme Court (*Hoogerechtshof*), Audit Board of the Republic of Indonesia (*Algemeene Rekenkamer*) and Grand Deliberative Council (*Raad van Nederlandsch-Indie*)

Contextualization of the Direction of the State as an Instrument of Development

Philosophically, it can be described that the direction of the state is conceived in the provisions of the People's Consultative Assembly before the amendment of the 1945 Constitution as a general pattern of national development which is a series of development programs in all fields that take place continuously, to be able to realize the achievements of the national development so that providing clarity of direction for the struggle of the State and people of Indonesia in order to realize the desired situation within five years in the context of its long-term continuation, so that it can gradually be realized the ideals of the Indonesian nation. That the points of its preparation and pouring must be able to provide an overview of the desired future form, so that the Outlines of the State Direction need to be compiled and poured into the general pattern of development systematically, in the roundness of a comprehensive relationship based on the aspirations and personality of the Indonesian nation for the sake of the passion and practice of constitutionally democratic state life based on Pancasila and the Law Basic 1945.²

There are several instruments of legal provisions regarding the direction of the state that have been in force, namely the Provisional People's Consultative Assembly Decree Number I / Provisional People's Consultative Assembly / 1960 concerning the Political Manifesto of the Republic of Indonesia as Outlines of the State Direction, the Direction of the State during the New Order period, from 1969 to 1998, there were 6 (six) People's Consultative Assembly Provisions (Decree of the People's Consultative Assembly) concerning State Policy Outline, namely: 1) People's Consultative Assembly Decree Number IV / People's Consultative Assembly / 1973; 2) People's Consultative

² Dictum Weigh Ordinances MPR Number II/MPR/1983 about haris big I country

Assembly Decree Number IV / People's Consultative Assembly / 1978; 3) People's Consultative Assembly Decree Number II / People's Consultative Assembly / 1983; 4) People's Consultative Assembly Decree Number II / People's Consultative Assembly / 1988; 5) People's Consultative Assembly Decree Number II / People's Consultative Assembly / 1993; and 6) Tap People's Consultative Assembly Number II/ People's Consultative Assembly /1998. During the reform period, the last State Policy Outline was born through mpr decree Number IV / People's Consultative Assembly / 1999 concerning the Outlines of the State Direction in 1999-2004.

Contextually, State Policy Outline 1999-2004 found differences in charge material that were different from State Policy Outline during the New Order period, with quite fundamental changes. During the New Order period, State Policy Outline was the direction of the state regarding **national development**, while State Policy Outline in the reform era was the direction of state administration. According to tap People's Consultative Assembly No. IV / People's Consultative Assembly / 1999, the definition of the Outlines of the State Direction is the direction of the state about **the implementation** of the state in outlines as a statement of the will of the people in a comprehensive and integrated manner established by the People's Consultative Assembly for five years in order to realize the welfare of the people in a just manner.

The results of I Wayan Sudrita's research explained that, ³*First*, there are three basic consensuses agreed upon by the founders of the nation as an effort to realize state goals, all three of which show an integral relationship that is interrelated with interrelationships as a *triangle of basic state consensus*, namely Pancasila as the basis of state philosophy (*philosofische grondslag*), the 1945 Constitution as the basic law of the state, and the Direction of the State as the basic policy guideline of the state. *Secondly*, the Direction of the State does not conflict with the presidential system by way of placing it in the constitution. The legal form of the state direction through the People's Consultative Assembly Provisions which are domiciled under the constitution makes

³ I Wayan Sudirta, Meaning, PositionAnd Implication Law of The Direction of the State In System Constitutionality Indonesian Journal Juridical Vol. 7 No. 2, December 2020, thing. 258-278

national development planning not only the domain of the president but the result of mutual agreement of all people and binding on all state organizers.

Based on the results of the research mentioned above, it shows that the context of the state direction is based on the spirit of values contained in Pancasila as a state philosophy, the 1945 Constitution and the state direction made through mpr/s provisions as a basis in compiling development planning patterns in realizing national ideals. However, the prevailing and existing legal instruments show that the direction of the state is attached to the position of the People's Consultative Assembly and the position of the President who was originally elected through parliament to be directly elected so that in the context before and after the amendment of the 1945 Constitution the direction of the state has a different position as a pattern in national development planning.

The national development planning system as stated in Law Number 25 of 2004 concerning the National Development Planning System, is prepared based on the vision and mission of the President and / or Vice President-elect. According to Ida Hanifah stated, a development planning system like this can cause a changing development system and inconsistent implementation of development planning because it is not paradigmatic and based on regional autonomy. This happened because the government could not integrate the authority of national development planning into the regions, thus hindering the development of nasioanl in the long term. The need to revitalize the authority in determining national development planning by the People's Consultative Assembly requires the fifth amendment to the 1945 Constitution.⁴

The discourse of the fifth amendment by giving authority to the People's Consultative Assembly to set the direction of the state as an instrument of development planning gave birth to a discourse on the position of the People's Consultative Assembly. Changes in the position of the People's Consultative Assembly before and after the

⁴ Ida Hanifah, *Reformulation System Planning National Development with Model LineLine The Great Direction of the Country*, Six Media, Medan 2019, thing. 16

amendment of the 1945 Constitution have direct implications for the loss of the People's Consultative Assembly authority to set the direction of the state. Another thing that needs to be studied in more depth is related to the accountability of the President who is no longer to the People's Consultative Assembly because he is no longer elected through parliament but is directly elected by the people.

Conclusion

The concept of state direction before the amendment of the 1945 Constitution was attached to the position of the People's Consultative Assembly as the highest state institution that has the authority to elect the President and set the direction of the state as an instrument of national development but after the amendment of the 1945 Constitution by placing the position of the People's Consultative Assembly as a state higher institution and the President is no longer elected by the People's Consultative Assembly, the direction of the state is no longer set by the People's Consultative Assembly. However, the discourse gives authority to the People's Consultative Assembly to set the direction of the state as an instrument of national development as the basis for argument that the fifth amendment to the 1945 Constitution is needed. In addition, the pattern of national development if only leaned on the campaign promises of the President-elect, it is feared that there will be no continuity of development when there is a change of executive government.

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