

Legal Analysis of the Differences between the Democratic System in Indonesia and Other Countries

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Abstract. *This research is motivated by the significant differences between Indonesia's democratic system and those of other countries, each shaped by distinct constitutional traditions. Indonesia's democracy, grounded in Pancasila and the 1945 Constitution, exhibits unique characteristics that require deeper examination to understand how constitutional norms regulate governmental authority, public participation, and the relationship among state institutions. The objective of this research is to analyze the characteristics of Indonesia's democracy, compare it with other democratic systems, and assess the juridical implications for governance administration. This study employs a normative juridical method using statutory, conceptual, and comparative approaches. The analysis is conducted through an examination of the 1945 Constitution, legislation related to democratic governance, and the constitutions of selected countries for comparison. The comparative approach helps identify fundamental differences between Indonesia's presidential system and the parliamentary, federal, or semi-presidential systems of other nations. The findings reveal that differences in democratic systems have direct implications for checks and balances, the central–regional relationship, public participation mechanisms, and the capacity of representative institutions to supervise the executive. Comparative insights indicate that Indonesia must strengthen oversight regulations, clarify regional authority, and enhance legislative transparency to maintain governmental stability while upholding constitutional democratic principles.*

Keywords: *Democracy; Government System; Juridical Analysis.*

1. Introduction

Indonesia adheres to the principle of a state based on law (*rechtsstaat*), meaning that a state exercises its power and government based on law and guarantees the protection of its citizens' rights. The concept of a state based on law emphasizes that all government actions must be subject to the law, must not be arbitrary, and must guarantee justice for all citizens.¹ The application of the principle of the rule of law is a crucial foundation for the implementation of democracy in Indonesia, as a healthy democracy can only function effectively if it is institutionalized within a strong and just legal system. Therefore, understanding the principle of the rule of law is the first step in analyzing the characteristics of democracy in Indonesia and how it differs from democratic systems in other countries.

Democracy is a system of government that grants supreme power to the people. In the Indonesian context, democracy is understood not only as a political system but also as a reflection of the nation's cultural and philosophical values. As a country rich in ethnic, religious, and cultural diversity, Indonesia has adopted a unique democratic system known as Pancasila Democracy. This system is rooted in the noble values embodied in Pancasila, the foundation of the state, and the 1945 Constitution, the state constitution.²

According to Koentjoro Poerbopranoto, democracy is a system that encourages people to actively participate in governing the country. This aligns with Harris Soche's view that democracy is a form of government by the people, in which governmental power rests with the people and the people have the right to govern, defend, and protect themselves from coercion and abuse by other individuals or bodies entrusted with governance.³

Over the course of history, Indonesia's democratic system has undergone several changes. From 1945 to 1959, Indonesia adopted a liberal democratic system that emphasized the role of parliament and political parties. However, from 1959 to 1965, Indonesia shifted to a guided democracy system that placed greater emphasis on the role of the executive, particularly President Sukarno. After the New Order era, Indonesia returned to the Pancasila democracy system, which emphasized balance between the executive, legislative, and judicial branches.⁴

2. Research Methods

In accordance with the title and the issues to be discussed in this research and to provide useful results, this research was conducted using normative legal research (normative legal research method). The normative legal research method is a legal literature research conducted by examining library materials or secondary data alone. This research was

¹ Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 1 ayat (3).

² Koentjoro Poerbopranoto, *Demokrasi dan Sistem Pemerintahan di Indonesia*, Jakarta: Rajawali Press, 2010.

³ Harris Soche, *Principles of Democracy*, New York: Academic Press, 2015.

⁴ Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, Jakarta: Konstitusi Press, 2005.

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conducted in order to obtain materials in the form of: theories, concepts, legal principles, and legal regulations related to the subject matter.⁵

3. Results and Discussion

3.1. Characteristics of the Democratic System in Indonesia According to Law and the Constitution

The democratic system in Indonesia has unique characteristics that distinguish it from other democracies. Legally, Indonesian democracy is regulated by the 1945 Constitution and a number of laws and regulations regarding the exercise of political rights, election mechanisms, and the functions of state institutions. Indonesian democracy is based on Pancasila democracy, which emphasizes deliberation, social justice, human rights, and a balance of power between legislative, executive, and judicial institutions. Legal analysis examines how the constitution and laws establish rights, obligations, and oversight mechanisms between institutions to ensure the democratic system operates in an orderly and fair manner.⁶

The 1945 Constitution, as Indonesia's constitution, affirms the principle of democracy through Article 1 paragraph (2), which states that "Sovereignty rests with the people and is exercised in accordance with the Constitution." This principle affirms that the people are the source of legitimacy of power. Indonesian democracy is not a pure liberal democracy, but a constitutional democracy infused with the values of Pancasila. Legal analysis shows that the people's role is exercised through direct elections, the right to participate, and public oversight mechanisms.⁷

A key characteristic of Indonesian democracy is its presidential system, where the president, both head of state and head of government, is directly elected by the people. This system differs from a parliamentary system, where the executive is directly accountable to the legislature. Juridical analysis shows that Indonesia's checks and balances are implemented through the House of Representatives (DPR), the Regional Representatives Council (DPD), and the Constitutional Court, ensuring that the president does not violate the constitution and democratic principles.

Indonesia's democratic system is also multiparty, allowing political parties to compete and represent the people's aspirations. Law No. 2 of 2011 concerning Political Parties regulates the formation, registration, and oversight of political parties. Juridical analysis shows that this system provides ample space for political participation, but creates legislative fragmentation that demands political consensus through deliberation and compromise, in accordance with the principles of Pancasila democracy.

⁵ Soerjono Soekanto dan Sri Mahmudji, *Penelitian Hukum Normatif, Suatu Tinjauan Singkat*, (Jakarta: Raja Grafindo Persada, 2003), p. 13.

⁶ Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, Rajawali Pers, Jakarta, 2017, p. 56.

⁷ Mahfud MD, *Konstitusi dan Politik Hukum di Indonesia*, Rajawali Pers, Jakarta, 2016, p. 102.

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The principles of Pancasila democracy are also reflected in the deliberations (shura), which are a distinctive characteristic of Indonesia. Although direct elections provide the people with a voice, political decisions must still go through a deliberative process. Juridical analysis confirms that this system combines popular representation with consensus policies, unlike the purely majoritarian systems found in some Western countries. This provides greater political stability and prevents absolute majority domination.

The characteristics of Indonesian democracy are also determined by the protection of basic rights stipulated in Chapter XA of the 1945 Constitution and Law No. 39 of 1999 concerning Human Rights. Legal analysis shows that the state must guarantee freedom of opinion, assembly, and religion, as well as the right to vote and be elected. This forms the basis of the democratic system's legitimacy, ensuring that power not only operates in accordance with positive law but also respects the rights of the people.

Furthermore, Indonesia's democratic system adheres to the principle of popular sovereignty, which is limited by the constitution and law. The president and other state institutions do not have absolute freedom; all decisions must comply with the constitution and legal principles. Legal analysis shows that constitutional oversight by the Constitutional Court and other independent institutions is a key instrument for ensuring democracy remains based on law, justice, and civility.

Indonesian democracy also emphasizes government transparency and accountability. The executive and legislative branches are required to report on policies and the use of public funds in accordance with Law No. 14 of 2008 concerning Public Information Disclosure. Legal analysis shows that this principle of accountability is essential to prevent corruption and ensure public trust in the democratic process. This mechanism also aligns with the principle of checks and balances in a presidential system.⁸

Indonesia's direct election system is characterized by proportional representation of the people. The House of Representatives (DPR) is elected through an open proportional representation mechanism, while the Regional Representatives Council (DPD) represents the regions. Juridical analysis shows that this system emphasizes regional equality and national interests. This system differs from the majoritarian system in the United States, which tends to prioritize individual victory over proportional political representation.

3.2. How Democracy Systems Are Implemented in Other Countries, and What Are the Key Differences from Indonesia?

The democratic system in the United States is implemented through a presidential mechanism with a clear separation of the executive, legislative, and judicial branches. Juridical analysis shows that executive power is exercised by a directly elected president, while the legislature consists of two chambers, the Senate and the House of Representatives, which have oversight and lawmaking functions. The fundamental difference with Indonesia is

⁸ Mahfud MD, *Akuntabilitas Pemerintah dalam Sistem Demokrasi*, Rajawali Pers, Jakarta, 2016, p. 198.

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seen in the flexibility of checks and balances, which are more rigid in the US compared to Indonesia, which emphasizes deliberation and consensus as characteristics of Pancasila democracy.⁹

In the United Kingdom, democracy is based on a parliamentary system with a constitutional monarchy. The head of state is a king or queen with a symbolic role, while executive power is exercised by a prime minister drawn from the parliamentary majority. Juridical analysis shows that this system differs from Indonesia, which implements a presidential system. Another difference is the level of popular sovereignty; in the United Kingdom, the people influence the legislature more through political parties than directly with the executive, whereas in Indonesia, the president is directly elected by the people.

Germany's democratic system adopts a federal parliamentary system, with the president as the symbol of the state and the chancellor as head of government. Juridical analysis shows a strict division of powers, with the federal parliament (Bundestag) holding legislative functions, while the Bundesrat represents the states. Unlike Indonesia, where the president serves as both head of state and head of government, Germany emphasizes the role of coalition parties and parliament in decision-making, resulting in relatively limited executive power.¹⁰

Japan, a post-World War II constitutional democracy, adopted a parliamentary system with the Emperor as the symbol of the state. Juridical analysis shows that executive power is exercised by a cabinet led by a prime minister, while legislative power is exercised by a bicameral parliament. The difference with Indonesia is seen in the parliament's dominance in forming the government and overseeing the executive, while in Indonesia the president has greater executive authority and legislative participation is more limited to oversight and legislation.

India's democratic system is a federal parliamentary system, with the president as the symbolic head of state and the prime minister as head of government. Juridical analysis shows that India has a decentralized mechanism of checks and balances through the states, similar to the principle of decentralization in Indonesia. However, the key difference is that India's parliamentary system emphasizes stronger executive oversight by parliament, while in Indonesia the president has prerogative power in forming the cabinet and executive policy.¹¹

In France, democracy is semi-presidential, with the president as head of state and the prime minister as head of government. Juridical analysis shows that the president has significant executive authority but must collaborate with parliament to formulate policy. Unlike Indonesia, which implements a fully presidential system, the French government requires an

⁹ Robert A. Dahl, *How Democratic is the American Constitution?*, Yale University Press, New Haven, 2015, p. 78.

¹⁰ Wolfgang Ismayr, *Political System of Germany*, Springer, Berlin, 2017, p. 145.

¹¹ Granville Austin, *The Indian Constitution: Cornerstone of a Nation*, Oxford University Press, New Delhi, 2016, p. 214.

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executive-legislative coalition to implement policy, making interactions between institutions more complex and prioritizing political compromise.

Sweden's democratic system is parliamentary with a constitutional monarchy. Legislative power is centralized in the Riksdag, while the monarchy serves only a symbolic role. Juridical analysis shows that the executive is run by a cabinet selected from the majority party in parliament. The main difference with Indonesia is that this parliamentary system emphasizes the stability of party coalitions in the legislature, while the Indonesian executive is directly elected and has an independent mandate, so political dynamics are more influenced by presidential decisions.

In Canada, democracy is based on a federal parliamentary system with the monarch as a symbolic head of state. Juridical analysis shows that the prime minister has executive authority but must maintain the confidence of parliament. The difference with Indonesia is evident in the executive-legislative relationship; In Canada, the executive is constitutionally responsible to the legislature, whereas in Indonesia the president is not directly dependent on the legislature, so the system of checks and balances is structurally different.

3.3. Legal Implications of Differences in Democratic Systems for Governance in Indonesia

The differences in democratic systems between Indonesia and other countries have significant legal implications for governance in Indonesia. Indonesia's presidential system positions the president as both head of state and head of government, unlike parliamentary systems such as the Netherlands or Spain, where the executive branch relies on a parliamentary majority. The legal implications are evident in the constitutional provisions regarding the division of power between the executive and legislative branches, including the role of the House of Representatives (DPR) as a supervisory and law-making body, which must align with the principle of checks and balances to achieve government stability.¹²

Differences from federal systems like Brazil or Mexico also have legal consequences regarding decentralization and regional autonomy in Indonesia. Indonesia implements a unitary state system with limited regional autonomy, giving the president broader authority in determining national policy. This requires clear legal regulations regarding central-regional coordination and the distribution of authority to prevent conflicts of authority. These legal implications also emphasize the need for clear legal mechanisms to regulate the relationship between the central and regional governments.

A parliamentary democratic system emphasizes the role of the legislature in forming the cabinet and determining policy direction. In the Indonesian context, this implies the need for legislation that limits presidential dominance so that the House of Representatives (DPR) remains effective as a supervisory body. For example, the DPR's right of interpellation, inquiry, and budgetary rights are legal implications of this difference in democratic systems,

¹² Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme di Indonesia*, Rajawali Pers, Jakarta, 2018, p. 88.

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ensuring government accountability and transparency while preventing abuse of executive power.

The difference between a direct democratic system like Switzerland and a popular referendum and initiative system has legal implications for Indonesia regarding political participation. Indonesia regulates participation mechanisms through legislative and presidential elections. However, this difference emphasizes the need for legal regulations that allow the public to be more involved in monitoring public policy, for example through mechanisms of people's aspirations, village deliberations, and public information disclosure, to bring Indonesian democratic practices closer to the principles of participatory democracy.¹³

The highly fragmented multi-party systems in Israel and Italy offer legal lessons for Indonesia regarding political stability and coalition formation. The legal implications are evident in the need for laws governing political party financing, parliamentary thresholds, and coalition mechanisms to avoid government instability. In Indonesia, although the presidential system provides executive stability, regulations governing the relationship between political parties and the government remain crucial to ensuring the consistent and effective implementation of national policies.¹⁴

The differences between presidential democracies in Indonesia and South Korea or Brazil emphasize the need for legal regulation regarding checks and balances. The Indonesian president has prerogative in executive policy, but this must be balanced with legal oversight through the House of Representatives (DPR), the Supreme Court, and the Constitutional Court. The legal implications include strengthening the judiciary and clear legislative functions to ensure that presidential policies do not conflict with the constitution, human rights principles, and the public interest.¹⁵

The different implementations of democracy also influence the formulation of laws in Indonesia. For example, in parliamentary states, the parliament has direct authority to enact laws, whereas in Indonesia, the president has the right to propose specific bills. The legal implications of this are the importance of regulations regarding the procedures for submitting bills, DPR approval, and public oversight, so that every enacted policy continues to reflect the principles of constitutional democracy, transparency, and government accountability.

The differences in the roles of the symbolic head of state in parliamentary states compared to the president in Indonesia have legal implications for legal regulations regarding political accountability. In Indonesia, the president bears political, legal, and moral responsibility for national policy, whereas in parliamentary states, the head of government is accountable to parliament. This requires clear legal regulations regarding impeachment mechanisms, the

¹³ B. Anderson, *Comparative Democracies: Participation and Representation*, Routledge, London, 2017, p. 142.

¹⁴ Lijphart, *Patterns of Democracy*, Yale University Press, New Haven, 2016, p. 77.

¹⁵ Mochtar Kusumaatmadja, *Hukum dan Pemerintahan di Indonesia*, Alumni, Bandung, 2016, p. 98.

right of interpellation, and accountability for state administration to ensure the principles of justice and the rule of law are upheld.¹⁶

The federal democratic system and unitary state system have legal implications for the division of central and regional authority. Indonesia, which adheres to a unitary state system, must have clear laws and regulations regarding decentralization, regional autonomy, and coordination mechanisms between levels of government. Without clear regulations, there is the potential for conflicts of authority, legal uncertainty, and obstacles to the implementation of national policies. These implications require harmonization between national laws and regional regulations to maintain the principle of the rule of law.¹⁷

4. Conclusion

The legal regulations governing the characteristics of Indonesian democracy demonstrate that Indonesia's democratic system is based on Pancasila and the 1945 Constitution, with a presidential model that positions the president as both head of state and head of government. This legal framework provides strong legitimacy to the president through direct election by the people, while also emphasizing the division of power between the executive, legislative, and judicial branches. Compared to other countries, Indonesia is unique in that it emphasizes the value of deliberation, ethnic diversity, and the principle of a unitary state that combines representative democracy with local wisdom as the basis for governance. The implementation of democracy in other countries such as the United States, Switzerland, the Netherlands, Italy, and South Korea demonstrates a variety of governmental systems influenced by history, culture, and constitutional structure. The main differences with Indonesia lie in the form of government (parliamentary vs. presidential), decision-making mechanisms, the role of the legislature, and the level of public participation. Thus, it can be concluded that although Indonesia adheres to the universal principles of modern democracy, its democratic practice has its own unique characteristics, where executive stability is maintained through a presidential system while still accommodating the principles of representation and legislative oversight. The legal implications of the differences in democratic systems in other countries for the Indonesian government are evident in the need to strengthen checks and balances, clarify central-regional relations, and increase public participation. Indonesia's presidential system demands more adaptive legal arrangements to prevent executive power domination. Comparisons with other countries demonstrate that effective democracy requires a strong legal structure, effective legislative oversight, and consistent implementation of the rule of law. Therefore, reformulation of political and legal policies is necessary to maintain stability and justice in Indonesian democracy.

¹⁶ R. Subekti, *Konstitusi dan Pemerintahan Indonesia*, PT Pradnya Paramita, Jakarta, 2016, p. 125.

¹⁷ Syamsuddin Haris, *Desentralisasi dan Hukum di Indonesia*, Rajawali Pers, Jakarta, 2017, p. 144.

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